

June 18, 2012

MEMORANDUM TO: R. W. Borchardt
Executive Director for Operations

FROM: Andrew L. Bates, Acting Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS – SECY-12-0066 – CRIMINAL
PENALTIES FOR THE UNAUTHORIZED INTRODUCTION OF
WEAPONS INTO FACILITIES DESIGNATED BY THE U.S.
NUCLEAR REGULATORY COMMISSION AND FOR SABOTAGE
OF NUCLEAR FACILITIES OR FUEL

The Commission has approved the staff's recommendation to not pursue rulemaking to impose Federal criminal penalties in Section 229 of the Atomic Energy Act of 1954, as amended (AEA), on individuals who, without authorization, introduce weapons or explosives into facilities possessing byproduct material.

The Commission has approved the staff's recommendation to defer the rulemaking to establish Federal criminal penalties for sabotage of materials and property under Section 236 of the AEA until after the resolution of 2010 Task Force Recommendation 2 and consideration of actions related to chemical security and while Congress considers other pertinent criminal sanctions legislation.

The staff stated that there are a number of ongoing actions that relate to a significance determination under § 236a.(7) of the AEA. Upon completion of these activities, the staff should determine whether there is a compelling reason to expand the scope of § 236 given the statements in this SECY paper that safety and security would not be increased and also that State and Federal agencies already have laws in place that address these issues. If the staff determines that an expansion of § 236 is necessary, the staff should transmit to the Commission in a notation vote paper an analysis of the significance of potential sabotage on the materials subject to any proposed rule, existing State and Federal laws that address sanctions for sabotage of the material at issue, and any impacts on Agreement State programs.

cc: Chairman Jaczko
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
OGC
CFO
OCA
OPA
Office Directors, Regions, ACRS, ASLBP (via E-Mail)
PDR