

December 3, 2002

MEMORANDUM FOR: William D. Travers
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS (SUPPLEMENTAL) - AFFIRMATION
SESSION, 9:55 A.M., THURSDAY, NOVEMBER 21, 2002,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT
NORTH, ROCKVILLE, MARYLAND (OPEN TO PUBLIC
ATTENDANCE)

I. SECY-02-0179 - Final Rule: Material Control and Accounting Amendments

The Commission approved a final rule with the attached changes amending the material control and accounting (MC&A) regulations. (see attachment) The final rule revises the requirements for the Material Balance Reports and Inventory Composition Reports for all licensees except Category I licensees. The categorical exclusion for the approval of safeguards plans is revised to specifically include approval of amendments to safeguards plans. The MC&A requirements for Category II facilities are revised to be more risk-informed. The amendments are intended to reduce unnecessary burden on licensees and the NRC without adversely affecting public health and safety.

Following incorporation of the changes, the Federal Register notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO)

(SECY Suspense:

1/3/03)

The Commission notes that the Federal Register Notice containing the Environmental Assessment and the Finding of No Significant Impact (FONSI) contains a brief paragraph on environmental justice and elsewhere notes that no public comments on environmental justice issues were received. The Commission does not believe that environmental justice needs to be discussed or comments solicited when no significant environmental impact has been identified. The issuance of this, or any other, FONSI by definition states that there are no significant impacts as a result of the proposed actions. If there are no significant impacts, there are no impacts requiring an environmental justice review. Therefore, in light of the absence of significant impacts, an environmental justice review should not be considered for an EA where a FONSI is issued unless special circumstances warrant the review. Similarly, the staff should not request public comments on environmental justice issues when a FONSI is issued. The staff should adhere to this direction in future rulemaking or licensing actions.

Attachment: Changes to the Final Rule in SECY-02-0179

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR

Changes to the Final Rule in SECY-02-0179

Changes to the *Federal Register* Announcement

1. On page 5, in the paragraph at the top of the page, delete the next to last sentence (This should improve the NRC ... the requirements.)
2. On page 6, 1st full paragraph, revise line 4 to read ' ... database is maintained ~~by a contractor~~ under a'
3. On page 7, paragraph 2, line 4, delete 'of'. Revise line 5 to read ' ... a physical inventory ~~are~~ is significantly more'
4. On page 11, paragraph (1), revise lines 2 and 3 to read ' ... current frequency of ~~every~~ 2 months for SSNM and ~~every~~ 6 months for everything else to ~~every~~ 9 months.'
5. On page 12, last paragraph, revise line 1 to read ' ... consolidation of regulations ~~is a significant step towards~~ ~~completes~~ NRC's regulatory'
6. On page 14, paragraph 1, revise line 5 to read ' ... amendments and ~~believes~~ that' In the next paragraph (response), revise line 1 to read ' ... making any changes ~~in~~ to the final rule'
7. On page 20, 1st full paragraph, delete the 2nd sentence (Both Category I facilities ... be retained.)
8. On page 41, 1st full paragraph, revise line 4 to read ' ... will be reduced by ~~a total of~~ approximately'
9. On page 42, 2nd full paragraph, revise line 1 to read ' ... backfit rule (§§ 50.109, ~~70.76~~, 72.62, or 76.76) does'
10. On page 57, revise the last line to read 'Possess~~s~~ and use'
11. On page 62, revise line 1 at the top of the page to read ' ... paragraph (a)(~~1~~) of this section.'

Changes to the Environmental Assessment

12. On page 1, in the title, delete 'March 2002'.
13. On page 2, paragraph 1, delete the next to last sentence (All of these activities ... plant operations.)