

July 29, 1999

MEMORANDUM William D. Travers

FOR: Executive Director for Operations

FROM: Annette Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 2:00 P.M., THURSDAY, JULY 29, 1999, COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

L. SECY-99-158 - Final Rule: "Certification Renewal and Amendment Processes," 10 CFR Part 76

The Commission (with Chairman Dicus and Commissioners McGaffigan and Merrifield agreeing and Commissioner Diaz agreeing in part) approved a final rule which amends 10 CFR 76 to make the certification renewal and amendment processes more effective and efficient. This final rule: (1) modifies the process for certificate renewals; (2) establishes a process for a certificate amendment comparable to the process currently used to amend a fuel cycle license; (3) revises the appeal process for amendments; (4) eliminates the distinction between the "significant" and "non-significant" designation for amendments; (5) simplifies the criteria for persons who are eligible to file petitions for review of amendment actions; (6) removes references to the initial applications because the initial certificates have been issued; and (7) lengthens the time periods associated with filing petitions for review and Commission review of a Director's Decision.

The Commission approved the publication and implementation of this final rule subject to the changes indicated in the attachment.

Commissioner Diaz voted to approve the publication and implementation of a final rule but would have preferred to modify 10 CFR §76.37 to require publication of Federal Register notices to announce all filings of applications for certification renewal or amendment.

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: 8/27/99)

The staff should be cautious in exercising its discretion regarding Federal Register notification of renewal and amendment applications in sections 10 CFR 76.37 and 76.45(c). In deciding whether or not to issue a Federal Register notice for any renewal or amendment, the staff should consider the expressed or potential interest of the public and the regulatory and safety significance of the proposed action.

Attachment: As stated

cc: Chairman 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

Attachment

Changes to the Final Rule Package

1. The staff should develop procedures for placing Part 76 amendment and renewal documents on NRC's website at the earliest possible opportunity. On page 6, 2nd full paragraph, revise line 10 to read ' ... Public Document Room, and in the near future, the NRC plans to place these documents on NRC's website. Accordingly, ~~and~~ the public will have an opportunity'
2. On page 1, paragraph 1, revise line 2 to read ' ... governing the U.S. Enrichment Corporation's (USEC) gaseous diffusion plants'

3. On page 2, revise the first line under "Background" to read ' ... NRC's requirements for the USEC's Paducah and Portsmouth'
 4. On page 3, paragraph 1, revise line 4 to read ' ... came from ~~the United States Enrichment Corporation (the Corporation)~~ USEC, which leases'
 5. On page 15, paragraph 1, revise line 3 to read ' ... only addresses ~~the United States Enrichment Corporation~~ USEC or its'
 6. On page 15, the paragraph on "Backfit Analysis" should be revised to read 'The NRC has determined that ~~the backfit rule does not apply to this final rule because~~ these amendments do not involve any provisions that would impose backfits as defined in 10 CFR 76.76. Therefore, a backfit analysis is not required for this final rule.'
 7. The Congressional letters should be modified to insert the following at the end of the third paragraph:
The public's opportunity to follow each licensing action remains the same because licensing documents are placed in the Commission's Public Document Room, will be placed on the NRC's website, and the public continues to have an opportunity to file a petition for review.
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