

From: Vonna Ordaz - NSIR  
 To: Ann Ramey-Smith; Bernard White; Charles Tinkler; Daniel Dorman; Jack Davis; Jack Strosnider; Margaret Federline; Mark Cunningham; Melanie Galloway; Michael Mayfield; Richard Borchardt; Robert Nelson; Robert Pierson; Roberta Warren; Roger Kenneally; Scott Newberry; Stuart Richards  
 Date: 3/2/03 7:46AM  
 Subject: Airborne Security Legislation Meeting

Folks;

On 2/27, NSIR and OGC reps attended a Homeland Security Working Group Meeting on Nuclear Security Legislation. The meeting was led by Ken Stroech, from the Homeland Security Council (HSC). The purpose of the working group is to finalize a presidential initiative on nuclear security, which is based on the NRC's proposed nuclear security bill. The NRC's proposed bill was sent out to the other government agencies for comment, and OGC has been revising the proposed bill to incorporate the comments. A meeting summary is attached for your information.

There are some specific initiatives including airborne and maritime security that were requested by HSC to be further explored. In a short turnaround, NRC was tasked with developing a white paper on the maritime security portion (attached), and TSA was tasked with developing a white paper on the airborne security portion (attached). The maritime white paper was relatively well-received since it addressed potential areas for expanded statutory authority. However, the airborne white paper didn't include these areas. As such, HSC requested that TSC further expand their paper to address potential areas for expanded statutory authority. If these areas don't exist, then TSC needs to discuss why there is not a need for expanded authority. For example, a rep from the Office of the Vice President, who attended the meeting, was probing TSA to understand how their NOTAMs were enforced. As you may know, they are not enforced, which is an area that may need to be explored for expanded authority. I recommended to TSA that the NRC should support their white paper, which is due to HSC by COB on 3/5. The TSA rep was not aware of the NRC's efforts associated with the aircraft VAs, and they welcomed our input.

I scheduled a Think Tank meeting on Tuesday, 3/4 at 10-11am in T10C4 to discuss potential areas for expanded authority for airborne security. We want the other offices to have the opportunity to be involved and provide any insights, suggestions, or comments. Once approved, we plan to forward the outcome of the meeting to TSA to include in their white paper. Please send me an email on who plans to attend from your office, if any. Roy Z. is anxious to hear the outcome of the meeting in an effort to support HSC's initiatives.

Your support is appreciated.

Thanks,  
Vonna

CC: Barry Westreich; Beth Wetzel; Glenn Tracy; James Dwyer; Jesse Arildsen; Joseph Olencz; Joseph Shea; Michael Weber; Philip Brochman; Richard Wessman; Trip Rothschild; William Orders

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 Act, exemptions 2  
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Portions Ex 2 (This page released)  
 H/bs

7/12/03 Security  
 Admin/Regulatory

**From:** Joseph Gray  
**To:** Bradley Jones; Cyndi Jones; Dennis Rathbun; Jeffry Sharkey; Margaret Doane; Maria Lopez-Otin; Marian Zobler; Roger Davis; Spiros Droggitis; Steven Horn  
**Date:** 2/28/03 10:16AM  
**Subject:** HOMELAND SECURITY WORKING GROUP MEETING ON NUCLEAR SECURITY LEGISLATION

My summary of the SUBJECT meeting (held on 2/27) is attached. I will hand deliver a copy with attachments to your offices this morning. Also attached for your information is an NSIR staff summary of the "action items" coming out of this meeting.

**CC:** Trip Rothschild

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NUCLEAR SECURITY WORKING GROUP MTG ON NUCLEAR SECURITY  
LEGISLATION - 2/27/2003

Attendees: Klimow (Office of the Vice President-OVP); Coleman (DOD); Beebe (Joint Chiefs); Langan, Daly, Kessler, Mickus, McRae (DOE); Hilder, Goff, Daly, Wybenga (DOT); Cotsworth, Matthiessen (EPA); Brown (FAA); Stroech, Gill, Aidekman (HSC); Gray, Rothschild, Ordaz, Brochman (NRC); Fitter, Joseffer, Suh (OMB); Farthing (USCG); Alvarez (DHS); Hamilton (TSA)

- (1) - Stroech (Homeland Security Council - HSC) led the meeting with a statement to the effect that the purpose of the working group is to finalize a presidential initiative on nuclear security - a comprehensive package that goes beyond nuclear power plants (e.g., include RDLs) but does not include things that are not needed.
- Stroech distributed an outline of the major topics that should at least be discussed/considered for coverage in the administration's nuclear security initiative.
  - DOE reiterated its continuing concern - that the initiative should not contain provisions that are not needed. Stroech indicated that he agreed.
- (2) NRC Outline of Proposed Legislation Modified to Address Some Agency Comments
- NRC provided a brief overview of the major features of its proposed legislation, generally highlighting changes (approved by Commission Offices) that were made in an attempt to address some of the agency comments. NRC emphasized that those sections of its proposal that would not involve new or augmented authority were included to address Congressional concerns and provide for a comprehensive bill that the Commission could live with.
  - DOT (Goff) reiterated its objections to most of the provisions that deal in any way with transport of nuclear materials.

[\*\*\*(a) HSC stated that NRC, DOT and DOE must immediately begin subworking group discussions to work out differences on transportation and what should be included in this legislation]

- NRC described in particular its need for the Section 2 deadly force and modern weaponry authority and noted that DOJ, for the first time in the 15 years that NRC has been making the deadly force proposal, claims that the proposal is unconstitutional. Stroech noted that DOJ had not sent a representative to the working group meeting.

[\*\*\*(b) HSC asked that NRC do a one page summary of the DOJ constitutional concern. OVP's Klimow asked NRC to include in that one-pager, suggestions as to the "quickest way" by which the President might confer deadly force and modern weaponry authority on nuclear plant guard force personnel - "in extremis". Klimow is very concerned about the current lack of such authority and says the White House is looking for a way (Klimow mentioned "deputize" or "Federalize") to provide such authority immediately in an emergency situation without waiting for legislation]

*How can it be useful in an emergency since personnel would have to be trained and qualified on the weaponry and the weaponry acquired.*

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- NRC continued its description of the various provisions, noting the need for expanded fingerprinting authority. DOD reiterated its concern about the impact of increased requests for background investigations on Federal resources and stated that DOD wants to see something in legislation that addresses that matter. DOE (a "broken record") again stated that it is concerned about including any provision that is not necessary.

[\*\*\*(c) HSC asked that NRC do a short paper on what NRC is doing administratively in those areas (i.e. proposed sections 9 - 13, 15) for which it does not need new or augmented authority.]

- NRC briefly discussed its section 14 which would extend NRC's authority to include discrete sources. EPA interjected that it still objects to NRC's section 14 language on discrete sources which EPA continues to view as vague, unsupported and a "regulatory overreach."

[\*\*\*(d) HSC stated that NRC-EPA-DOE-DOT-FDA need to get together quickly as a sub-working group to work out the needed definition of discrete sources of concern and to finalize the RDD provision (apparently expand to make it more comprehensive)]

(3) TSA Brief on Aviation Threat White Paper

- TSA briefly described new restrictions on commercial passenger carriers, cargo aircraft and general aviation. TSA included a description of the recent NOTAM that it worked up with NRC coordination. OVP Klimow asked TSA how it can make the NOTAM enforceable or give it "teeth" - the White House is exerting extreme pressure to see something and wants to hear from TSA on what can be done. (Can TSA yank a pilot's license? Do they need legislation?)

[\*\*\*(e) HSC directs TSA to do another paper that will describe the vulnerabilities, what can be done, pros and cons of options. NRC V. Ordaz indicated that NRC can help some on the vulnerability matter.]

(4) NRC on Maritime

NRC's Phil Brochman discussed the staff's white paper on maritime threats. USCG described some of its authorities and activities to assist in addressing waterborne threats to nuclear facilities.

[\*\*\*(f) HSC stated that NRC-USCG-USACE should quickly get together in a sub-working group to see what can be done administratively to provide protections, intake structure access restrictions etc. for waterborne threats to nuclear facilities.]

(5) HSC on RDDs

HSC distributed a summary of pending proposed legislation dealing with RDDs, orphan sources, radiation detection in transport etc. HSC also distributed its own assessment of NRC's RDD-related provisions with comments on where it thinks more is needed.

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[\*\*\*(g) HSC directed DOE to take the lead in a sub-working group of DOE-NRC-EPA-TSA-DOT-Customs-DOD/DTRA-FDA to address RDDs, orphan sources etc. in the legislation.]

~(6) Schedule

- HSC wants the various sub-working groups to start work as early as Friday (2/28), meet and develop products (including legislative language) -- re \*\*\* (a),(b),(c),(d),(e),(f) and (g) above -- that can be distributed by Wednesday (3/5/03) and reassemble for another full working group meeting next Friday (3/7/03).
- HSC reiterated that the NRC draft is the HSC/Administration draft nuclear security legislation that all are to be working with.

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Subsequent to the meeting, NRC staff met briefly with representatives of the various agencies and arranged to meet re:

- \*\*\* (a) on Monday (3/3) at 10am at DOT with high level NRC (Zimmerman or Weber) and DOT (Shane) management participation
- \*\*\* (d) on Monday (3/3) at 11am at EPA
- \*\*\* (f) on Monday (3/3) pm at NRC.

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## HOMELAND SECURITY WORKING GROUP MEETING ACTION ITEMS

February 27, 2003

1. Homeland Security Council (HSC) asked that NRC do a one page summary of the DOJ constitutional concern. OVP's Klimow asked NRC to include in that one-pager, suggestions as to the "quickest way" by which the President might confer deadly force and modern weaponry authority on nuclear plant guard force personnel - "in extremis". Klimow is very concerned about the current lack of such authority and says the White House is looking for a way (Klimow mentioned "deputize" or "Federalize") to provide such authority immediately in an emergency situation without waiting for legislation. (OGC lead)

2. HSC asked that NRC prepare a short paper on what NRC is doing administratively in the proposed legislation for which the NRC currently has authority to take action, but intends to include as part of the comprehensive domestic nuclear security bill (i.e. proposed sections 9 - 13, 15) (NSIR lead)

3. The Office of the Vice President requested the NRC's overflight information that is reported to the Operations Center to understand how the information is being tracked/trended. He is concerned that NOTAM's aren't being enforced, and wants more information. (NSIR lead)

### SUBGROUP MEETINGS:

4. Transportation Subgroup: HSC stated that NRC, DOT and DOE must immediately begin subworking group discussions to work out differences on transportation and what should be included in this legislation. Meeting is scheduled for 3/3 from 10-11:30am at DOT. (NSIR/OGC)

5. Accelerator-Produced Rad Material Subgroup: HSC stated that NRC, EPA, DOE, DOT, and FDA need to get together quickly as a subworking group to work out the needed definition of discrete sources of concern. Meeting is scheduled for 3/3 at 11am at EPA. (NSIR/OGC)

6. Airborne Subgroup: HSC directed TSA to do another paper that will describe the vulnerabilities, what can be done, pros and cons of options. NRC expressed an interest in supporting TSA in light of the vulnerability efforts underway. (NSIR lead)

7. Maritime Subgroup: HSC stated that NRC, USCG, and USACE should quickly get together in a subworking group to see what can be done administratively to provide protections, intake structure access restrictions etc. for waterborne threats to nuclear facilities. Meeting is scheduled for 3/3 afternoon at NRC. (NSIR lead)

8. RDD Subgroup: HSC directed DOE to take the lead in a sub-working group of DOE, NRC, EPA, TSA, DOT, Customs, DOD, DTRA, and FDA to address RDDs, orphan sources etc. in the legislation. (NSIR/OGC)

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9. The subgroups are to expand upon the existing white papers or generate new white papers to address the specific areas. The subgroup papers and the other action items above are due to Ken Stroech, HSC by COB on Wednesday, 3/5.

10. The next Homeland Security Nuclear Security Initiative Working Group Meeting is scheduled for 3/7 from 1-3pm at the White House Conference Center.

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