



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

NOV 18 1985

MEMORANDUM FOR: Harold R. Denton, Director, NRR  
John G. Davis, Director, NMSS  
James M. Taylor, Director, IE  
Robert B. Minogue, Director, RES  
Clemens J. Heltemes, Jr., Director, AEOD  
Patricia G. Norry, Director, ADM  
Regional Administrators

FROM: William J. Dircks  
Executive Director for Operations

SUBJECT: PROTECTION OF UNIT-SPECIFIC NPRDS DATA

Enclosed for your information is a copy of of response to a letter from Dennis Wilkinson requesting that the NRC withhold NPRDS unit-specific data as confidential commercial information under 10 CFR 2.790. This letter has been legally and technically reviewed and has been found to meet the requirements of 2.790. Thus, it has been determined that NPRDS unit-specific data constitute confidential information and therefore are exempt from public disclosure.

However, even though NPRDS data are proprietary in nature, they can be made public if they were used as the basis for a specific regulatory decision and the NRC decides (at the Office Director level) that it is in the public interest to release them. In this regard, there was concern that the INPO position of being amenable to public release of unit-specific data that formed the basis for a specific regulatory decision could be interpreted in an overly restrictive and narrow sense. Accordingly, the NRC interprets the phrase "specific regulatory decision" to include both decisions which result in specific regulatory action being taken such as the issuance of construction permits, operating licenses, amendments, bulletins, orders, or information notices; and decisions where a documented analysis concludes that no action is necessary (e.g., a generic study indicates there is no safety concern requiring regulatory action.)

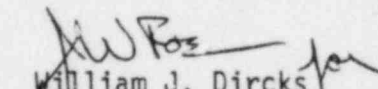
NPRDS unit-specific data will be released if the data form a basis for the regulatory decision in a documented NRC study addressing a safety concern and an NRC Office Director determines that the public's right to know that basis outweighs the need for protection of the information. Unless a compelling safety reason dictates otherwise, INPO should be notified in advance of the NRC decision to make the specific data public on a given date.

Accordingly, you are requested to take necessary steps to inform the appropriate members of your staff and contractor personnel of this position and handle unit-specific NPRDS data as proprietary information. Several points should be kept in mind with regard to this determination regarding NPRDS.

- (1) The specific NPRDS data to be treated as proprietary are only plant or utility-specific NPRDS data (referred to as "unit-specific data") reported subsequent to January 1, 1982. Other data, for example, generic failure rates of specific components, can be publicly disclosed. Moreover, the staff should strive to the extent possible to structure reports and data so as to avoid the need to designate the report as proprietary.
- (2) Data should only be released if an NRC Office Director determines that the public's right to know the basis for a regulatory decision warrants the release of the data. Proprietary NPRDS data should not be included in reports that are routinely released to the public.
- (3) In all cases involving proprietary NPRDS data (absent urgent health and safety considerations), prior to any public disclosure, NRC will notify INPO of the agency's decision and the date of disclosure thus providing INPO an opportunity to exercise their legal rights regarding such disclosure. Thirty days advance notice is recommended.
- (4) Letters to INPO notifying them of the Office Director's decision to release unit-specific NPRDS should be signed out by the Office Director after receiving ELD concurrence. The Director, Regional Operations and Generic Requirements Staff should be on distribution for all correspondence regarding the release of NPRDS unit-specific data.

Finally, this determination should not in any way change or affect the technical use of NPRDS data in the activities conducted by the NRC staff or NRC contractors to carry out the agency's responsibilities. The only change is that INPO has satisfied the requirements defined in 2.790 for withholding selected NPRDS data from public disclosure as proprietary. Accordingly, any requests from the public for NPRDS data should be handled in accordance with established policies and practices covering proprietary data.

Should you have any questions or wish further information, please contact Ed Shomaker in ELD.

  
William J. Dircks  
Executive Director  
for Operations

Enclosures:  
As stated

cc: V. Stello  
J. H. Snizek  
G. Cunningham  
R. Fraley