

November 30, 2010

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

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

SUBJECT: STAFF REQUIREMENTS – SECY-10-0128 – PROPOSED RULE:  
DOMESTIC LICENSING OF SOURCE MATERIAL -  
AMENDMENTS/INTEGRATED SAFETY ANALYSIS (RIN 3150-  
AI50)

The Commission has approved publication in the *Federal Register* of the proposed amendments to 10 CFR 40 to require source material licensees possessing significant amounts of uranium hexafluoride (UF<sub>6</sub>) to perform integrated safety analyses (ISAs) similar to the ISAs performed by 10 CFR Part 70 licensees and to set possession limits for UF<sub>6</sub> to determine whether the NRC or Agreement States have licensing authority for a facility, subject to the comments and changes noted below.

The following change should be made to the first full paragraph on page 45. The phrase “in order to fulfill its statutory mandate to protect the health and safety of the worker, the public, and the environment” should be revised to read, “in order to fulfill its statutory mandate to protect the health and safety of the worker and the public.”

The staff should modify the proposed rule to include a backfit provision prior to publishing the proposed rule for public comment. This provision should be similar to 10 CFR § 70.76 and should apply to any materials licensee that possesses significant quantities of uranium hexafluoride once the NRC has approved that licensee’s ISA.

The staff should modify the proposed Federal Register notice to present the question regarding use of PRA methodology to Part 40 facilities and request comments with regard to the potential challenges and impacts.

The staff should not publish this proposed rule until such time as it is prepared to release – concurrently – the draft regulatory guidance and standard review plan related to the proposed rule.

The staff should issue guidance for completion of ISAs, which currently apply to Part 70 licensees, to account for differences in the processes or hazards for Part 40 facilities.

The proposed schedule should be extended (from the effective date of the rule) to provide 6 months to develop a plan; 18 months to produce an ISA; and 3 years to correct all performance deficiencies.

The staff should evaluate if there is a need to modify the existing Memorandum of Understanding (MOU) between OSHA and NRC to further clarify or delineate which activities are under NRC regulation versus OSHA regulation. If staff determines that the existing MOU does not need to be revised, the staff should ensure that the proposed rule and guidance provide a clear explanation as to how to evaluate NRC/OSHA MOU criterion #3: "the plant condition which affect the safety of radioactive materials and thus presents an increased radiation risk to workers" when completing the ISA.

The staff should remain cognizant of the ongoing development of the ISA/PRA comparison paper and any direction that the Commission might provide as a result of its consideration of this subject. The final rule should reflect any relevant changes that result from the Commission's review of the ISA/PRA comparison paper.

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