



OFFICE OF THE
SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 29, 1997

RELEASED TO THE PDR

2/5/97

date

DMW

initials

MEMORANDUM TO: Hugh L. Thompson, Jr.
Acting Executive Director for Operations

FROM: John C. Hoyle, Secretary

SUBJECT: STAFF REQUIREMENTS - SECY-96-249 - STAFF
RESPONSE TO SRM ON SECY-96-147 REGARDING
REDUCING NEED FOR EXEMPTIONS AND CONSISTENCY
OF THE EXEMPTION PROCESS

The Commission has approved retaining (1) the current criteria contained in 10 CFR 50.12 for considering exemption requests from reactor licensees, and (2) the current general criteria for considering specific exemptions requested by materials licensees. In addition, the Commission agrees that the staff's own internal process for the staff's evaluation of exemption requests is adequate. With regard to this internal staff review process, the staff should develop more explicit guidance to ensure the quality, objectivity and consistency of exemption packages.

(EDO) (SECY Suspense: 7/31/97)

The Commission is concerned, however, that the recent Commission focus on exemptions (to identify regulations that are unclear or difficult to comply with so that such regulations may be corrected) may have caused a misunderstanding by the staff and affected the application of the exemption criteria, resulting in an attempt by the staff to limit or reduce the number of exemptions that the NRC considers and grants. In fact, the Commission has not set any particular goals or limits on the number of exemption requests that can be considered or granted. The Commission believes that the staff should apply the regulatory criteria for exemptions objectively and without a preconceived notion that exemptions should either be limited or circumscribed or, conversely, readily available for anyone who seeks an exemption. Objective evaluation of exemption requests will ensure that inappropriate regulatory requirements will be more readily identified through the number of exemption requests that are received.

SECY NOTE: THIS SRM, SECY-96-249, AND THE COMMISSION VOTING
RECORD CONTAINING THE VOTE SHEETS OF ALL
COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 5
WORKING DAYS FROM THE DATE OF THIS SRM.

DMW-6 SRM

If particular regulations are unclear or difficult to comply with such that they engender an inordinate volume of exemption requests (so called "recurring exemptions"), the staff should seek promptly to modify and correct these regulations and, in the interim period before completion of the corrective rulemaking, grant those exemptions that are properly justified under the exemption criteria. In addressing the "recurring exemption" problem, the staff should expeditiously proceed with the rulemaking fixes to those regulations that have engendered recurring exemption requests. These corrective rulemaking actions should not be delayed to incorporate "performance-based" regulatory concepts where such concepts are not necessary to address the "recurring exemption" issue. Candidate rulemaking activities resulting from reviews of experience with exemptions should continue to be noted and progress reported in the semiannual updates of the Rulemaking Activity Plan.

As a general practice, the grant or denial of specific exemptions is purely a staff responsibility that does not involve the Commissioners. However, the Commission reserves to itself the responsibility for policy determinations that guide these staff actions. To allow for routine Commission monitoring (for "recurring exemption" requests), the staff should include in the semiannual updates of the Rulemaking Activity Plan a listing and description of the applications for exemptions that have been received and the exemption applications that have been granted or denied during the period which is the subject of the semiannual update.

cc: Chairman Jackson
Commissioner Rogers
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
OGC
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)