

January 10, 2005

MEMORANDUM TO: Luis A. Reyes  
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS - SECY-04-0229 - INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS' 10 CFR 26.6 EXEMPTION REQUEST

The Commission has approved the staff's denial of the International Brotherhood of Electrical Workers (IBEW) modified request for exemption to 10 CFR 26.6. The staff's transmittal letter to IBEW should be revised as noted below.

Paragraphs 4 and 5 on page 1 and paragraphs 1, 2, and 3 on page 2 should be replaced by the following text:

10 CFR §26.6 provides that exemptions may be granted if the Commission finds that the granting of the exemptions "will not endanger life or property or the common defense and security and are otherwise in the public interest." Although IBEW modified its original exemption request, their request still does not present information supporting a finding by the Commission that they have met the regulatory requirements for granting an exemption. After careful review of IBEW's modified exemption request and the applicable criteria in 10 CFR §26.6 for acting on exemption requests, the NRC is denying the request for the reasons set forth below.

In the threat environment since September 11, 2001, the NRC has taken many significant steps to reduce the risk of an insider threat and maintain the public health and safety and the common defense and security. One of those steps involves additional considerations regarding individuals who are granted unescorted access to the nuclear power plant PA. Clerical workers with unescorted access to the PA routinely pass through security check points, traverse areas containing safety and security hardware, and handle plant drawings and design documents. Random drug testing of clerical workers is a key means of meeting the NRC's responsibilities for safety and security because of the work that clerical workers may perform, safety equipment that they have access to in the PA, and the close proximity to files located in the PA which may contain safeguards and other sensitive information. For example, at Diablo Canyon clerical workers with unescorted access to the PA may have access to PA update procedures, regulatory files of the plant, and personnel information for processing security clearances and access authorizations, including correspondence with the NRC and the FBI. These clerical workers may maintain important technical drawings and design files

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and generally have access to plant design and layout information. Substance abuse makes it less likely that a clerical worker with unescorted access to the protected area will perform predictably, in accordance with required procedures, and will provide reliable and accurate information.

Moreover, substance abuse may make a worker, clerical or otherwise, who has unescorted access to the PA more susceptible to coercion by a terrorist to commit acts of radiological sabotage than are other individuals. A clerical worker who is a substance abuser may be more easily persuaded due to substance abuse to cooperate, actively or passively, as an insider with a terrorist in an attempted sabotage of a NPP.

Granting your request could potentially endanger life, property and common defense and security, and would not be in the public interest. It has been widely recognized that substance abuse can impair workplace behavior and reduce cognitive and physical task performance reliability while increasing the likelihood of accidents. To assure that nuclear power plants are operated safely and to maintain public health and safety and the common defense and security, the reliability and trustworthiness of clerical workers with unescorted access who perform safety-related tasks or may compromise safety and security are of paramount importance.

cc: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
DOC  
OGC  
CFO  
OCA  
OPA  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR

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