

January 25, 2001

MEMORANDUM TO: William D. Travers
Executive Director for Operations
Karen D. Cyr
General Counsel

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

SUBJECT: STAFF REQUIREMENTS - COMSECY-00-0036 - SAFEGUARDS PERFORMANCE ASSESSMENT
ISSUES ASSOCIATED WITH THE REVISED OVERSIGHT PROCESS

The Commission has approved use of the interim guidance for the Physical Protection Significance Determination Process (PPSDP) when evaluating findings from force-on-force exercises until a more formal effort to revise the PPSDP can be accomplished. The staff should note that many issues remain to be addressed and should understand that a fundamental re-analysis of NRC policy in this area is required. This is the purpose of the proposed comprehensive rulemaking approved by the Commission in its SRM on SECY-99-241.

The Commission has approved issuance of the Quad Cities inspection report subject to removal of all references to enforcement of an apparent violation.

The Commission has approved proceeding with appropriate actions in accordance with the revised reactor oversight process (RROP), but disapproved proceeding with issuance of Notices of Violations (NOVs) and non-cited violations (NCVs) pursuant to [10 CFR § 73.55\(a\)](#) based on force-on-force findings at this time. This does not preclude issuing NOVs and NCVs pursuant to other provisions of section 73.55. The Commission fully expects that deficiencies identified during the conduct of force-on-force exercises will be addressed by licensees' corrective action programs consistent with the RROP.

In carrying out the rulemaking activities pursuant to the SRM on SECY-99-241, the staff, in clarifying the provisions of section 73.55(a), should consider how NMSS implements [10 CFR § 73.20\(a\)](#) and [10 CFR § 73.46\(b\)\(9\)](#). The issue of how and whether to use NOVs and NCVs as a regulatory tool in addition to the PPSDP for evaluating the results of force-on-force exercises should be discussed in an open and transparent manner with all stakeholders as the rulemaking proceeds.

For any licensee that volunteers to participate as a safeguards performance assessment (SPA) pilot plant, the staff should consider:

- a) Establishing an enforcement discretion policy that continues to ensure safety but provides appropriate consideration for findings pursuant to the PPSDP that result from pilot implementation activities.
- b) Exempting the SPA program pilot plants from any associated license or inspection fees, consistent with the provisions set forth in [10 CFR § 170\(a\)\(12\)](#).

The Office of the General Counsel (OGC), in coordination with the staff, should provide the Commission with an analysis of how the NRC intends, as a matter of policy, to distinguish between "enemies of the United States" as discussed in [10 CFR § 50.13](#) and the adversaries that licensees are required to protect against in [10 CFR § 73.1](#).

(OGC/EDO)

(SECY Suspense: 3/30/01)

The staff and OGC should clarify the basis for their interpretation of [10 CFR § 73.1](#) with respect to the knowledge and attributes possessed by the adversaries and formally provide the Commission with a more detailed account of how it bounds the adversary knowledge and attributes discussed in [10 CFR § 73.1](#).

(EDO/OGC)

(SECY Suspense: 9/30/01)

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
CFO
OCA
OIG

SECY NOTE: COMSECY-00-0036 (WITHOUT THE ATTACHMENT WHICH CONTAINS SAFEGUARDS INFORMATION), THIS SRM, THE COMMISSION VOTE SHEETS, AND THE INSPECTION REPORT COVER LETTER, AMENDED PURSUANT TO THE GUIDANCE IN THIS SRM, WILL BE MADE PUBLICLY AVAILABLE FIVE WORKING DAYS AFTER THE QUAD CITIES INSPECTION REPORT IS ISSUED.