

September 24, 2003

MEMORANDUM TO: John W. Hickey, Director
Division of Industrial and Medical
Nuclear Safety, NMSS

FROM: Glenn Tracy, Director /RA/
Division of Nuclear Security, NSIR

SUBJECT: USER NEED FOR REVISION OF 10 CFR PARTS 75 AND 110
TO IMPLEMENT ADDITIONAL PROTOCOL.

The purpose of this memorandum is to request Nuclear Material Safety and Safeguards (NMSS) rulemaking assistance. 10 CFR Parts 40, 75, 110, and 150 must be revised to implement the new requirements contained in the Additional Protocol to the U.S.-International Atomic Energy Agency (IAEA) Safeguards Agreement. The Commission's regulations for the implementation of the Safeguards Agreement are contained in 10 CFR Part 75 and for the control of the import and export of nuclear materials and equipment are contained in 10 CFR Part 110. Compliance with the requirements is or should be directed from 10 CFR Parts 40, 60, 63, 70, and 150.

Activities addressing revision of 10 CFR and preparation of a draft rulemaking plan were initiated in 1999 and suspended in 2000. A draft rulemaking plan had been prepared based on the responsibilities accepted by the Commission in 1998. In 2000, the State Department requested the U.S. Nuclear Regulatory Commission (NRC) to accept additional responsibilities. As this issue has now been resolved, the rulemaking effort must be revived and the draft rulemaking plan updated to reflect the responsibilities accepted by the Commission. A rulemaking working group composed of personnel from the Office of Nuclear Security and Incident Response (NSIR), NMSS, Office of International Programs, Office of General Counsel, and Office of State Programs will need to be reconstituted to identify and resolve the remaining activities. The NSIR staff responsible for this activity are Bruce Moran and Brian Horn of the Fuel Cycle Security and Special Projects Section of the Division of Nuclear Security. They can be contacted at telephone numbers 415-7871 and 415-8128, or e-mail addresses <bwm> and <bgh1>, respectively.

The proposed rule changes are currently considered a medium priority, but will become high priority when the Senate approves and the President ratifies the treaty. Optimally, NRC should have the rule change ready to be published in the Federal Register when Presidential ratification occurs.

On May 9, 2002, the Executive Branch submitted to the Senate, for advice and consent, a treaty adding a new protocol to the U.S.-IAEA Safeguards Agreement (Additional Protocol). On June 6, 2003, the Commission accepted responsibilities proposed to be assigned to the NRC in a draft National Security Presidential Directive (NSPD). In September 2003, the Executive Branch is expected to complete the draft NSPD and provide the NSPD to the Senate as supplemental information to the treaty submittal.

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