

November 24, 1997

MEMORANDUM TO: L. Joseph Callan
Executive Director for Operations

FROM: John C. Hoyle /s/

SUBJECT: STAFF REQUIREMENTS - SECY-97-176 - STANDARD
REVIEW PLAN FOR MEETING THE STATUTORY
REQUIREMENTS OF THE USEC PRIVATIZATION ACT

The Commission has approved the staff's approach for meeting the statutory requirements of the U.S. Enrichment Corporation (USEC) Privatization Act. The Commission has conditionally approved amending the gaseous diffusion plant certificates of compliance with the proposed certificate conditions set forth in SECY-97-176 upon completing the Standard Review Plan (SRP) in final form.

The SRP, and the proposed certificate conditions, should remain in draft form until the staff has received formal input from the Executive Branch agencies via whichever mechanism the Executive Branch chooses, e.g., the Treasury, the National Security Council staff, the National Economic Council staff or the HEU Oversight Committee. The Commission will be particularly interested in how the Executive Branch would like to interact with NRC in its statutory role as the enduring regulatory agency with oversight of the privatized USEC. For example, if the NRC receives notice under the certificate conditions relating to foreign ownership, control or domination, how would the Executive Branch wish to be consulted? Does the Executive Branch desire a formal input role at each recertification of USEC (in 1999, 2004, etc.) with regard to the three statutory findings? With regard to NRC's continuing oversight: (a) At what trigger level of foreign ownership should the Executive Branch be consulted? (b) At what trigger level of ownership by foreign competitors of USEC should the Executive Branch be consulted? (c) At what trigger level of ownership by entities with a substantial commercial relationship with foreign competitors should the Executive Branch be consulted? (d) What are the Executive Branch's views on the specific certificate conditions that should be imposed on a privatized USEC to support the statutory findings that NRC must make? Upon receipt of the Executive Branch's formal comments, the staff should forward the comments to the Commission with a recommendation on the

SECY NOTE: THIS SRM AND SECY-97-176 DISCUSS SENSITIVE
INFORMATION AND WILL BE LIMITED TO THE NRC UNLESS
THE COMMISSION DETERMINES OTHERWISE.

finalization of the SRP and proposed license conditions, with appropriate modifications if necessary, for the Commission's consideration.

The staff should reassess and reevaluate the proposed certificate conditions and the issue of acquisition or ownership by foreign competitors or entities that have a substantial interest in a foreign competitor to ensure it has been fully dealt with to address the concerns of the Executive Branch agencies. The SRP as drafted would properly exclude any foreign competitor (e.g., Eurodif, Urenco, Minatom) or any entity with a substantial commercial relationship with such competitors from any acquisition of USEC. But without addressing this in the foreign ownership certificate condition, it is not clear how this policy will be enforced on an enduring basis. The staff should consult with the Executive Branch agencies to determine whether modifications are necessary to address this issue. The staff should determine whether conforming modifications to the acceptance criteria, review procedures, or other sections of the SRP might also be warranted. The staff should advise the Commission of its findings after its reassessment and reevaluation.

(EDO)

(SECY Suspense: 4/3/98)

The following editorial changes should be made to the SRP:

1. On page 1.4-11, item 2.a.(2), line 4, insert 'and projected costs' after 'revenue.'
2. On page 1.4-13, item e., line 3, delete the redundant 'should be.'

The following editorial change to the SRP should be considered and discussed with the Executive Branch:

1. On page 1.4-5, section 1.4.4.3, items 1 and 2, insert 'and ownership by such entities will be evaluated at the time of initial certification and at each recertification of the privatized USEC' at the end of the existing sentence.

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
OGC
CIO
CFO
OCA

OIG