July 17, 2008

MEMORANDUM TO: E. Leo Slaggie
Special Counsel, OGC

FROM: Dale E. Klein ***/RA/***

SUBJECT: DRUG-FREE WORKPLACE PLAN

I am writing to summarize my views in response to your open letter to me and my fellow Commissioners in which you requested that the Commission reconsider placement of all NRC employees in the pool for random drug testing and suspend the planned implementation of the Commission's Drug-Free Workplace Plan. At the outset, I want to commend you for your long and widely-recognized record of distinguished service to the NRC and for bringing your serious concerns about this expanded program to the Commission.

I have reviewed the issues that you raise. However, I conclude that the Commission's decision to designate all NRC positions as sensitive and include all NRC employees in its random drug testing pool was appropriate. The Commission unanimously approved this NRC staff recommendation in 2006. The Commission's decision was based on consideration of the pertinent Executive Order requiring random drug testing for employees in "sensitive positions" and the guidance for implementation of the Executive Order. By law, all NRC employees are required to obtain security clearances. Moreover, the proliferation of sensitive security work at the agency since the events of September 11, 2001, further supports the inclusion of all NRC positions in the pool.

While the rate of positive drug tests at the NRC has been quite low and the cost of the program are not insignificant, I believe that placement of all NRC employees in the random drug testing pool establishes and maintains an effective and important deterrent factor against behavior that could, in a single instance, seriously compromise important security information. In addition, the detection of illegal drug use in a particular case enables the agency to take appropriate action, consistent with the purposes of the Executive Order. As stated in the Executive Order:

> The use of illegal drugs, on or off duty, by Federal employees in certain positions evidences less than the complete reliability, stability, and good judgment that is consistent with access to sensitive information and creates the possibility of coercion, influence, and irresponsible action under pressure that may pose a serious risk to national security, the public safety, and the effective enforcement of the law….

I have great confidence in the integrity of the NRC staff. I also believe, however, that placement of all employees in the random drug testing pool provides high assurance of employee reliability, stability, and good judgment, and reduces the possibility of coercion as the NRC carries out its vital roles in protecting public health and safety and the common defense and security.

In short, I respect your statement of concerns, but I continue to support the Commission's decision on this issue.

cc: Commissioner Jaczko
Commissioner Lyons
Commissioner Svinicki
SECY