

February 15, 2012

MEMORANDUM TO: R. W. Borchardt
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS – SECY-11-0108 – REGULATION OF
CHEMICAL SECURITY

The Commission has disapproved the staff's recommendation to proceed with rulemaking for increased chemical security at NRC licensed facilities.

The staff should obtain additional information from all fuel cycle facilities involving conversion, deconversion, enrichment, and fuel fabrication, to determine which facilities possess chemicals in quantities of interest stored outside of existing security areas, the amounts and location of these chemicals, the current level of security, and any security enhancements proposed to be implemented. At a minimum, the request should seek responses to the following questions:

- a. Does the licensee maintain inventories of chemicals of interest (COI) in excess of the thresholds set by the Department of Homeland Security (DHS)?
- b. Is the COI stored within areas subject to NRC security requirements analogous to the protected areas defined for Part 70 licensees (as defined in regulation or orders).
- c. For COI outside the areas subject to NRC security requirements analogous to the protected areas defined for Part 70 licensees, has the licensee implemented any security measures to assure the protection of the COI?
- d. Using the basic approaches to security provided in the DHS Risk-Based Performance Standards Guidance as a general guide, is there a need to enhance the security of COI, and if so, what does the licensee propose?

Once the information is provided by the licensees, the staff should provide the Commission with a summary of the responses with a Commissioner Assistant Note or Technical Assistant briefing summarizing the key issues, and a status of DHS's implementation of chemical security regulations. Once the information is analyzed, staff should hold a workshop with the licensees to identify what additional security measures, if any, should be incorporated into security plans.

The staff's approach should be risk-informed, given the security measures already imposed at NRC licensed facilities. The staff should approach its evaluation of chemical security with cognizance of the beneficial effects that result from NRC's longstanding safety regulations in place at these facilities and should ensure that any measures proposed to enhance chemical security do not have the potential to adversely affect nuclear safety or the safety of workers or facilities as a whole.

Work addressing chemical security activities at NRC facilities should be informed by a staff review of DHS's implementation of its chemical security regulations at chemical facilities, to be conducted at the point in time when DHS's implementation is fully underway. The staff should, therefore, maintain cognizance of DHS's program as it is implemented and keep the Commission informed about how lessons learned might be applied to NRC regulated facilities.

After the staff receives the requested information from the licensees, the staff should use the DHS process or a similar framework to determine the tiers in which the fuel cycle facilities fall. This information should be provided to the Commission in the notation vote paper. Such an exchange of information may result in modifications to the current Memorandum of Understanding to formalize the information exchange.

Based on all the information, the staff should provide the Commission with a notation vote paper that describes the staff's evaluation of those measures necessary to constitute an adequate chemical security framework at these facilities. The staff should also propose any necessary security enhancements that should be incorporated into site security plans, with the necessary technical basis, and policy and legal analysis, and should recommend the appropriate regulatory mechanisms for imposing them, or offer some other course of action for better definition of the specific roles of DHS and the NRC.

The staff's evaluation of what, if any, actions are necessary to enhance security of chemicals should consider the implication of Occupational Safety and Health Administration safety requirements on any proposed security revisions as well as security provided by agencies such as the Transportation Security Administration during transport of chemicals to the site. Regulatory actions should provide the flexibility for site- specific, risk-informed approaches.

cc: Chairman Jaczko
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
OGC
CFO
OCA
OPA
Office Directors, Regions, ACRS, ASLBP (via E-Mail)
PDR