

January 19, 2012

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

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

SUBJECT: STAFF REQUIREMENTS – COMWDM-11-0002/COMGEA-11-0002 – REVISION TO 10 CFR PART 61

The Commission has approved expanding the current limited-scope revision to Part 61 regarding site-specific analysis to bring a clearer risk-informed approach to Part 61. The Commission agrees that there is value in considering, through extensive interactions with stakeholders, whether the risk-informed approaches below should be incorporated into the current rulemaking. Such revisions may obviate the need for a second protracted rulemaking.

The staff should provide an expanded proposed rule to the Commission within 18 months which includes the following issues, along with staff's analysis of the issues and stakeholder feedback and the pros and cons of the specific revisions:

- Allowing licensees the flexibility to use ICRP dose methodologies in a site-specific performance assessment for the disposal of all radioactive waste.
- A two tiered approach that establishes a compliance period that covers the reasonably foreseeable future and a longer period of performance that is not a priori and is established to evaluate the performance of the site over longer timeframes. The period of performance is developed based on the candidate site characteristics (waste package, waste form, disposal technology, cover technology and geo-hydrology) and the peak dose to a designated receptor.
- Flexibility for disposal facilities to establish site-specific waste acceptance criteria based on the results of the site's performance assessment and intruder assessment.
- A compatibility category for the elements of the revised rule that establish the requirements for site-specific performance assessments and the development of the site-specific waste acceptance criteria that ensures alignment between the States and Federal government on safety fundamentals, while providing the States with the flexibility to determine how to implement these safety requirements.

(EDO)

(SECY Suspense: 07/19/2013)

The Commission reserves judgment on the form these elements should take in any final rule, until the proposals have undergone staff evaluation and have benefited from stakeholder engagement and public comment as part of the rulemaking process.

The staff should immediately notify the Commission if it appears that there may be a health and safety concern at any time during the rulemaking timeframe.

In establishing a period of compliance, the staff should balance all of the principles in the National Academy of Public Administration's June 1997 report, previous agency guidance, the approaches of international and domestic agencies, and the technical considerations associated with disposal of long-lived waste.

If any significant challenges which would substantially extend the rulemaking timeline beyond 18 months are encountered, the staff should notify the Commission and provide a proposed path forward.

The changes considered as part of the current rulemaking should be limited to revisions to address the four issues identified. The staff should, separate from any actions resulting from this SRM, continue to engage stakeholders to pursue the possibility of the other risk-informed revisions to 10 CFR Part 61 outlined in SECY-10-0165. Recognizing that the path forward on the issues outlined in SECY 10-0165 depend in part on the final content of the limited rulemaking, the notation vote paper providing the staff's recommendations on which, if any, of the risk-informed revisions in SECY-10-0165 should be implemented should be submitted to the Commission after completion of the limited rulemaking.

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