

March 12, 2012

ALL STATE LIAISON OFFICERS  
RADIATION CONTROL PROGRAM DIRECTORS

PREEMPTION AUTHORITY PURSUANT TO SECTION 161A., "USE OF FIREARMS BY SECURITY PERSONNEL," OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED (FSME-12-023)

**Purpose:** For your information, the U.S. Nuclear Regulatory Commission (NRC) has made public NRC's staff paper to the Commission, SECY-12-0027: Preemption Authority Pursuant to Section 161A., "Use of Firearms by Security Personnel," of the Atomic Energy Act (AEA) of 1954, as amended. The SECY paper can be found at <http://adams.nrc.gov/wba/> by using ADAMS accession number: ML113130015.

**Background:** As part of a larger proposed rule entitled "Power Reactor Security Requirements," published in the *Federal Register* in October 2006 (FR) (71 FR 62663), the NRC informed the public that it would consider granting preemption authority and/or the authority to possess certain enhanced weapons under Confirmatory Orders in advance of a final rulemaking. To date, the staff has received applications from three power reactor licensees for preemption authority, and one application from a category I fuel cycle facility for both preemption and enhanced weapons authority under Section 161A.

**Discussion:** The staff has initiated the technical review of these applications consistent with the criteria established by Section 161A. of the AEA and the Firearms Guidelines. However, in accordance with the Guidelines, the staff cannot make the required determinations on these applications until the Commission has designated the specific classes of facilities that are eligible to receive preemption authority. Therefore, in the attached SECY paper, staff is recommending the Commission to both designate the classes of facilities authorized to use the preemption authority of Section 161A. of the AEA and delegate to the staff the authority to make determinations on individual preemption applications.

The Commission is currently reviewing the staff's proposal, and based upon Commission direction, the NRC will notify the Governors of affected states upon the issuance of any such confirmatory orders.

FMSE-12-023

-2-

If you have any questions regarding this correspondence, please contact me at 301-415-7278 or the individual named below.

POINT OF CONTACT: Stuart Easson  
TELEPHONE: 301-415-5134

INTERNET: [Stuart.Easson@nrc.gov](mailto:Stuart.Easson@nrc.gov)  
FAX: 301-415-3502

***/Deborah Jackson RA for/***

Josephine Piccone, Director  
Division of Intergovernmental Liaison  
and Rulemaking  
Office of Federal and State Materials  
and Environmental Management Programs

Enclosure:  
SECY-12-0027

If you have any questions regarding this correspondence, please contact me at 301-415-7278 or the individual named below.

POINT OF CONTACT: Stuart Easson  
 TELEPHONE: 301-415-5134

INTERNET: [Stuart.Easson@nrc.gov](mailto:Stuart.Easson@nrc.gov)  
 FAX: 301-415-3502

***/Deborah Jackson RA for/***

Josephine Piccone, Director  
 Division of Intergovernmental Liaison  
 and Rulemaking  
 Office of Federal and State Materials  
 and Environmental Management Programs

Enclosure:  
 SECY-12-0027

**DISTRIBUTION:**  
 DILR R/F

**ML12068A220**

<b>OFC</b>	DILR	DILR	NSIR/DSP	DILR
<b>NAME</b>	SEasson	RTurtil	RFelts	JPiccone
<b>DATE</b>	3/8/12	3/8/12	3/12/12	3/12/12 (DJackson for)

**OFFICAL RECORD COPY**