

June 3, 1999

MEMORANDUM TO: Chairman Jackson
Commissioner Dicus
Commissioner McGaffigan
Commissioner Merrifield

FROM: Nils J. Diaz

SUBJECT: ADDITIONAL CONSIDERATIONS FOR RESOLUTION OF SECY-98-300 AND SECY-99-133

The Commission has been moving toward resolution of [SECY-98-300](#) and is now considering [SECY-99-133](#). I would be remiss if I did not ask my fellow Commissioners to consider several issues that arise as a result of recent comments and directional changes regarding modification of the maintenance rule. In particular, I believe the Commission needs additional evaluation of proposed changes to [10 CFR 50.65\(a\)\(4\)](#) and their potential implication for adequate protection and/or backfit findings.

From its letters of April 14 and May 11, 1999, the ACRS appears to be expressing concern with combinations of multiple low risk-significant safety systems, structures, and components (SSCs) and their impact on plant safety during maintenance, and, presumably, when they fail. In its letter of April 14, 1999, the ACRS stated that "[i]t is not apparent that components ranked as having low safety significance will continue to be of low safety significance under all the configurations that can occur when multiple components are simultaneously taken out of service." It further stated, in its letter of May 11, that "[a] different configuration or a different mode of operation may change the relative rankings of the SSCs." On plain reading, this would appear to create an open-ended requirement.

The ACRS seems to be raising questions involving maintenance configurations and/or failure of SSCs, including the adequacy of PRAs to characterize accident sequences, that could be viewed as having implications for adequate protection. Some might construe the ACRS concerns as making it necessary to re-evaluate established NRC policies to consider out-of-service and/or failures of all low risk-significant SSCs, and all combinations of low and high risk-significant SSCs. For instance, what is the acceptable variability in risk level associated with different configurations or modes that will not trigger consideration of adequate protection?

I continue to believe that technical specifications, Appendices A and B of Part 50, the design basis, and risk-informed additions thereto, provide reasonable assurance of adequate protection. However, in light of the ACRS findings suggesting the need for evaluation of the risk-significance of all actual configurations before performing maintenance, I recommend that the ACRS promptly evaluate the potential implications of its conclusions for determinations of adequate protection. The ACRS surely has conducted studies that prompted its recommendations, and therefore it should not be difficult for the Committee to provide this evaluation.

Second, if the newly proposed requirements are not necessary for adequate protection, then new backfit issues are raised. Since the original backfit determination was made, it appears that the Commission, upon advice from ACRS, the staff and perhaps others, is considering requiring that licensees analyze multiple configurations of SSCs, including those normally characterized as having low safety significance. [SECY-99-133](#) presents the revised maintenance rule and states that "[l]icensees are expected to consider potential failures and emergent maintenance requirements." Moreover, the ACRS commented, in its April 14, 1999 letter, that "[t]he language in the revised rule expands the scope of the rule from monitoring or preventive maintenance activities to a wider range of maintenance activities." These new developments raise the question of whether the rule will provide a substantial increase in the overall protection of the public health and safety that justifies the costs. Thus, I recommend that OGC review the adequacy of the existing backfit analysis for a rule requiring that licensees establish a risk-evaluation process and conduct assessments before performing maintenance.

Finally, I recommend that the Commission hold a public meeting upon receipt of the ACRS and OGC reviews requested above so that all stakeholders have the benefits of the updated analyses. The Commission's direction can then be scrupulously developed and clearly communicated to the staff and all stakeholders. Some questions have been raised about the rapidity and openness of the Commission's decision-making on the scope of the required maintenance rule assessments. As a matter of prudence, an additional public meeting as early as possible and, if necessary, public comment on the rule, would surely alleviate such concerns.

SECY, please track.

cc: SECY
OGC
EDO