

April 12, 1999

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette Vietti-Cook, Secretary /s/

SUBJECT: STAFF REQUIREMENTS - SECY-99-043 - ORGANIZATIONAL
CONFLICT OF INTEREST REGARDING DEPARTMENT
OF ENERGY LABORATORIES

The Commission has approved the staff's proposal to use the existing waiver process to address Conflict of Interest concerns and continue to apply NRC's current COI procedures to the work the DOE performs for the NRC. The Commission is concerned that its research, evaluation, and support needs be met, and therefore wants to be notified if and when the staff thinks that the agency cannot meet its operational needs within the confines of sec. 170A of the AEA. Paragraph 170A.b.(2) of the Act requires, among other things, that the contract, agreement, or arrangement with a party facing a conflict of interest include "appropriate conditions ... to mitigate" the conflict. If the staff finds that it is having difficulties meeting this latter requirement in cases where the best interests of the U.S. would be served by placing work with national labs that face conflicts of interest, the staff should:

1. Promptly notify the Commission, and
2. Prepare options for proposing legislative changes to amend the Atomic Energy Act to address this issue.

In any future legislative package addressing external regulation of DOE, the staff should discuss whether it anticipates that it will have difficulty mitigating conflicts that may arise by placing work with national labs. If the staff anticipates difficulties, it should recommend whether the Commission should seek legislative options, including any previously considered by OGC or the staff, to address conflicts of interest, or whether other options would be preferable.

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
CIO
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR
DCS