November 3, 2005

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS - SECY-05-0151 - PROPOSED RULE: 10 CFR PARTS 30, 31, 32, AND 150 - EXEMPTIONS FROM LICENSING, GENERAL LICENSES, AND DISTRIBUTION OF BYPRODUCT MATERIAL: LICENSING AND REPORTING REQUIREMENTS (RIN 3150-AH41)

The Commission has approved publication of the proposed rule in the *Federal Register* for a 75-day public comment period subject to the following comments and changes.

The Commission has disapproved the recommendation to exempt certain general licensees for radioactive material from immediately reporting the loss or theft of the material in accordance with §§ 31.5(c)(10) and 31.7(b). The proposed rule should be modified to remove this exemption.

The following text should be inserted at the beginning of footnote 1 on page 6 of the *Federal Register* notice:

> NUREG 1717 is a historical document developed using the models and methodology available in the 1990s. The NUREG provides the estimate of the radiological impacts of the various exemptions from licensing based on what was known about distribution of material under the exemptions in the early 1990s. NUREG 1717 was used as the initial basis for evaluating the regulations for exemptions from licensing requirements and determining whether those regulations adequately ensured that the health and safety of the public was protected consistent with NRC policies related to radiation protection. The agency will not use the results presented in NUREG-1717 as a sole basis for any regulatory decisions or future rulemaking without additional analysis.

On page 29 of the *Federal Register* notice, revise the beginning of the 1st full paragraph to read 'The OAS petition referred to by Wisconsin suggests that those devices used under general license and covered by the registration requirement in § 31.5(c)(13), be required to be specifically licensed instead. If the Commission decides to grant the OAS petition, unregistered devices would still remain under a general license that may be transferred to the authority of a specific license. If the Commission decides to deny the OAS petition, both registered and unregistered devices would remain under a general license that may be transferred to the authority of a specific license. As a result, tThe NRC has ....'

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
OGC
CFO
OCA
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR