

August 12, 2008

MEMORANDUM TO: Karen D. Cyr
General Counsel

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

SUBJECT: STAFF REQUIREMENTS – SECY-08-0083 – PROPOSED RULE
ESTABLISHING CRIMINAL PENALTIES FOR THE
UNAUTHORIZED INTRODUCTION OF WEAPONS INTO
FACILITIES DESIGNATED BY THE NRC

The Commission has approved publication of this proposed rule, subject to the comments and changes noted below.

1. The proposed rule should seek comment on whether the terms “dangerous weapon,” “dangerous instrument or material,” and “explosive” should be defined in the rule or in regulatory guidance and if so, what definitions would be appropriate.
2. The staff should consider relocating the requirements addressing the specific language for the notices and the placement of the sign from 10 CFR 73.70(i) to an alternative location within Part 73.
3. The staff should consider addressing the details of implementation including the definition and guidance on the various terms used in the rule in regulatory guidance in order to provide maximum flexibility to licensees implementing the requirements at sites with unique attributes.
4. The staff should review the criminal penalties associated with the authorizing legislation as well as other criminal penalties contained in the Atomic Energy Act and provide recommendations to the Commission, after consultation with the Department of Justice, on whether legislation should be sought to increase the penalties.
5. The proposed rule should seek comment on the performance-based signage requirement regarding signs being “easily readable” at night.

The staff should contact the Department of Justice (DOJ) during the comment period to solicit DOJ comments on the proposed rule, specifically regarding the need for and definitions of the various terms.

The proposed rule should provide an explanation for why hospitals and other facilities licensed to possess radioactive materials that are in the National Source Tracking System have not been included in the proposed rule. If the staff concludes that this regulation should be expanded to include these facilities at a future date, it should come back to the Commission with its basis and recommendation.

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