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Date: 6/7/2006 1:39:31 PM
Subject: RESEND: May 25, 2006 Commission Affirmation Session

I am resending this e-mail because some of you may not have received it.

RADIATION CONTROL PROGRAM DIRECTORS:

On 25 May 2006 in an Affirmation Session, the Commission approved the following two items of interest to the States:

- (1) The Commission approved a final rule amending Parts 20 and 32 of Title 10 of the Code of Federal Regulations to establish the regulatory foundation for the National Source Tracking System. The Commission also approved the change of the rule basis to public health and safety, with a Category "B" level of compatibility. Due to this change in basis from common defense and security, the rule will be re-noticed in the Federal Register for a 20-day public comment period. It is expected to be published at some point next week, and we will notify you upon publication of the rule in the Federal Register.
- (2) The Commission approved an immediately effective final rule to promulgate a new 10 CFR § 73.57a to relieve certain categories of individuals (including certain State officials) who have been approved by the Commission for access to Safeguards Information (SGI) from the fingerprinting, identification, and criminal history records check requirements of Section 149 of the Atomic Energy Act of 1954, as amended by Section 652 of the Energy Policy Act of 2005. The rule will become effective upon being published in the Federal Register.

Attached for your information is the Staff Requirements Memorandum pertaining to the Affirmation Session. If you have any questions, contact Joshua Palotay (jxp5@nrc.gov). May 25, 2006

Joshua A. Palotay, M.S.
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Subject: RESEND: May 25, 2006 Commission Affirmation Session
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IN RESPONSE, PLEASE
REFER TO: M060525A

May 25, 2006

MEMORANDUM FOR: Luis A. Reyes
Executive Director for Operations

Karen D. Cyr
General Counsel

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 9:50 A.M.,
THURSDAY, MAY 25, 2006, COMMISSIONERS' CONFERENCE ROOM,
ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO
PUBLIC ATTENDANCE)

I. SECY-06-0080 - Final Rule: National Source Tracking of Sealed Sources (Rin 3150-AH48)

The Commission approved a final rule amending Parts 20 and 32 of Title 10 of the *Code of Federal Regulations* to establish the regulatory foundation for the National Source Tracking System (NSTS), subject to the attached changes. The Commission has also approved the change of the rule's basis to public health and safety.

Following incorporation of these changes, the Federal Register notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO)

(SECY Suspense:

6/23/06)

The staff should continue its efforts on the Interagency Coordinating Committee for the NSTS to ensure that federal agencies, such as Customs and Border Protection (CBP), have access to information in the NSTS.

The staff should provide the Commission with an explanation of how they intend to transfer data from NMED to NSTS in a timely manner.

As part of its interagency activities, the staff should keep abreast of technological developments and the efforts of other federal agencies involved in tracking radioactive materials on the ability to provide for real time tracking of nationally tracked sources in the future. The staff should periodically update the Commission on this aspect of source tracking.

The staff should expeditiously inform the Commission should issues arise during the implementation process that are indicative of any problem in meeting the specified

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implementation time frame.

II. SECY-06-0112 - Immediately Effective Final Rule -- 10 CFR 73.57a "Relief from Fingerprinting and Criminal History Records Check for Designated Categories of Individuals"

The Commission approved a final rule to promulgate a new 10 CFR § 73.57a to relieve certain categories of individuals who have been approved by the Commission for access to Safeguards Information (SGI) from the fingerprinting, identification, and criminal history records check requirements of section 149 of the Atomic Energy Act of 1954, as amended by section 652 of the Energy Policy Act of 2005, subject to the attached changes.

Following incorporation of these changes, the Federal Register notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(EDO)

(SECY Suspense:

6/2/06)

Attachment: 1. Changes to the Final Rule in SECY-06-0080
 2. Changes to the Final Rule in SECY-06-0112

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

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Attachment 1

Changes to the Final Rule in SECY-06-0080

1. The *Federal Register* notice should be revised to note that: "In this rulemaking, the Commission is not making a final determination on what additional sources should be included in the National Source Tracking System. This rulemaking addresses Category 1 and 2 sources on the date this rule becomes effective. If additional material is added to the National Source Tracking System, it will be done through subsequent rulemaking."
2. The staff should clarify the intent of the language in §20.2207(g). One potential clarification could be to add a new sentence after the first sentence in §20.2207(g) which reads "Such errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation. In addition, each licensee ...".

Changes to the Federal Register Notice

3. Page 4, (Background Section) the last paragraph (starting with "The NRC has also ...") in the fourth sentence (starting with "In particular, ...") add the words "at a minimum" before "Category 1".
4. Page 8, last paragraph, revise lines 1 and 2 to read ' ... enumerated above which were applicable to source tracking and imposed by the Energy Policy Act of 2005 applicable-to-source-tracking. The'

Changes to the Regulatory Analysis

5. Pages i, 11, 18, and 20. The staff should clarify whether the costs presented are in 2005 or 2006 dollars. Table ES-1 and the remainder of the text indicates that the values are in 2006 dollars, but Table 4 states it is 2005 dollars.

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Attachment 2

Changes to the Final Rule in SECY-06-0112

1. Page 2, footnote 1, delete the last sentence (This Federal ... to both.)
2. Page 6, 1st full paragraph after item (7), revise lines 5 and 6 to read ' ... a job function ~~and are otherwise qualified to receive it under existing Commission regulations and orders, they may have~~'
3. Page 5, Section III, revise paragraph (1) to read ' ... Commission, or an employee of the Executive Branch of the United States government who has undergone a prior United States background investigation involving a fingerprint criminal history check;'
4. Page 5, Section III, after paragraph (2), insert a new item to read: "An employee of a member of Congress or Congressional committee who has undergone a prior United States government background investigation involving a fingerprint criminal history check."
5. Page 6, after paragraph (7), insert a new paragraph (8) with language from § 72.21(c)(1)(iv) related to the IAEA.
6. Page 7, 2nd full paragraph, line 4, insert a period after "information" and delete the remainder of the sentence.
7. Page 14, after paragraph (2), insert a new item to read: "An employee of a member of Congress or Congressional committee who has undergone a prior United States government background investigation involving a fingerprint criminal history check."
8. Page 13, revise paragraph (b)(1) to read ' ... Commission, or an employee of the Executive Branch of the United States government who has undergone a prior United States background investigation involving a fingerprint criminal history check;'
9. Page 14, after paragraph (7), insert a new paragraph (8) with language from § 73.21(c)(1)(iv) related to the IAEA.