

February 22, 2002

Horst Greczmiel
Council on Environmental Quality
Associate Director for NEPA Oversight
722 Jackson Place, N.W.
Washington, D.C. 20503-0002

Dear Mr. Greczmiel,

As you may recall from our recent conversation, as part of a larger rulemaking endeavor intended to amend the NRC's material control and accounting regulations in a variety of areas, the NRC is proposing a revision to an established categorical exclusion.¹ Based upon your expressed interest in reviewing even minor revisions to NRC categorical exclusions, I am forwarding this brief explanation of the clarifications proposed for the categorical exclusion.

Current NRC regulations provide a categorical exclusion for the issuance of an amendment to a license relating to safeguards matters or approval of a safeguards plan. Specifically, 10 CFR 51.22(c)(12) provides a categorical exclusion for:

Issuance of an amendment to a license pursuant to parts 50, 60, 61, 70, 72 or 75 of this chapter relating solely to safeguards matters (i.e., protection against sabotage or loss of diversion of special nuclear material) or issuance of an approval of a safeguards plan submitted pursuant to parts 50, 70, 72, and 73 of this chapter, provided that the amendment or approval does not involve any significant construction impacts. These amendments and approvals are confined to (i) organizational and procedural matters, (ii) modifications to systems used for security and/or materials accountability, (iii) administrative changes, and (iv) review and approval of transportation routes pursuant to 10 CFR 73.37.

This proposed rule seeks to revise the categorical exclusion in 10 CFR 51.22(c)(12) in two minor ways. The first revision clarifies that the categorical exclusion addresses not only approval of an initial safeguards plan, but also covers any modifications to the safeguards plan assuming they are confined to the limitations outlined in 10 CFR 51.22(c)(12)(i) - (iv). As written, initial approval of a safeguards plan is covered by the categorical exclusion, but

¹ The other four goals of the proposed rulemaking are (1) modifying the submittal time for material balance reports and inventory composition reports to coincide with the time of a facility's physical inventory; (2) moving the Category II requirements and general material control and accounting requirements to 10 CFR Part 74 to consolidate domestic material control and accountability requirements; (3) developing risk-informed requirements for Category II facilities; and (4) correcting typographical errors, outdated terminology, and implementation dates.

amendments do not appear to be covered. This inconsistency appears to be inadvertent in that in the Statement of Considerations for the rulemaking that included this categorical exclusion, the NRC stated that this categorical exclusion was needed to implement new safeguards regulations through incorporation of provisions into licenses, as well as to "permit modifications to licensees' safeguards programs established under existing requirements." 49 Fed. Reg. 9352, at 9373 (March 12, 1984). Thus, the proposed rule seeks to rectify this omission by adding language which clarifies that this categorical exclusion covers revisions to safeguards plans.

The second and final minor revision to the categorical exclusion proposes to provide a general reference to any part of 10 CFR Chapter 1 rather than citing specific parts of the regulations to which the categorical exclusion applies. Providing references to specific parts of the regulations creates problems as regulations are added or revised. For example, the current 10 CFR 51.22(c)(12) lists several parts to which it applies, but neglects to mention Part 76, a regulation promulgated subsequent to the development of the listing of applicable parts, which should be included. Providing a generic reference to any part of 10 CFR Chapter 1 corrects the current listing and avoids the need for future revisions to the categorical exclusion when new parts need to be added to the listing.

Adoption of the two minor revisions noted would result in a revised 10 CFR 51.22(c)(12) which would read:

Issuance of an amendment to a license implementing any requirement of this chapter relating solely to safeguards matters (i.e., protection against sabotage or loss or diversion of special nuclear material), or issuance of an approval of a safeguards plan (or revision thereto) submitted pursuant to a requirement of any part of this chapter, provided that the amendment or approval does not involve any significant construction impacts. These amendments and approvals are confined to: (i) organizational and procedural matters; (ii) modifications to systems used for security and/or materials accountability; (iii) administrative changes; and (iv) review and approval of transportation routes pursuant to 10 CFR 73.37.

As you can see, these are minor revisions and hopefully we have not unnecessarily taken too much of your time. Feel free to call (301-415-1574) or e-mail (abc1@nrc.gov) if you have any questions. If you could please let us know if you have any comments or suggestions no later than close of business March 1, 2002, we would be greatly appreciative. Thank you for your assistance with this matter, and with your patience with all of my questions. I look forward to hearing from you.

Sincerely,

Angela B. Coggins
Attorney, Office of the General Counsel
U.S. Nuclear Regulatory Commission

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