

November 24, 1998

MEMORANDUM FOR: Karen D. Cyr  
General Counsel  
  
William D. Travers  
Executive Director for Operations  
  
John F. Cordes, Acting Director  
Office of Commission Appellate Adjudication  
  
The LSS Senior Management Team

FROM: John C. Hoyle, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - Affirmation Session, 10:30 A.M., TUESDAY, NOVEMBER 24, 1998, COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

**I. SECY-98-237 - Final Rule, Part 2, Subpart J, "Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-level Radioactive Waste at a Geologic Repository"**

The Commission<sup>(1)</sup> has approved a final rule amending 10 CFR Part 2, Subpart J, concerning the procedures applicable to proceedings for the issuance of licenses for the receipt of high-level radioactive waste at a geologic repository. The final rule includes retention and renaming of the Licensing Support System Advisory Review Panel to become the Licensing Support Network Advisory Review Panel, and restoring a Licensing Support Network Administrator. The statement of considerations notes that the Commission will undertake a separate rulemaking to amend 10 CFR 2.715 to include federally recognized Native American tribal governments.

In reporting to the Commission, the Senior Management Team should include the LSN Advisory Review Panel (LSNARP) activities and the public comments received at LSNARP meetings.

(Senior Management Team)

(Secy Suspense: 5/28/99)

The Commission approved the publication and implementation of this final rule with the changes specified in [attachment 1](#).

(Senior Management Team)

(Secy Suspense: 1/8/99)

**II. SECY-98-250 - International Uranium (USA) Corporation Commission Review of Presiding Officer's Memorandum and Order (Aug. 19, 1998) Dismissing Envirocare**

The Commission<sup>(2)</sup> has approved an order responding to Envirocare's request for a hearing and leave to intervene in this licensing proceeding. The Memorandum and Order affirms the Presiding Officer's order dismissing Envirocare.

(Subsequently, on November 24, 1998, the Secretary signed the Order.)

**III. SECY-98-257 - Final Rule, Part 2, Subpart M -- "Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications"**

The Commission<sup>(3)</sup> has approved a final rule amending 10 CFR Part 2 concerning the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders. It provides new procedures in Subpart M to provide specific uniform informal procedures for handling requests for hearings associated with license transfer applications and would apply to all license transfers that require prior NRC approval.

The Commission has approved the publication and implementation of this final rule with the changes indicated in [attachment 2](#).

(OGC)

(SECY Suspense: 12/11/98)

#### IV. **SECY-98-262 - North Atlantic Energy Corporation (Seabrook Station Unit No. 1); Motion to Withdraw Applications and to Terminate Proceedings**

The Commission<sup>(4)</sup> has approved a Memorandum and Order responding to North Atlantic Energy Corporation's motion to withdraw its amendment applications and to terminate two related adjudicatory proceedings. The Memorandum and Order which grants North Atlantic Energy Corporation's motion to withdraw its amendment applications, dismisses the related adjudicatory proceedings as moot, and vacates the Atomic Safety and Licensing Board's decision in LBP-98-23.

The staff should inform the Commission on how common it is for licensees to make an operational change (such as changing refueling outage cycles from 12 to 24 months) through a series of amendments rather than through a single request and whether the staff has in place any mechanism for assessing the cumulative safety impact of a series of individually less significant amendments. The Commission agreed that the staff response can be handled in an informal manner such as a memorandum to the Commission.

(EDO)

(SECY Suspend: 1/15/99)

(Subsequently, on November 24, 1998, the Secretary signed the Order.)

Attachments: As stated

cc: Chairman Jackson  
Commissioner Dicus  
Commissioner Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
EDO  
OGC  
CIO  
CFO  
OCAA  
OCA  
OIG  
OPA  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR - Advance  
DCS - P1-17

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ATTACHMENT 1

#### **Changes to the Federal Register Notice in SECY-98-237**

1. On page 9, first full paragraph, line 3, replace 'phase' with 'of the rule.'
2. On page 14, with regard to the funding issues, the Commission supports the first approach (i.e., having participants approach those Affected Units of Local Governments for funds). The second approach should be removed from the final rule and the notice revised to reflect this change.
3. On page 29, last paragraph, line 9, insert 'and' after the comma and place a period after 'party.' Delete the remainder of the sentence (Subpart (4) of the definition).
4. On page 31, under 'Pre-license application phase', at the end of line 5, delete the extra period.
5. On page 45, last paragraph, line 2, delete the extra space after '(2)'.
6. On page 46, paragraph 1, line 7, delete the space after 'electronically'.

#### **Changes to the Letters in SECY-98-237**

1. In the letter to Gore, replace 'Al Gore' with 'Albert Gore, Jr.'
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**Changes to the Federal Register Notice in SECY-98-257**

1. On page 8, paragraph 1, last line, add a period at the end.
2. On page 14, in the Commission response at the top of the page, change it to read:

Although the suggestion goes well beyond the scope of the proposed rule, the Commission notes elsewhere in this notice that it has argued in court that section 189a of the Atomic Energy Act does not require formal hearings, and the Commission has directed the staff to seek legislation that supports greater use of informal procedures. The Commission has also asked the staff to advise the Commission on ways to enhance the Commission's ability to use informal procedures in any proceeding in which formal procedures are currently used.

3. On page 17, under comment 11, line 3, delete the extra 'n' at the end of 'Pittman'.
4. On page 19, paragraph 1, line 8, move 'expressly' to after 'rule'.
5. On page 19, paragraph 1, line 12, insert a comma after 'Thus'.
6. On page 21, first full paragraph, in the last sentence, delete everything after 'rulemaking,' and replace it with 'but, as noted in more detail in response to an earlier comment, the Commission is taking steps to expand the use of similar procedures in other proceedings.'
7. On page 22, in Section III, line 4, insert a comma after '184'.
8. On page 36, paragraph 2, line 4, replace 'Part 52' with 'Parts 2'.
9. On page 37, last paragraph, line 2, insert a comma after '35' and 'a' at the end of the line.

**Changes to the Congressional letters in SECY-98-257**

1. In the letter to Schaefer, correct the left margin alignments in the first two lines in the first paragraph and the first line in the last paragraph. Also add a comma after 'Schaefer' in address.
2. In the letter to Inhofe, correct the spelling of 'Inhofe' in the address.
3. In the letter to Gore, replace 'Al Gore' with 'Albert Gore, Jr.'

**Changes to the Press Release in SECY-98-257**

1. On page 1, paragraph 2, line 4, insert a new sentence after 'procedures' as follows:
2. Last year, the NRC handled more than 20 reactor related license transfer cases, as compared with an average of two or three annually in earlier years.
3. On page 1, paragraph 2, line 4, insert 'rule' after 'amendment'.
4. On page 1, paragraph 2, line 5, insert 'any' after 'handling of' and insert 'that are conducted' after 'hearings'.
5. On page 1, paragraph 2, lines 6-9, delete the last sentence.
6. On the last page, last paragraph, line 3, replace 'virtually all' with 'the majority'.

1. Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Diaz was not present when this item was affirmed. Accordingly the formal vote of the Commission was 4-0 in favor of the decision. Commissioner Diaz, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his prior vote.

2. Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Diaz was not present when this item was affirmed. Accordingly the formal vote of the Commission was 4-0 in favor of the decision. Commissioner Diaz, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his prior vote.

3. Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Diaz was not present when this item was affirmed. Accordingly the formal vote of the Commission was 4-0 in favor of the decision. Commissioner Diaz, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his prior vote.

4. Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Diaz was not present when this item was affirmed. Accordingly the formal vote of the Commission was 4-0 in favor of the decision. Commissioner Diaz, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his prior vote.