June 30, 2005

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS - SECY-05-0092 - PROPOSED RULE: NATIONAL SOURCE TRACKING OF SEALED SOURCES (RIN 3150-AH48)

The Commission has approved publication of the proposed rule in the *Federal Register* to amend 10 CFR Parts 20, 32, and 150 to require licensees to report transactions involving the manufacture, transfer, receipt, and disposal of nationally tracked sources, subject to the following comments and attached edits.

The staff should ensure that all Federal agencies that have a stake in the proposed National Source Tracking System (NSTS) are fully aware of NRC's rulemaking efforts, in particular the Department of Homeland Security's new Domestic Nuclear Detection Office (DNDO) and the Department of Energy's NNSA. The staff should raise this coordination issue with the Interagency Coordinating Committee.

The proposed rulemaking should be completed as expeditiously as possible.
(EDO) (SECY Suspense: 7/29/05)

The NSTS should track the 15 radionuclides from the IAEA Code of Conduct (16 radionuclides minus Ra-226) and the additional seven radionuclides listed in the Staff Requirements Memorandum of August 21, 2003, and the list of 22 radionuclides should be made publicly available.

Copies of the Commission paper, the voting record and the SRM should be given to the Interagency Coordinating Committee, the Safesource Steering Committee, the Working groups and the Agreements States.

The staff should ensure that the tracking system is fully compliant with FISMA and all other information technology requirements. Senior management attention must be directed to ensuring a flexible high quality software and database system is developed as soon as practicable and within reasonable costs. The staff should keep in mind the lessons learned from ADAMS, Starfire and GLTS.

The staff should plan to have high level meetings with DOE, DHS, DOS, DOT, and others to ensure that those agencies at the highest levels understand the NSTS and our plans for finalizing it. Associated with these interactions, since this is a national database, staff should continue their efforts to obtain funding from other agencies to offset the NRC costs. In

particular, senior level management should engage with DOE's senior management to obtain funding and ensure DOE's participation in the process. NRC licensees should fund appropriate activities from their fees, but they should not be required to support the total cost of the national program.

The Commission should be appropriately and frequently informed of the status of the development of the NSTS information technology infrastructure.

Separate from this rulemaking effort, the staff should provide a paper to the Commission regarding the tracking or providing enhanced controls for sources below the Category 2 thresholds. The staff should solicit stakeholder comments on the need to track or provide enhanced controls for sealed sources that, when aggregated, meet the threshold value to qualify as a Category 2 or above source. An example of enhanced controls that the staff should consider would be a short provision in Part 32 which would specifically license all sources containing radionuclides of concern greater than Category 2.5 (or 2.75 or 3).

Comments and changes to the proposed *Federal Register* notice:

A. On page 24, the FRN states that the proposed rule would impose a new reporting requirement that could duplicate reporting to the Nuclear Materials Management Safeguards System (NMMSS). The staff has indicated that it does not believe that the limited number of licensees and transactions likely to be affected by the dual reporting requirement would impose an unnecessary burden. The FRN should emphasize that source tracking and Material Control and Accounting have two different purposes and, therefore, NMMSS and NSTS should remain separate.

B. On page 8, the FRN states that, "National source tracking is part of a comprehensive radioactive source control program for radioactive material of greatest concern. Although neither a national source tracking system nor source registry can ensure the physical protection of sources, it will improve source accountability." This statement in the FRN should be clarified to reflect that, in general, increased accountability will foster increased control by licensees.

C. The staff should consider soliciting additional comments regarding:

    a. Whether Agreement States would develop regulations that require their licensees to report Ra-226 to the State and therefore could be included in NSTS.

    b. Whether there should be requirements on licensees to protect information related to their NSTS accounts.

    c. Whether there should be requirements on waste broker or disposal facility licensees to at least investigate shipments for tampering, if they are not expected to open waste containers to verify the presence of a nationally tracked source included as part of a waste shipment.

    d. Agreement State views on the fact that transfer transactions only cover transfers between different licensees and/or authorized facilities. The result of this requirement would be that, for example, a radiographer conducting business would not need to report to the NSTS transfers between temporary job sites,

even if a temporary job site is located in another state or if the work is conducted under a reciprocity agreement.

D. The staff should also clearly state in the FRN that NRC will be the database manager of NSTS and the other Federal Agencies will be the users.

E. The staff should consider soliciting public comment on methods and challenges related to more definitive tracking of sources which could be incorporated into the NSTS in the future.

F. On page 5 of the FRN, first paragraph, change lines 3 and 4 to read: "... material (which includes Cobalt-60, Cesium-137, Iridium-192, and Americium-241 isotopes, as well as other isotopes) has the potential ... "

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
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