

June 8, 2006

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS - BRIEFING ON STATUS OF IMPLEMENTATION OF ENERGY POLICY ACT OF 2005, 1:00 P.M., MONDAY, MAY 15, 2006, COMMISSIONERS' CONFERENCE ROOM, ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND (OPEN TO PUBLIC ATTENDANCE)

The Commission was briefed by the NRC staff and representative stakeholders on the status of NRC implementation of the Energy Policy Act of 2005 (EPAAct), with particular attention to Section 651(e), Treatment of Accelerator-Produced and Other Radioactive Material as Byproduct Material; Section 652, Fingerprinting and Criminal History Record Checks; and Section 656, Secure Transfer of Nuclear Materials. The stakeholders included Organization of Agreement States, Conference of Radiation Control Program Directors, Advisory Committee on Medical Uses of Isotopes, and Council on Radionuclides and Radiopharmaceuticals.

The Commission requested that the staff provide the best estimate of the total number of individuals who would need to be fingerprinted for compliance with Section 652.

The Commission requested that the organizations participating in this meeting provide a followup letter with their recommendations during the public comment period for the proposed rule on how to achieve a realistic and consistent national approach on the treatment of accelerator-produced and other radioactive material as byproduct material.

In developing the *Federal Register* notice for the proposed rule to implement the requirements of Section 656 of the EPAAct, the staff should clearly describe the basis for excepting certain individuals from the requirements of the statute, noting the Commission's intention that the exceptions will only apply until completion of the Section 652 rulemaking. Additionally, Section 656 states that individuals involved in exports and imports of non-exempt material shall be subject to a security background check by an appropriate Federal entity. The staff should determine if Agreement State implementation of the security background checks pursuant to Section 652 meets the intent of the Section 656 statute and inform the Commission.

The Commission will provide additional guidance on implementing Section 651(e) in the Staff Requirements Memorandum (SRM) on SECY-06-0069, Proposed Rule: Requirements for Expanded Definition of Byproduct Material.

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