

October 16, 1997

FOR: The Commissioners

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

SUBJECT: MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT OF ENERGY

PURPOSE:

To obtain Commission approval of a Memorandum of Understanding with the Department of Energy (DOE).

BACKGROUND:

The March 28, 1997, Staff Requirements Memorandum (COMSECY-96-053 - "Oversight of the Department of Energy" (DSI 2)) directed the staff to prepare a Memorandum of Understanding (MOU) to establish the framework for analyzing the complex legislative and regulatory issues involved in transitioning to the Nuclear Regulatory Commission, oversight of certain DOE nuclear facilities.

DISCUSSION:

NRC staff has been working with DOE staff to prepare such a document, focused on carrying out a pilot program of simulated regulation at a number of DOE nuclear facilities. At the same time, the two agency staffs have been developing a work plan to be used as the basis for achieving the objectives of the pilot program. A draft of the MOU was sent to the Commission on August 19, 1997. Almost all of the changes since that version have been minor editorial modifications. The substantive issue that has been eliminated from the proposed MOU is the explicit discussion of the possibility of seeking legislation for a facility or class of facilities before the conclusion of the pilot program.

DOE has internally coordinated the proposed MOU with all involved organizations. By letter dated October 9, 1997, Dr. O'Toole sent the attached MOU to Secretary Peña, with a recommendation that it be signed.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection. The Office of the Chief Information Officer has reviewed this paper and has no objection. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objection.

RECOMMENDATION:

The NRC staff recommends that the Commission approve the attached proposed MOU.

SCHEDULING:

Previously, the staff has informed the Commission of its intent to initiate the pilot program one week after the signing of the MOU. There is uncertainty in the timing of the MOU and limited availability of Lawrence Berkeley National Laboratory (the first pilot facility) personnel during much of November 1997. Therefore, unless directed otherwise, the staff intends to initiate that pilot program on October 29, 1997, whether or not the MOU is officially signed.

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Attachment: Proposed MOU