June 30, 2005

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

Karen D. Cyr
General Counsel

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

SUBJECT: STAFF REQUIREMENTS - COMSECY-05-0015 - INITIATIVES FOR INCREASING AGREEMENT STATE PARTICIPATION IN THE CONTROL OF SOURCES

The Commission has approved the staff's proposal to discuss with the Agreement States an approach which would allow the States to have greater participation in the oversight of control and security of radioactive material, subject to the following comments.

The staff should expeditiously engage the Organization of Agreement States and the individual Agreement States on the viability, timing and strategies for implementation of this alternative approach. The discussions should focus on the ability and willingness of the Agreement States to implement timely and adequate legally binding requirements within 60 days of the SRM.

The NRC should assume the lead role in coordinating developmental activities and drafting documents, with active assistance by the States. As it proceeds with engaging the Agreement States, the staff should be mindful of the long term ramifications of its efforts and any implications these required activities might have on Agreement State resources. It will be crucial to the success of this project that there be clear alignment among stakeholders on compatibility criteria.

The IMPEP program will need to be revised to assess whether Agreement State oversight of the safety performance of their licensees will satisfy the objectives of the materials licensee security requirements that have already been imposed or are pending.

In its discussions with the Agreement States the staff should inform the Agreement States that the extent of the requirements that could be implemented under this proposal is being reviewed to consider the legal ramifications of this alternative approach. OGC should work closely with the staff to identify and resolve legal aspects of this initiative as it progresses.

Consistent with the schedule for initially engaging the Agreement States, the schedule for finalizing and issuing the Protective Measures (PMs) for Group 1 through 4 materials licensees should be delayed for 60 days.

The staff and Agreement States should remain cognizant of the National Source Tracking System as it and its associated rulemaking develop over the next year and a half.

The staff should report back to the Commission within 30 days on whether this alternative approach is viable and provide specifics on how it will be implemented by both the Agreement States and NRC.

(EDO) (SECY Suspense: 8/30/05)

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
DOC
CFO
OCA
OPA