



OFFICE OF THE
SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555

January 27, 1997

IN RESPONSE, PLEASE
REFER TO: M970122B

MEMORANDUM FOR:

Hugh L. Thompson, Jr.
Acting Executive Director for Operations

John F. Cordes, Acting Director
Office of Commission Appellate Adjudication

FROM:

John C. Hoyle
John C. Hoyle, Secretary

SUBJECT:

STAFF REQUIREMENTS - AFFIRMATION SESSION,
11:30 A.M., WEDNESDAY, JANUARY 22, 1997,
COMMISSIONERS' CONFERENCE ROOM, ONE WHITE
FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO
PUBLIC ATTENDANCE)

I. SECY-96-268 - Final Rule to Amend 10 CFR Part 71 for Fissile
Material Shipments and Exemptions

The Commission¹ approved publication of an immediately effective final rule amending 10 CFR Part 71 to correct a recently discovered defect. The following changes should be made to the Federal Register notice.

1. On page 2, in the first line of the Background section, add 'Babcock & Wilcox, Naval Nuclear Fuel Division (B&W),' after 'licensee.'
2. On page 3, in the first line on the page, replace 'Babcock & Wilcox, Naval Nuclear Fuel Division (B&W),' with 'B&W.'
3. The following sentences should be added to the "Summary" section and included in the public announcement.

"The regulatory defect is not indicative of unsafe fissile material shipments in the past. Rather, it was

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.

identified by B&W during preparation for shipment of an unprecedented type of fissile material that could result in nuclear criticality under current requirements. This unique material is produced as a waste product from processing of strategic material resulting from operations to commercially downblend weapons-usable fissile material from the former Soviet Union."

The addition noted in number 3. above should be added after sentence 1, paragraph 2, to each of the Congressional letters contained in enclosure 2. In line 1, paragraph 2, of the Congressional letters, add 'on September 11, 1996,' after 'notified the NRC.'

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: 02/28/97)

The staff should ensure that codes used for criticality calculations consider the $n \rightarrow 2n$ beryllium reaction. The photo neutrons are a minor component and difficult to take into account. The interaction between arrays (cake) could also be important.

The staff should consider the criticality issues raised in SECY-96-268 in a broad context and examine previously-unanticipated fissile materials and moderators in other areas of the fuel cycle and waste programs. The staff should consider criticality issues regarding special moderating materials in processes at licensees' facilities, in storage awaiting transportation, and after disposal at waste facilities.
(EDO) (SECY Suspense: 3/31/97)

The staff should consider issuing guidance to clarify the application of the tables on pages 22 and 23 to situations where fissile materials with different hydrogenous moderators may be shipped in the same container.

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II. SECY-97-004 - Sequoyah Fuel Corporation and General Atomics;
LBP-96-24 , Approving Settlement with General Atomics and
Dismissing Proceeding

The Commission² approved an order granting the petitions filed by the State of Oklahoma, Native Americans for a Clean Environment, and the Cherokee Nation for Commission review of the Atomic Safety and Licensing Board's Memorandum and Order, LBP-96-24, dated November 5, 1996, in which a majority of the Board approved a settlement agreement between the NRC staff and General Atomics.

(Subsequently, on January 22, 1997 the Secretary signed the Order.)

cc: Chairman Jackson
Commissioner Rogers
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
EDO
OGC
OCAA
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR - Advance
DCS - P1-24

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.