

RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) REQUEST

2018-000021

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RESPONSE
TYPE☐

INTERIM

☒

FINAL

REQUESTER:

Julian Tarver

DATE:

1/19/18

DESCRIPTION OF REQUESTED RECORDS:

SECY 07-0114 and its related SRM (Staff Requirements Memoranda)

PART I. - INFORMATION RELEASED

You have the right to seek assistance from the NRC's FOIA Public Liaison. Contact information for the NRC's FOIA Public Liaison is available at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>

- ☒ Agency records subject to the request are already available on the Public NRC Website, in Public ADAMS or on microfiche in the NRC Public Document Room.
- ☒ Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☐ We are continuing to process your request.
- ☒ See Comments.

PART I.A - FEES

AMOUNT*

\$0.00

*See Comments for details

- ☐ You will be billed by NRC for the amount listed.
- ☐ You will receive a refund for the amount listed.
- ☐ Fees waived.

NO FEES

- ☒ Minimum fee threshold not met.
- ☐ Due to our delayed response, you will not be charged fees.

PART I.B - INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- ☐ We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- ☐ Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- ☐ You may appeal this final determination within 90 calendar days of the date of this response by sending a letter or e-mail to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal." You have the right to seek dispute resolution services from the NRC's Public Liaison, or the Office of Government Information Services (OGIS). Contact information for OGIS is available at <https://ogis.archives.gov/about-ogis/contact-information.htm>

PART I.C COMMENTS (Use attached Comments continuation page if required)

Please note:

The records you are requesting are already publicly available. Since you stated that you do not have access to a computer, we are providing hardcopies: ML072620339 (SECY-07-0114 - Staff Recommendations for Revisions to the Adversary Characteristics ..) and ML073381044 (SRM-SECY-07-0114 - Staff Recommendations for Revisions to the Adversary Characteristics Screening Process (U).)

Signature - Freedom of Information Act Officer or Designee

POLICY ISSUE NOTATION VOTE

July 6, 2007

SECY-07-0114

FOR: The Commissioners

FROM: Luis A. Reyes
Executive Director for Operations

SUBJECT: STAFF RECOMMENDATIONS FOR REVISIONS TO THE ADVERSARY
CHARACTERISTICS SCREENING PROCESS

PURPOSE:

To obtain Commission approval of the staff's recommended approach for improving the Adversary Characteristics Screening Process (ACSP). This paper does not address any new resource implications.

BACKGROUND:

On December 12, 2006, the Nuclear Regulatory Commission (NRC) staff briefed the Commission on the current threat environment. Following the briefing, the Commission directed the staff to reconsider the sequence of actions in the ACSP and provide recommendations.

The NRC staff analyzes terrorist and criminal tactics, techniques and procedures (TTPs) occurring both domestically and worldwide throughout the year to ensure the continued adequacy of the NRC's Design Basis Threats (DBTs). The NRC staff analyzes these TTPs relative to the DBT attributes using the ACSP. The ACSP was utilized in determining the initial adversary characteristics used in the supplemented DBT Order issued on April 29, 2003.

CONTACT: Jim Whitney, NSIR/DSO/ILTAB
(301) 415-5253

Since the promulgation of the ACSP and its initial use of drafting the supplemented DBT, staff has used it for the Annual Threat Environment Review (formerly Semiannual). The results of the analysis are provided annually to the Commission unless circumstances dictate earlier.

The ACSP is intended to enhance the transparency, predictability, and consistency of NRC's identification and application for adversary characteristics. The staff uses the screening process to identify adversary characteristics and assign a level of significance to them in order to determine their potential applicability to the regulatory base. The screening process currently comprises four steps – with the Commission being informed of the staffs' efforts throughout the process, and being asked for a vote during the Disposition and Communication Plan (step 4):

Step 1 - The process begins with routine staff review of intelligence reporting consisting of raw and finished reporting coming from the Intelligence and Law Enforcement Communities, open source reporting, and staff participation in a number of interagency groups focused on terrorism related topics. This reporting is evaluated against specific initial criteria (is the attribute absent from the DBT; is the attribute possessed by a terrorist/criminal group; is the attribute possessed outside of a foreign military entity; is the attribute an increased capability; is it man-portable). The staff also performs specific fact-finding to support the understanding of specific adversary characteristics.

Step 2 – If a new potential adversary characteristic passes the first round of screening, then additional weighting factors are considered (what groups possess it; what location is the attribute used; what target type is the attribute used against; what is the social stability of the country where the group is using the attribute; what is the tactical use of the attribute; what is the frequency of use; what is the motive of the group using the attribute; what is the availability of the attribute).

Step 3 – Based on the results of Step 2, staff may interact at the working level with other government agencies within the Intelligence and Law Enforcement Communities. In this informal interaction staff attempts to obtain additional data and insights regarding the characteristic. This interaction will support or refute the staff's working analysis of the characteristic.

Step 4 – Based upon the results of Steps 2 and 3, the staff determines whether the characteristic should be pursued further in a disposition process, which involves preparation of a Disposition and Communication Plan. This plan describes next steps such as engaging stakeholders as appropriate, conducting research and engineering analyses, determining resource impacts and producing a schedule for the process. This Disposition and Communication Plan is then submitted to the Commission for approval before any further action is taken regarding the characteristic.

DISCUSSION:

SRM M061212A – "Subject: Staff Requirements – Briefing on Threat Environment Assessment, 0930 AM, Tuesday, December 12, 2006," states that the staff should reconsider the sequence of actions. The staff evaluated the viability of simply reversing the sequence of impact assessment and the interagency coordination and determined this would not be efficient. Assuming that the staff performs an in-house technical analysis and impact assessment prior to interagency coordination, then a future analysis by the licensees will be needed due to the

limitations of the NRC in-house analysis. These limitations include not having all the site-specific details in order to perform a more accurate technical and resource analysis.

Based upon Commission direction, the staff identified three options for consideration:

Option 1 – Add an NRC technical and resource analysis step into the screening process before Intelligence, Law Enforcement, and Homeland Security Communities input.

PRO:

Adding a step in the ACSP by conducting an NRC in-house review and technical and resource analysis of the characteristic provides the Commission with more information for its deliberations and pre-decisional thinking without involving stakeholders at this preliminary stage of information gathering.

CON:

Providing the in-house NRC analysis without engaging the Intelligence, Law Enforcement, and Homeland Security Communities first could potentially prove inefficient regarding NRC staff time and resources by deferring staff access to outside agency expert opinion and analysis to the NRC. This increases the possibility that the staff's assessment could incorporate flawed assumptions regarding threat characteristics. The staff focuses its interactions with other agencies to include a discussion of what actions, if any, these agencies are taking to modify the strategies for protection of their equities in the homeland. These interactions have obviated the need for further staff analysis in a number of cases, and could do so for future studies.

Option 2 – Add an NRC technical and resource analysis step into the screening process after Intelligence, law Enforcement, and Homeland Security Communities input.

PRO:

Conducting another step in the ACSP by conducting an NRC in-house review of the technical and resource analysis provides the Commission with more information for its deliberations and pre-decisional thinking before involving non-Federal stakeholders at this preliminary stage of information gathering. Conducting NRC technical and resource analyses after the Intelligence, Law Enforcement, and Homeland Security Communities input step provides NRC staff and the Commission with the greatest amount of information available, and potentially screens out the adversary characteristic before reaching this stage, as stated in Option 1. It may also refine the inputs used in the staff's analysis, thereby making it more effective and reducing the likelihood of subsequent rework.

CON:

Pre-decisional thinking shared outside the Agency could potentially inhibit the independence of the Commission's decision-making process.

The Commissioners

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Option 3 – Do not change the ACSP – keep it as it currently stands.

This option keeps the process the same and the Commission would not receive an NRC in-house analysis of the technical and resource analysis until the Disposition and Communication Plan at the end of the process.

RECOMMENDATIONS:

The staff recommends Option 2 – add an NRC technical and resource analysis step after Intelligence and Law Enforcement Communities' input. The staff believes this option will give the Commission the greatest amount of information; provide the staff the most amount of information available at the Federal level for the staff to conduct its technical and resource analysis; and not involve non-Federal stakeholders in the Commission's predecisional deliberations at this early stage in the process.

COORDINATION:

The Office of the General Counsel reviewed this package and has no legal objection.

/RA/

Luis A. Reyes
Executive Director
for Operations

The Commissioners

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This option keeps the process the same and the Commission would not receive an NRC in-house analysis of the technical and resource analysis until the Disposition and Communication Plan at the end of the process.

RECOMMENDATIONS:

The staff recommends Option 2 – add an NRC technical and resource analysis step after Intelligence and Law Enforcement Communities' input. The staff believes this option will give the Commission the greatest amount of information; provide the staff the most amount of information available at the Federal level for the staff to conduct its technical and resource analysis; and not involve non-Federal stakeholders in the Commission's predecisional deliberations at this early stage in the process.

COORDINATION:

The Office of the General Counsel reviewed this package and has no legal objection.

/RA/

Luis A. Reyes
Executive Director
for Operations

ADAMS ACCESSION NO.: ML072620339

WITS 200700098

OFFICE	ILTAB	ILTAB	DSO/DDSP	DSO	OGC
NAME	JWhitney	RWarren	RWay	DDorman	JGoldberg
DATE	06/29/07	06/15/07	06/15/07	06/15/07	06/19/07
OFFICE	NSIR	DEDR	DEDR	OEDO	
NAME	RZimmerman	WKane	BMallett	LAReyes	
DATE	06/29/07	09/24/07	12/18/07	12/19/07	

OFFICIAL RECORD COPY

December 4, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

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

SUBJECT: STAFF REQUIREMENTS MEMORANDUM
SECY-07-0114 – STAFF RECOMMENDATIONS FOR
REVISIONS TO THE ADVERSARY CHARACTERISTICS
SCREENING PROCESS

The Commission has approved the staff's recommendation to add a step for NRC technical analysis after (or as the final part of) Step 3 after receiving Intelligence and Law Enforcement and Homeland Security Communities input. The analysis should include a realistic threat assessment focusing on the use of the adversary characteristic against nuclear facilities in the U.S. The staff should eliminate resource assessments from the process.

In addition, the Commission also approves including, in a generic fashion, an assessment of the integrated effectiveness of applicable existing national, state, and local measures (i.e. such assessment need not be plant-specific). This assessment is intended to facilitate the Commission's discussion of these measures. If these measures address the characteristic, then the characteristic need not be added to the Adversary Characteristic Document (ACD).

Following the Commission's determination to add a characteristic to the ACD, if multiple ways exist to mitigate against that characteristic, the Commission may direct staff to evaluate the associated resource impacts.

The staff should prepare a publicly available version of the SECY paper.

(EDO)

(SECY Suspense:

12/21/07)

cc: Chairman Klein
Commissioner Jaczko
Commissioner Lyons
OGC
CFO
OCA
OPA