

March 16, 2012

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

Patrick Moulding, Acting Director
Office of Commission Appellate Adjudication

FROM: Andrew L. Bates, Acting Secretary of the Commission **/RA/**

SUBJECT: STAFF REQUIREMENTS – AFFIRMATION SESSION, 3:30 P.M.,
FRIDAY, MARCH 16, 2012, COMMISSIONERS' CONFERENCE
ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND
(OPEN TO PUBLIC ATTENDANCE)¹

I. SECY-11-0170 – Final Rule: Physical Protection of Byproduct Material (RIN 3150-AI12)

The Commission approved a final rule adding a new Part 37 to Title 10 of the Code of Federal Regulations and making conforming changes to Parts 20, 30, 32, 33, 34, 35, 36, 39, 51, 71, and 73. The rule amends the regulations to establish security requirements for the use of Category 1 and Category 2 quantities of radioactive material and for the transportation of small quantities of irradiated fuel.

Following incorporation of these changes, the Federal Register notice should be reviewed by the Rulemaking, Directives, and Editing Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO)

(SECY Suspense:

4/20/12)

The staff should use a self-protecting standard radiation dose that is consistent with IAEA standard for physical protection of nuclear material – INFCIRC/225/Rev. 4. Therefore, the criteria of 1 Gray (100 rad) per hour at 1 meter (3.3 feet)” should be used. Conforming changes should be made to the Federal Register Notice.

The Commission has concurred in the staff’s determination that the rule will not have a significant impact on a substantial number of small entities.

The Commission has approved rescinding the security orders in accordance with the implementation plan.

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.” Chairman Jaczko, and Commissioners Svinicki, Apostolakis, and Ostendorff were present in the Conference Room. Commissioner Magwood participated in the meeting via speakerphone.

The Commission has approved the staff's recommendation to conduct a rulemaking to remove the SGI-M requirement for certain licensees.

The staff should continue their work with other Federal agencies on the security requirements for transshipments.

- II. SECY-12-0014 – Luminant Generation Company LLC (Comanche Peak Nuclear Power Plant, Units 3 & 4); Entergy Northwest (Columbia Generating Station); Southern Nuclear Operating Co. (Vogtle Electric Generating Plant, Units 3 and 4); Duke Energy Carolinas, LLC (William States Lee III Nuclear Station, Units 1 and 2), Petitions for Review of LBP-11-27 (November 2, 2011)

The Commission approved a Memorandum and Order responding to four substantively identical petitions for review of LBP-11-27, a Board decision declining to admit a NEPA contention arising from the report of the Near-Term Task Force. The Memorandum and Order denies the petitions for review. Commissioner Magwood's approval does not pertain to the *Comanche Peak* COL proceeding, in which he is not participating.

(Subsequently, on March 16, 2012, the Secretary signed the Memorandum and Order.)

Attachment: Changes to the Final Rule in SECY-11-0170

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

Changes to the Final Rule in SECY-11-0170

1. On page 13, 2nd full paragraph, revise line 3 to read ‘ ... of September 11, 2001 2011, made’
2. On page 16, revise line 1 from the top to read ‘ ... figures for convenience practical usefulness.’
3. On page 23, last paragraph, revise line 5 to read ‘ ... by the breach breach of a’
4. On page 55, paragraph 12., revise line 1 to read ‘ ... the category 1 shipment’
5. On page 68, 3rd full paragraph, revise line 3 to read ‘ ... Federal institutions, material shipments’
6. On page 72, 1st full paragraph, revise line 4 to read ‘ ... basis exists and that it is protective of public health and safety, it can’
7. On page 81, last paragraph, revise line 6 to read ‘ ... Safety Officer (RSO) and’
8. On page 96, 2nd full paragraph, revise line 5 to read ‘ ... taking place, or, as appropriate, if the licensee has identified suspicious activities.’
9. On page 103, 2nd full paragraph, revise line 2 to read ‘ ... the burden while continuing to ensure the adequate safety and security of sources of concern. The’
10. On page 123, revise lines 3 through 5 from the top to read ‘ ... reviewing official must should be permitted unescorted access instead of being required to have unescorted access, and the phrase “as part of their job duties” has been removed. However, these individuals are not being required to physically access the material. The changes’
11. On page 124, 2nd full paragraph, revise line 7 to read ‘ ... as the radiation safety officer RSO. The’
12. On page 128, last paragraph, revise line 3 to read ‘ ... history records check’
13. On page 137, 3rd full paragraph, revise line 3 to read ‘ ... history records check’
14. On page 143, 1st full paragraph, revise line 1 to read ‘ ... responding indicated that’
15. On page 159, 5th full paragraph, revise line 2 to read ‘ ... history records check’
16. On page 206, last paragraph, revise line 7 to read ‘ ... form to be used’
17. On page 208, 1st full paragraph, revise line 2 to read ‘ ... burden, instead the’
18. On page 211, 1st full paragraph, revise line 8 to read ‘ ... security zone as appropriate to what works for a’

19. On page 215, 1st full paragraph, revise line 3 to read ‘ ... the rule **are** ~~is~~ intended’
20. On page 259, last paragraph, revise line 5 to read ‘ ... provided **any** ~~no~~ further’
21. On page 264, 2nd full paragraph, revise line 9 to read ‘ ... Federal Express, **as long as they continue to meet these requirements.**’
22. On page 365, paragraph (g), revise line 1 to read ‘ ... in § 37.7. **A written report is not required for notifications on suspicious activities required by paragraphs (c) and (d) of this section.** In addition, the’