

March 18, 1997

SECy-97-064

FOR: The Commissioners

FROM: L. Joseph Callan /s/  
Executive Director for Operations

SUBJECT: REQUEST FOR FUNDS SO AS TO MAKE AVAILABLE NUCLEAR  
REGULATORY COMMISSION DOCUMENTS RELATED TO  
HUMAN RADIATION EXPERIMENTS

PURPOSE:

To obtain Commission approval of the staff's proposal to transfer \$50,000 to Argonne National Laboratory (ANL), a contractor for the Human Radiation Interagency Working Group, in order that Nuclear Regulatory Commission documents related to human radiation experiments can be put into electronic format and made available to the public on the World Wide Web.

BACKGROUND:

In Executive Order 12891, issued in January 1994, the President established the Advisory Committee on Human Radiation Experiments (ACHRE) and directed Federal departments and agencies to search for and retrieve records related to human radiation experiments. In response, the departments and agencies concerned formed the cabinet-level Human Radiation Interagency Working Group.

NRC was not a member of the Group because neither NRC nor its predecessor, the Atomic Energy Commission (AEC) conducted, funded, or sponsored radiation research involving human subjects.

In a Staff Requirements Memorandum dated January 13, 1995, the Commission did not object to the staff's recommendation in SECY-94-28, "Contact with Presidential Advisory Committee on Human Radiation Experiments and Release of

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Information on Medical Experiments Involving Human Subjects," to provide copies of NRC documents to ACHRE and to the central archive then being maintained for the Interagency Group by the Department of Energy. In the SRM, the Commission also "expressed concern about the inequity involved in the expenditure of resources that would be required. While small, there is no regulatory benefit to licensees who must pay the fee for this activity through their fees. This is another example of the inequity that arises from the requirements of OBRA-90. The staff should explore a mechanism with ACHRE for reimbursement of the NRC resources that would be expended and inform the Commission." Following discussions with ACHRE, DOE and NRC's contractor, Oak Ridge National Laboratory (ORNL), the staff responded in a memo from Mr. Taylor to the Commission, dated April 12, 1995, that DOE, on behalf of ACHRE, had agreed to pay the expenses of ORNL for providing NRC documents and related information to ACHRE. The staff explored the possibility of DOE's reimbursing NRC for NRC staff time and administrative expenses and concluded that the provision of documents to another Federal agency is a normal administrative expense in keeping with NRC's statutory mission, that the NRC resources used have been small, and that the reimbursement would not justify the difficulty involved in an interagency transfer of funds.

The documents involved are primarily NRC and AEC license files, and a few subject files, retrieved and reviewed by the staff and ORNL, in response to inquiries from outside the Agency (requests by other agencies, requests by ACHRE, requests under the Freedom of Information Act), or identified by the staff as possibly involving human radiation experiments. In addition, the staff has provided ANL with copies of 11 reports by ORNL. These reports contain ORNL's reviews of the files for information on non-routine uses of licensed radioactive material in humans. NRC did not conduct a systematic search of its files, as the other Federal agencies did, because NRC, as an Agency that did not sponsor, fund, or conduct research, was not subject to the Executive Order.

The Interagency Group has arranged for ANL to establish a site on the World Wide Web to make available the full text of the documents retrieved by the Interagency Group and used by ACHRE in its review. The members of the group have provided their documents to ANL. In a meeting on January 28, 1997, and in the attached memorandum from Colonel Claud Bailey, Jr., the Interagency Group has requested that NRC provide the funds to include NRC documents in the interagency database on the World Wide Web. The requested 50,000 dollars would be used in scanning, formatting, and placing the documents in the interagency database.

Staff is now completing the redaction of the documents to remove any proprietary, classified, private, predecisional, copyright, or investigatory information. There remain approximately 15 cubic feet of files to deliver to ANL. NRC would also write a brief narrative description of the contents of its documents, and would sign the release form in the enclosure to Colonel Bailey's letter, allowing ANL to reproduce and distribute the files.

#### DISCUSSION:

The availability of the documents in electronic form on a website, with the system's extensive indexing and search capability, would make the documents widely and conveniently available and would spare NRC the necessity of providing documents in response to requests. Since the system has been developed, tested, and is already operational, NRC would benefit from not having to pay a share of startup costs for the system. NRC's share is determined to be fair and reasonable.

As part of a series of activities under the President's "Openness in Government Initiative," the availability of documents related to human radiation experiments has a high government-wide priority. NRC has the third-largest collection of documents of the Federal agencies involved, and the Interagency Group wants to assemble a comprehensive database to provide a complete and clear view of radiation experimentation.

#### COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection.

The Chief Information Officer and Office of Information Resources Management have no objection to this paper.

The Chief Financial Officer has no objection to the resource estimates contained in this paper.

#### CONCLUSION:

Unless the Commission directs otherwise, the staff intends to use existing funds to transfer the 50,000 dollars requested by the Interagency Group and to sign the release allowing ANL to reproduce and distribute the files.

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Attachment: Memorandum from C. Bailey  
to H. Thompson dated 2/6/97

