

June 28, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

Frank P. Gillespie, Executive Director
Advisory Committee on Reactor Safeguards

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

SUBJECT: STAFF REQUIREMENTS - SECY-07-0081 - REGULATORY
OPTIONS FOR LICENSING FACILITIES ASSOCIATED WITH
THE GLOBAL NUCLEAR ENERGY PARTNERSHIP (GNEP)

The Commission has approved proceeding with only Phase I of Option 1, subject to the comments noted below, to develop the regulatory framework by preparing the technical basis documentation to support rulemaking for Part 70 with revisions to Part 50 as appropriate, and a gap analysis for all NRC regulations (10 CFR Chapter I) to identify changes in regulatory requirements that would be necessary to license a reprocessing facility and advanced recycling reactor. At this time, the Commission does not support the plan to shift to Option 3 next year. As part of Phase I, the staff should provide the Commission with supplemental information that discusses how this regulatory framework and gap analysis will be performed and coordinated among the NRC organizations. The staff should provide the gap analysis and the technical bases document with recommended options on a path forward and an associated rulemaking plan, if appropriate, in a separate Commission paper after the DOE Secretary provides his June 2008 decision for the Global Nuclear Energy Partnership (GNEP) program and Congress determines the FY 2009 appropriations for GNEP.

During Phase I, the Office of Nuclear Material Safety and Safeguards (NMSS) should have the lead on the materials issues, but the reactor regulatory licensing review and oversight should be conducted by the Office of New Reactors (NRO) in concert with the Office of Nuclear Regulatory Research (RES), and other offices as appropriate. In addition, there will be security concerns that will need to be addressed in this effort by the Office of Nuclear Security and Incident Response (NSIR). As part of Phase I, the staff should clearly recommend with appropriate justification how the regulatory licensing review and oversight should be coordinated within the NRC organization.

For FY 2007, the staff resources should be limited to only the resources necessary to support initiation of Phase I. The Commission decided not to seek supplemental appropriations for FY 2008, but the Commission has no objection to very modest NRC funds being reprogrammed in FY 2008 consistent with the normal budget process. NRC FY 2008 funds for GNEP should be 1 to 2 FTE and the work should cover a first order gap analysis. Specifically for the advanced burner reactor, the first order gap analysis should use Clinch River as the starting point, and tabulate what rules clearly apply, what rules clearly do not apply and whether a gap exists and its relative size or complexity. No phenomena identification and ranking table analysis should

be conducted and staff should not identify any proposed regulatory resolutions because the U.S. Department of Energy has not yet defined the advanced technology nor the scope of its GNEP program. The staff should continue to pursue reimbursable agreements with DOE, which allows interactions with DOE and industry to learn about evolving GNEP technology.

Prior to commencing work on Phase II, the staff should submit another SECY paper which should include clear identification of how the staff would propose to accomplish implementation of the proposed regulatory structure within the NRC organization and address issues such as the applicability of the technology neutral framework for new reactors being developed by RES.

Given the uniqueness of these facilities and the licensing and communication challenges they will present, the staff should ensure appropriate outreach activities are conducted to obtain the view of relevant stakeholders such as local communities.

Separate from the rulemaking efforts, the Commission supports the RES's efforts in long-term research to develop and maintain technical expertise relevant to facilities of the type envisioned in GNEP, commensurate with DOE activities and subject to available funding.

In the coming years, the staff should ensure that the Offices of New Reactors, Nuclear Reactor Regulation and Nuclear Regulatory Research receive appropriate resources in future budget proposals to take the lead on examining those issues, commensurate with any progress DOE makes on development of the ABR.

The Advisory Committee for Reactor Safeguards should be the lead advisory committee for the burner reactor and reprocessing facility, and should work jointly with the Advisory Committee on Nuclear Waste and Materials on matters of common interest. The staff should note the discussions the Commission had with ACRS about the potential difficulties in coming up with a framework for licensing co-located closed fuel cycle facilities.

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