



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

COMSECY-01-0030

October 29, 2001

11/6/01

~~NOTE: SENSITIVE
INFORMATION -- LIMITED
TO NRC UNLESS THE
COMMISSION DETERMINES
OTHERWISE~~

MEMORANDUM TO: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield

FROM: William D. Travers
Executive Director for Operations

Carl J. Paparella for

Elle Gaffigan Jr
12/18/01

SUBJECT: GUIDANCE TO THE STAFF ON RELEASE OF INFORMATION TO THE
PUBLIC

As requested, attached for your review is a copy of a draft network announcement and criteria for the staff to use in making discretionary releases of information to the public. The guidance is to be used in the interim, until a long-term, permanent policy is developed.

SECY, please track.

Attachment: As stated

cc:
SECY
OGC
OCA
OPA
CFO

~~NOTE: SENSITIVE
INFORMATION - LIMITED TO
NRC UNLESS THE
COMMISSION DETERMINES
OTHERWISE~~

ALS

Cmr. McGaffigan's Comments on COMSECY-01-0030

I am concerned about the breadth of most of the criteria being proposed for deciding whether to withhold a document. Certainly we should not make a terrorist's job a simple one, and there is some small subset of information previously routinely made public that should in the future be withheld. Some of this now to be withheld information may be covered by the suggestion in Dr. Travers' December 5 memo that "OGC believes there is a reasonable basis to take a more expansive view of section 147 safeguards information." I would support doing this. For example, I am surprised that proposed criterion 3's "site specific security measures" are not already considered safeguards information.

My problem with several of the proposed criteria is that they are overly broad and could block release of information that simply should not be withheld (and no court will ultimately allow us to withhold). Criterion 2 is an example of that. The specific locations of our sites are widely known. I can pull up on my web page a one meter resolution picture of any site in the United States. Our nation and other nations (Russia, France, Israel, etc.), for better or for worse, have proliferated commercial imaging satellites in recent years and the real estate, urban planning and other industries have provided a market for this product. ✓

If we were to "limit descriptions to the city and state," all anyone would need is Mapquest.com and a phone book to get the exact location of a facility and directions to get there. I see no reason whatsoever to avoid holding public meetings at licensee sites or to avoid posting precise site addresses on the public meeting web site. Therefore I disapprove criterion 2 in its entirety. ✓

Let me now turn to criterion 1. This is far too broad. We can not justify withholding the entirety of FSARs, emergency plans and plant information books in the name of security. There may possibly be some information in those documents that deserves to be withheld, in which case we should probably consider reclassifying it safeguards information. I am told that the staff is currently debating whether to withhold the physical protection (PP) and emergency planning (EP) performance indicators (PIs) and inspection findings from our revised oversight process' individual plant pages, presumably because of someone's view of the reach of this criterion or criterion 3. I would adamantly oppose withholding these PIs or inspection findings (except of course for the backup information on physical protection inspection findings which is safeguards information). If we believe what we say, namely that adverse OSRE findings are promptly corrected, then a color finding in an OSRE, posted months after the OSRE, will make no plant more likely to be targeted. I could support criterion 1 only if it were rewritten along something like these lines: "Plant-specific information, entirely in NRC's and our licensees' control, that would clearly aid in planning an assault on a facility. An example might be drawings depicting the location of vital equipment within plant buildings." ✓

With regard to criterion 3, I have no problem with the example after "such as" although I have commented previously that I am surprised at least some of this is not already considered safeguards information. But the lead-in language is overly broad. It is possible that it is under this criterion, and not criterion 1, that some staff are arguing for withholding EP and PP PIs and inspection findings on the grounds that they relate to "potential weaknesses of nuclear facilities." I would rewrite this criterion to "Physical vulnerabilities or weaknesses of nuclear facilities which would clearly be useful to terrorists, such as site specific security measures, access controls, or personnel clearance procedures." ✓

Criterion 4 may be appropriate. But much of this information has long been public and I cannot conceive how we put this genie back in the bottle. ?

I would rewrite criterion 5 to try to narrow it by changing "could" to "clearly would", and "any" to "key." ✓

I disapprove criterion 6. The amount of radioactive material authorized to a licensee is docketed information and generally appears on the license as a possession limit for most materials licensees. For nuclear power plants, one can calculate approximately how much material is in the reactor core and spent fuel pools. I would hope that we already consider the amount of HEU present at category 1 fuel cycle facilities classified information. ✓

I agree with the Commissioner Diaz' proposed criterion 7. It is an example of information that only we and our licensees have. Moreover, such detailed current status information could clearly be useful to a terrorist. I wish the staff's criteria and examples had been as precise and well supported as Commissioner Diaz'. ✓

My hope is that NRC will be able to restore most pre-September 11 information to its home page. In my view it is a very small portion of what we have previously released that deserves to be withheld now. There needs to be a clear nexus to aiding a potential terrorist in any information we withhold, and that information has to be information that only we and our licensees control. ✓

E. L. J.