

August 15, 2006

MEMORANDUM TO: Chairman Klein  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Jaczko  
Commissioner Lyons

COMSECY-06-0038

FROM: Luis Reyes */RA/*  
Executive Director for Operations

SUBJECT: DRAFT NUCLEAR SECTOR SPECIFIC PLAN

The purpose of this memorandum is to seek Commission feedback on language associated with the subject plan. The Draft Nuclear Sector Specific Plan (NSSP), Chapter 5 "Develop and Implement Protective Programs" contains a paragraph referencing the linkage between intelligence and Design Basis Threat for both radiological sabotage or theft or diversion. On July 19, 2006, the Commission approved language for that paragraph (COMSECY-06-0036), which was subsequently provided to the Department of Homeland Security (DHS) for inclusion in the draft that was going out for comment.

After reviewing the Commission approved language, DHS elected to include a "placeholder" in that draft for approved language. Staff level comments on that draft from multiple agencies are being reconciled by DHS. The DHS Assistant Secretary for Infrastructure Protection (ASIP) has supported three edits to the Commission's submission; and has returned that revised text to the NRC staff for consideration by the Commission. The added text is bolded and bracketed in the enclosure, which is now being provided to the Commission for comment. OGC has reviewed the edits and finds no legal objection. The Office of Nuclear Security and Incident Response (NSIR) staff believes that at a minimum "may" should be substituted for "will" in the bracketed sentence.

The ASIP has agreed, if the Commission has substantive issues with the enclosure, to meet next week with NSIR management to discuss alternative language that properly represents the roles and responsibilities of both agencies. Depending on the feedback provided by the Commission, NSIR management will arrange such a meeting. Therefore, our staff is seeking Commission feedback by the end of this week.

Note that the final draft of the NSSP is being provided later this week to the Government Coordinating Council (GCC) and the Nuclear Sector Coordinating Council (NSCC) for comment with a placeholder for the subject paragraph. It will be forwarded to the Commission for a final review and comment period to facilitate the report's release by DHS in early September 2006.

SECY, please track.

CONTACT: J. Tomlinson, NSIR  
301-415-0262

DRAFT Nuclear Sector Specific Plan (NSSP),  
Chapter 5, Develop and Implement Protective Programs

DHS supported edits to the previously approved Commission text are bolded and bracketed.

Since any revision to the NRC DBTs (i.e., for radiological sabotage or theft or diversion) should include an assessment of the best available intelligence information, the NRC will maintain its collaboration with the Intelligence and law enforcement communities, including DHS, regarding its assessment of the threat environment **[to the nuclear sector]** as part of the DBT development process. In addition, recognizing that the DBT characteristics form the basis for the protective measures and designs of the protective strategies for commercial nuclear power plants and Category 1 fuel cycle facilities, in developing proposed changes to either DBT, the NRC **[should]**, in the absence of extraordinary circumstances, continue to seek the views of the plant owner/operators and Sector Security Partners regarding the impacts of the proposed changes. **[In accordance with its statutory responsibilities and authorities, DHS will seek the views of its security partners on the proposed changes for consistency with the National Infrastructure Protection Plan approach to risk management and provide feedback to the NRC.]** The NRC will consider these and other inputs as part of its decision-making process with its statutory responsibilities and authority.

Enclosure