



UNITED STATES
NUCLEAR REGULATORY COMMISSION

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SECRETARY

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary *Annette L. Vietti-Cook*

SUBJECT: STAFF REQUIREMENTS - COMSECY-03-0036 - UPDATE ON
THE WITHHOLDING FROM PUBLIC DISCLOSURE OF
SENSITIVE, UNCLASSIFIED INFORMATION RELATED TO
POWER REACTORS

The Commission has disapproved the proposed clarifying guidance. The staff should revise it and resubmit it so as to reflect recent developments and the Commission's reconsideration of the criteria that guide withholding all NRC sensitive, unclassified information, including information relating to nuclear power facilities and Category I fuel cycle facilities. Specifically, the staff should revise the generally applicable NRC sensitive information withholding criteria, which were previously set out in COMSECY-02-0015 and the pending proposed clarifying guidance for nuclear power plant licensees, by employing a "could be useful" or "could reasonably be expected to be useful" standard in place of the "would clearly" and "clear and significant" terminology. In addition, the proposed clarifying guidance needs to be modified to be consistent with the Interim Rule on Procedures for Handling Critical Infrastructure Information published by the Department of Homeland Security (DHS) on February 20, 2004 (69 Fed. Reg. 8074). The staff should also consider whether its proposed clarifying guidance should be further modified or supplemented in light of experience in applying the withholding criteria since the development of the proposed guidance.

In modifying the generally applicable NRC sensitive information withholding criteria (previously formulated in COMSECY-02-0015), staff should consider how these modified criteria and any associated clarifying guidance should be transmitted to all NRC staff. The proposed transmittal to staff should be designed to provide assurance that past occurrences of inappropriate release of information in ADAMS are not repeated.

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
CFO
OCA
OPA

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CHAIRMAN REC'D

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WILL BE LIMITED TO NRC UNLESS THE COMMISSION DETERMINES
OTHERWISE.

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