

May 12, 2005

MEMORANDUM FOR: Janie Dunn Lee, Director
Office of International Programs

John F. Cordes, Director
Office of Commission Appellate Adjudication

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

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 10:45 A.M., THURSDAY, MAY 12, 2005, COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)¹

I. SECY-05-0043 - Final Rule to Amend 10 CFR Part 110, "Export and Import of Nuclear Equipment and Materials: Security Policies" (AH44)

The Commission approved a final rule amending 10 CFR Part 110 to update the export/import regulations to implement the provisions of the International Atomic Energy Agency (IAEA) Code of Conduct on the Safety and Security of Radioactive Sources (Code of Conduct), and also the Code Guidance on the Import and Export of Radioactive Sources (Guidance). The final rule also goes beyond the Code of Conduct and its Guidance in the area of bulk material to reflect the post- September 11, 2001, security policies of the Commission and the Executive Branch.

The Commission has voted to approve the publication and implementation of this final rule, subject to the changes noted in the [attachment](#). The Commission is also providing additional direction to the staff on separate but related issues in a forthcoming Staff Requirements Memorandum.

Following incorporation of these changes, the *Federal Register* notice should be reviewed by the Rules Review and Directives Branch in the Office of Administration and forwarded to the Office of the Secretary for signature and publication.

(OIP)

(SECY Suspense:

6/17/05)

II. SECY-05-0066 - USEC, Inc. (American Centrifuge Plant) Petitioners' Standing to Intervene

The Commission approved a Memorandum and Order responding to petitions to intervene filed by Portsmouth/Piketon Residents for Environmental Safety and Security (PRESS) and Mr. Geoffrey Sea. The Memorandum and Order finds that PRESS and Mr. Sea have standing to intervene, refers their petitions and contentions to the Atomic Safety and Licensing Board for further appropriate action, and resolves or refers to the Board certain procedural questions raised in a number of pending motions.

(Subsequently, on May 12, 2005, the Secretary signed the Memorandum and Order.)

Attachment: [Changes to the Final Rule in SECY-05-0043](#)

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

Attachment

Changes to the Final Rule in SECY-05-0043

Federal Register Notice

1. On page 2, delete the sentence in lines 3 through 5 (The implementation of ... licensees.)
2. On page 3, revise line 6 from the top to read ' ... 11, 2001 , environment and the resulting' Revise line 2 and 3 from the bottom to read ' ... Board of Governors in 2003 and endorsed by the IAEA General Conference in 2003 and 2004, respectively. The final' In the last line, delete the comma after "2001".
3. On page 4, paragraph 1, insert the two sentences from page 5 (as noted in the next item) at the beginning of this paragraph.
4. On page 5, paragraph 1, delete the 1st two sentences (The specific radioactive ... Code of Conduct.) and move them to page 4.
5. On page 6, paragraph 1, line 4, verify the guidance document to determine whether the correct paragraph number is "F.5" or "VI.5".
6. On page 10, delete the sentence in line 5 from the top (Examples of deliberate ... rare.)
7. On page 19, revise line 11 from the top to read ' ... impede licensee s planning to'
8. On page 19, 1st full paragraph, revise line 2 to read ' ... radionuclide, SR-90; Sr-90, and a new'
9. On page 19, insert a blank line before the new heading.
10. On page 20, insert a blank line before the 1st new heading.

Changes to the Summary of Written Comments

11. On page 11, in the NRC Response to item 16., delete the 1st sentence (These are the ... more important.)

¹ Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Lyons was not present when these items were affirmed. Accordingly the formal vote of the Commission was 4-0 in favor of the decisions. Commissioner Lyons, however, had previously indicated that he would approve these items and had he been present he would have affirmed his prior votes.