

November 5, 2008

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

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

SUBJECT: STAFF REQUIREMENTS – SECY-08-0154 – PROPOSED
AGREEMENT BETWEEN THE COMMONWEALTH OF VIRGINIA
AND THE COMMISSION PURSUANT TO SECTION 274 OF THE
ATOMIC ENERGY ACT OF 1954, AS AMENDED

The Commission has approved the staff's recommendation to publish the proposed agreement with the Commonwealth of Virginia in the Federal Register once a week for four consecutive weeks, subject to the comments and changes noted below.

1. The Federal Register notice should clearly specify the activities that Virginia is requesting authority to regulate and those activities it is not requesting authority to regulate.
2. The following changes should be made to the Federal Register notice:
 - a. Page 1, 2nd paragraph under "Summary": change first sentence as follows:

"Under the proposed Agreement, the Commission would ~~give up~~ **relinquish**, and the Commonwealth would **assume** ~~take over~~, portions of the Commission's regulatory authority exercised within the Commonwealth."
 - b. Appendix A, page 2, ARTICLE II, number 7, the last word should read "persons." not "person."
 - c. Appendix A, page 3, ARTICLE III, first line, change "Article II.A.1" to "Article II.1"
3. The following changes should be made to the Draft Assessment:
 - a. Page 3, Criterion 4, change the last sentence of the 2nd paragraph as follows:

"Like NRC licensees, Commonwealth licensees are required to consider the radiation dose whether the sources **are licensed or unlicensed** ~~in the possession of a licensee or not.~~"

SECY NOTE: THE SUBJECT SECY PAPER, THE INDIVIDUAL COMMISSIONER VOTES AND THIS SRM WILL BE MADE PUBLICLY AVAILABLE 5 WORKING DAYS AFTER DISPATCH OF THE LETTERS.

b. Page 7, revise the 3rd paragraph of Criterion 13 as follows:

The NRC staff review confirmed that the Commonwealth's regulations provide **that only NRC may issue** a license authorizing the distribution of agreement materials that will subsequently be exempt from regulatory control ~~may only be issued by the NRC.~~

4. As part of the Commission paper for the New Jersey Agreement, the Staff should include its evaluation and recommendations for resolution of the apparent differences of the standard agreement between a State and the NRC providing for discontinuance of the NRC's regulatory program in relation to Section 274 c. of the Atomic Energy Act and 10 CFR 150.15(a)(6).

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