

March 19, 2001

Mr. Steven Garfinkel, Director
Information Security Oversight Office
National Archives and Records Administration
700 Pennsylvania Avenue, NW
Washington, DC 20408

Dear Mr. Garfinkel:

In 1995, as the U.S. Nuclear Regulatory Commission (NRC) prepared to implement Executive Order 12958, "Classified National Security Information," we notified the National Security Council of NRC's proposal to exempt from 25-year automatic declassification several docket and subseries of information that invariably fall into one of the exemption categories identified in Section 3.4(b)(2) and (9) of the Order. We submitted proposed items that require classification beyond 25 years, and ISOO requested that agencies withdraw their requests and resubmit them at a later date, preferably within 180 days before automatic declassification under the Order.

Accordingly, enclosed is a description of the categories of information that the NRC proposes to exempt from 25-year automatic declassification. As you are aware, any information proposed for exemption must contain a date or event that reflects when the document may be declassified. We have determined that the appropriate declassification date for information under Section 3.4(b)(2) should coincide with the records accession to NARA, 20 years after termination of NRC license. For information exempted under 3.4(b)(9), the declassification will be subject to the terms of the agreement.

Should you want to discuss this submission or need more information, please contact A. Lynn Silvius of my staff on 301-415-2214.

Sincerely,

/RA/

Patricia G. Norry
Deputy Executive Director
for Management Services

Enclosure:
As stated

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*SEE PREVIOUS CONCURRENCE SHEET

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Letter to Steven Garfinkel, ISOO, dated _____ March 19, 2001.

SUBJECT: Propose to Exempt from 25-year Automatic Declassification

Distribution:

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U.S. Nuclear Regulatory Commission Proposed Exempt File Series Under Executive Order 12958

The U.S. Nuclear Regulatory Commission (NRC) does not intend to propose the exemption of an entire file series from the declassification provisions of the Order. However, NRC proposes to exempt several subseries (e.g., docket files and subject files) on the basis of Sections 3.4(b)(2) and (9) of the Order.

Under Section 3.4(b)(2):

- Safeguards and security information related to the protection of facilities possessing non-self protecting formula quantities of strategic special nuclear material (SSNM).
- Safeguards and security information related to the protection of facilities (e.g., licensees and certificatees) utilizing technology classified as "Restricted Data" under the provisions of the Atomic Energy Act of 1954, as amended.
- Sabotage, vulnerability, and threat assessment studies that would significantly aid a malefactor in the theft, diversion, or sabotage of nuclear facilities or materials.

Under Section 3.4(b)(9):

Information that foreign governments or international organizations provided to the NRC with the understanding that such information would be kept in confidence under the terms of an agreement which directs protection for longer than 25 years.

RATIONALE

Nuclear facilities and technologies may be unique in that their original basis for classification continues over time. Nuclear non-proliferation concerns dictate the continuing need to protect older or simpler production designs and techniques because the older approaches may be more commensurate with the capabilities of a potential proliferator who may be less technologically advanced than the United States. Many of the facilities that employ such technologies are already well over 25 years old. A case in point is the U.S. gaseous diffusion plants which are over 40 years old and still in operation. Likewise, the security measures that these facilities employ to protect the classified technology will continue in sensitivity beyond the 25 year limit.

The vulnerability and threat studies for nuclear facilities would provide an adversary with precise levels of threat that the NRC requires its licensees and certificatees to protect against and, therefore, declassification and release of this information would allow their security systems to be more easily breached.

NRC is a party to many international agreements, some of whose terms specify protection of classified information beyond the time frames in Executive Order 12958.

DECLASSIFICATION

For information concerning the protection of nuclear technology and non-self-protecting formula quantities of SSNM, the declassification date would be “20 years after termination of the NRC license, provided that information of proliferation value or protection concerning a similar NRC licensed facility could not be revealed. If the information is of proliferation value or would reveal vulnerabilities concerning a similar facility, then declassification of the information would then coincide with the declassification date of information concerning the similar facility.”

For information concerning sabotage, threat, and vulnerability analysis, the declassification date would be “20 years after termination of the NRC license, provided that information of proliferation value or protection concerning a similar NRC licensed facility could not be revealed. If the information is of proliferation value or would reveal vulnerabilities concerning a similar facility, then declassification of the information would then coincide with the declassification date of information concerning the similar facility.”

For information under international agreements, the declassification date would be determined by the expiration date of the individual agreements, unless the information falls into one of the event categories.