

November 13, 1997

MEMORANDUM TO: L. Joseph Callan
Executive Director for Operations

FROM: John C. Hoyle /s/

SUBJECT: STAFF REQUIREMENTS - SECY-97-237 - MEMORANDUM
OF UNDERSTANDING WITH THE DEPARTMENT OF
ENERGY

The Commission has approved the proposed Memorandum of Understanding (MOU) with the Department of Energy (DOE).

The staff should, in consultation with DOE, prepare a revised MOU that will be available for review and signature by the Secretary of Energy and the Chairman at the time of completion of the Lawrence Berkeley National Laboratory Pilot. The revised MOU should incorporate lessons learned and language that allows DOE and NRC to seek legislation for NRC regulatory authority for a specific pilot facility or class of facilities based on information from the pilot program. Some of the changes below reflect this approach. The cover letter to DOE transmitting the signed MOU should mention this need for a revision.

The following editorial changes should be incorporated in the next revision to the MOU:

1. On the signature page, insert 'NUCLEAR' between 'DOE' and 'FACILITIES.' Also, the signature block should be changed to 'Shirley Ann Jackson.'
2. On page 1, line 4, insert 'should' after 'NRC.' In line 7, insert 'nuclear' after 'DOE.'
3. On page 3, paragraph 3, line 1, add a comma after 'Jackson' and on line 2, add a comma after 'Commission.'
4. On page 4, last paragraph, line 2, replace 'At the end of the two years' with 'Over the course of this pilot program,'

SECY NOTE: THIS SRM, SECY-97-237, AND THE COMMISSION VOTING RECORD CONTAINING THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 5 WORKING DAYS FROM THE DATE OF THIS SRM.

5. On page 5, line 1, add a new sentence after 'facilities' which states: If deemed appropriate, a decision to seek legislation to give NRC authority to regulate a specific facility could be made in advance of the full two-year time frame. In the second full paragraph, line 3, delete 'at the end of the pilot program.'
6. On page 7, paragraph 1, line 4, insert 'of 1932' after 'Economy Act.'
7. On page 9, paragraph 4, line 3, insert commas before and after 'as appropriate.' The comma after the word "briefings" should be removed. Add a new sentence at the end of paragraph 4: Each report will be made available to stakeholders, including the Congress. Also on page 9, in the last line, insert a hyphen between 'two' and 'year.'
8. On page 9, insert a new paragraph prior to the last paragraph on this page:

Within three months after the first year of the pilot program ends, DOE and NRC personnel will prepare and provide to the Secretary and the Commission a report on the advantages and disadvantages of NRC regulating specific DOE nuclear facilities based on the first year pilot program experiences. The report will include a recommendation on which specific DOE nuclear facilities or which classes of DOE nuclear facilities should be externally regulated by NRC as well as draft legislation to implement the recommendation. If the Secretary and the Commission determine that particular DOE nuclear facilities or classes of DOE nuclear facilities should be regulated by the NRC, DOE and NRC will promptly submit draft legislation giving NRC such authority as part of the FY 2000 legislative program of the two agencies.

9. On page 10, paragraph 1, line 1, insert 'final' before 'report.' In line 4, insert 'as well as draft legislation to implement the recommendations' after 'NRC.' In line 6, replace 'prepare' with 'submit.' Also in line 6, insert 'as part of the FY 2001 legislative program of the two agencies' at the end of the sentence after 'authority.'
10. On page 11, item C., line 2, remove the comma after 'independently.'

(EDO)

(SECY Suspense:

4/30/98)

cc: Chairman Jackson
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
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Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
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