

IN RESPONSE, PLEASE  
REFER TO: M030828A

August 28, 2003

MEMORANDUM FOR: William D. Travers  
Executive Director for Operations

John F. Cordes, Director  
Office of Commission Appellate Adjudication

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 9:00 A.M.,  
THURSDAY, AUGUST 28, 2003, COMMISSIONERS'  
CONFERENCE ROOM, ONE WHITE FLINT NORTH,  
ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-03-0090 - Final Rule: 10 CFR Parts 30, 40, and 70: Financial Assurance for Materials Licensees

The Commission approved a final rule amending 10 CFR Parts 30, 40, and 70 to bring financial assurance requirements more in line with actual decommissioning costs for these materials licensees. The Commission approved the publication and implementation of this final rule subject to the comments provided in the attachment.

Following incorporation of these 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: 9/26/03)

II. SECY-03-0127 - Final Rulemaking – Risk-Informed 10 CFR 50.44, “Combustible Gas Control in Containment”

The Commission approved a final rule amending 10 CFR 50.44 to eliminate the requirements for hydrogen recombiners and hydrogen purge systems in currently licensed light water reactors and relax the requirements for hydrogen and oxygen monitoring equipment commensurate with the equipment’s risk significance. The rule also specifies requirements for combustible gas control in future water-cooled reactors and non-water-cooled reactors. The Commission approved the publication and implementation of this final rule subject to the comments provided in the attachment.

Following incorporation of these 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: 9/26/03)

III. SECY-03-0130 - Final Rule on Electronic Maintenance and Submission of Information

The Commission approved a final rule which implements the Government Paperwork Elimination Act. The rule clarifies how licensees and other members of the public may use electronic means such as CD-ROM and e-mail to communicate with the agency. The Commission approved the publication and implementation of this final rule subject to the attached changes.

Following incorporation of these 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:

9/26/03)

IV. SECY-03-0133 - Tennessee Valley Authority (Watts Bar Nuclear Plant, Unit 1 & 2, Browns Ferry Nuclear Plant, Units 1, 2 & 3), Docket Nos. 50-390-CIVP; 50-0327-CIVP; 50-328-CIVP; 50-259-CIVP; 50-260-CIVP; 50-296-CIVP; LBP-03-10 (June 26, 2003)

The Commission approved a Memorandum and Order responding Tennessee Valley Authority's petition for review of the Atomic Safety and Licensing Board's Initial Decision (LBP-03-10) that found the licensee in violation of 10 CFR § 50.7 (regarding whistleblower protection) but reduced the amount of the civil monetary penalty from \$110,000 to \$44,000. The Memorandum and Order grants TVA's petition for review of LBP-03-10.

(Subsequently, on August 28, 2003, the Secretary signed the Memorandum and Order.)

Attachment: Changes to the final rules affirmed on August 28, 2003

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

## Changes to the final rules affirmed on August 28, 2003

### Changes to the Federal Register notice in SECY-03-0090

Staff should continuously strive to improve the agency's communications with the public, especially on agency actions and programs that are directed toward protection of the public health and safety. In that regard:

1. The staff should provide a few sentences in the FRN that briefly address the potential impact of inadequate decommissioning funding on public health and safety.
2. The FRN should be revised to include the text from page 1 of the Regulatory Analysis that briefly explains the steps in financial assurance and which steps the current rulemaking addresses.
3. The FRN should be revised to include the text from pages 4-5 of the Regulatory Analysis that addresses the impact of not conducting the rulemaking and the benefits of finalizing the rulemaking.

### Changes to the Federal Register notice in SECY-03-0127

1. On page 9, revise line 7 from the top to read ' ... containments because of the large ....'
2. On page 45, in the "Resolution of Issue 1:" paragraph, revise line 3 to read ' ... section III A of this ....' Make the same change in several other places on pages 46, 47, and 48 and review the remainder of the document to ensure consistency.

### Changes to the Federal Register notice in SECY-03-0130

1. On page 4, 1<sup>st</sup> full paragraph, revise line 5 to insert a comma after "reactors" and revise line 6 to insert a comma after "them".
2. On page 13, 2<sup>nd</sup> full paragraph, revise line 1 to read ' ... in one of the NARA approved PDF formats ....'
3. On page 15, line 2 from the top, delete "significantly". Revise line 3 to read ' ... originally by the NRC for some image forms.' Note: If pixels per inch and dots per inch (dpi) are the same thing, use consistent terminology. If they are different provide some definition to put the statements in context.

Additionally, on page 25 of the Guidance Document , paragraph 4.3.7, bullet 3, revise line 1 to read ' ... those listed in Section 2.1 -Note: except that s Submittals may ....' Revise lines 3 through 5 to delete all after "clips".