

112 STATE STREET  
DRAWER 20  
MONTPELIER VT 05620-2601  
TEL: (802) 828-2811



FAX: (802) 828-2342  
TTY (VT): 1-800-734-8390  
e-mail: vtdps@psd.state.vt.us  
Internet: http://www.state.vt.us/psd

**STATE OF VERMONT  
DEPARTMENT OF PUBLIC SERVICE**

March 4, 2004

U.S. Nuclear Regulatory Commission  
Attn: Document Control Clerk  
Washington, DC 20555

Subject: Protection of Nuclear Safeguards Information

This letter identifies the circumstances under which a release of Nuclear Safeguards Information occurred and actions taken to prevent recurrence.

Background

Following September 11, 2001, during the term of Governor Howard Dean, the Vermont governor's office began receiving Nuclear Safeguards Information. In January 2003, outgoing Governor Dean provided his executive records to the Vermont Secretary of State for archival retention. These records were provided in two segments, an open archive immediately available to the public and a closed archive to be made publically available in 2013.

In December 2003, the Nuclear Regulatory Commission (NRC) was informed by a member of the press that Nuclear Safeguards Information from the open Dean archives had been released to the public domain. A subsequent inspection by state officials determined that Nuclear Safeguards Information was located in the open Dean archives available to the public. This material was removed from the public domain. During the week of January 5, 2004, personnel from the NRC and the state inspected the open Dean archives to ensure additional Nuclear Safeguards Information was not present.

Cause of Event

Following September 11, 2001, in accordance with 10 C.F.R. §73.21(c)(1)(iii), Nuclear Safeguards Information began to be provided both to the Vermont governor's office and the designated Vermont NRC state liaison officer (SLO). Safeguards Information provided to the SLO has been stored and maintained satisfactorily. However, despite identification and labeling on the Nuclear Safeguards Information that described storage requirements, recipients in the governor's office who handle a high throughput of documents did not recognize the significance of the identification and storage

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requirement. As a result, safeguards information control was lost on eight documents<sup>1</sup> containing safeguards information that were placed in the open Dean archives during the change in governors in 2002. A portion of these documents subsequently was copied and provided to a member of the press.

The root cause of the event appears to be provision of Safeguards Information to recipients without assurance that storage and maintenance requirements for the documents were clearly understood.

#### Actions Taken

1. After notification of releases of Nuclear Safeguards Information, an inspection of the open Dean archives was performed by state officials. The eight documents were identified and removed from the public domain.
2. In conjunction with a review of open Dean archive material by an NRC staff member, a significant sample of the open Dean archive was reviewed to ensure all Nuclear Safeguards Material was identified and removed from the public domain.
3. After consideration of the release of Nuclear Safeguards Information, it was decided that Nuclear Safeguards Information in Vermont's custody would be stored and maintained in the offices of the Vermont SLO, the Commissioner of the Department of Public Service.
4. The Nuclear Safeguards Information from the open Dean archives was transferred from the Secretary of State's office to the Department of Public Service for storage and disposition.
5. A review was conducted to identify all Nuclear Safeguards Information in custody of the governor's office. This included material retained from the previous (Dean) administration and material received by the current administration. The Nuclear Safeguards Information in custody of the governor's office was transferred to the Department of Public Service for storage and disposition.
6. A procedure was established for new Nuclear Safeguards Information received by Vermont. Coordination shall occur between the governor's office and the Vermont SLO, or designee, upon receipt of new Nuclear Safeguards Information.

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<sup>1</sup> Six documents were identified as Nuclear Safeguards Information. Two additional documents were identified as Official Use Only.

The information will be tracked by the SLO, or designee, and following review and use by the governor's office, the Nuclear Safeguards Information will be transferred to the Department of Public Service for storage and disposition.

7. An additional procedure was created to establish that the closed Dean archives will be inspected for Nuclear Safeguards Information prior to being made public. This inspection will take place approximately one year prior to the schedule date for the records to become public and, representatives from the NRC will be given the opportunity to inspect the closed Dean archives in conjunction with this inspection.
8. Pursuant to the procedure, any Nuclear Safeguards Information discovered in the closed Dean archives will be transferred from the Secretary of State's office to the Department of Public Service for storage and disposition.
9. The Vermont SLO, or designee, will annually review the storage of Nuclear Safeguards Information in Vermont's custody to ensure storage in accordance with safeguards information requirements. Nuclear Safeguards Information determined by state procedures to be no longer necessary for retention will be destroyed by shredding.
10. In conjunction with the annual review of Nuclear Safeguards Information, the Vermont SLO, or designee will review the Nuclear Safeguards Information handling procedure with the governor's office, and the procedure for inspection of the closed Dean archives with the Secretary of State's office.

This describes the circumstances regarding the release of Nuclear Safeguards Information from the open Dean archives and the actions taken to prevent recurrence. If you have questions, please contact us.

Sincerely,



David O'Brien  
Commissioner of Public Service  
Vermont NRC State Liaison Officer