

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 Suspend: 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

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**Attachment**

**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, 1<sup>st</sup> 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  
every6 months for everything else to every9 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 believe  
s that ....' In the next paragraph (response), revise line 1 to read ' ... making any changes  
intothe final rule ....'
7. On page 20, 1<sup>st</sup> full paragraph, delete the 2<sup>nd</sup> sentence (Both Category I facilities ... be retained.)
8. On page 41, 1<sup>st</sup> full paragraph, revise line 4 to read ' ... will be reduced by a ~~total~~ of approximately ....'
9. On page 42, 2<sup>nd</sup> 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 'Posses  
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.)