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Date: 1/6/04 4:24PM
Subject: QAs for SGI situation at VY

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See attached QAs. Mike requested we expedite this due to the Boston Herald story. This replaces the previous version. We request that OPA send to regions.

thanks

eric

CC: Wetzel, Beth

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QUESTIONS AND ANSWERS
RELATED TO THE UNAUTHORIZED RELEASE OF SAFEGUARDS INFORMATION
JANUARY 4, 2004

1. What is Safeguards Information?

Answer:

Safeguards Information is a special category of sensitive unclassified information authorized by the Atomic Energy Act to be protected. The purpose of protecting the information is to reduce the likelihood of theft, diversion, or sabotage of radioactive materials or at nuclear facilities. Handling and storage requirements for Safeguards Information resemble the requirements for classified information. To gain access to Safeguards Information, individuals need authorization based on suitable background checks and a demonstrated "need to know" for official duties.

2. What are the penalties for disclosing Safeguards Information?

Answer:

Release of Safeguards Information is a violation of Section 147 of the Atomic Energy Act, "Safeguards Information" and is subject to Civil and Criminal Penalties. Such penalties are carried out by NRC in accordance with the Enforcement Policy.

3. Is the NRC conducting a criminal investigation into the disclosure?

Answer:

The NRC is following established procedures to investigate the extent of the disclosure. Initial records in question have been appropriately secured and an NRC staff member has been dispatched to review records to determine whether additional Safeguards Information is included.

4. What has been/is being done to secure the information?

Answer:

Safeguards Information must generally be stored and handled as if it was classified information. For example, it must be stored in approved safes or security containers when not in use. Licensees and other authorized persons are required to protect Safeguards Information from unauthorized disclosure and no person may have access to Safeguards Information unless the person has been appropriately authorized and has an established "need to know" for official duties.

5. What information was released, and how "dangerous" was it?

Answer:

10 CFR 73.21 prohibits public disclosure of Safeguards Information. Therefore, it is not appropriate for me to describe the information released. The release of Safeguards Information is not in and of itself "dangerous." However the NRC, by designating the information as

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Safeguards, has made the determination that the information requires protection to reduce the likelihood of theft, diversion, or sabotage.

6. What other State governments have similar situations?

Answer:

We are not aware of any. However, after the disclosure came to our attention, the NRC reminded State officials of the importance of protecting Safeguards Information. This notification was provided to all States for their information and to consider appropriate action to avoid similar circumstances when dealing with State records within their State. We will consider additional action based on the results of our review.

7. How could such information have ended up in publicly accessible files?

Answer:

That remains under investigation.

8. How does the NRC advise outgoing elected and other high-ranking officials to properly handle Safeguards Information?

Answer:

The NRC is reviewing its procedures to ensure that all appropriate notifications are taking place. We will consider additional action based on the results of our review. However, it is the responsibility of all individuals who have been granted access to Safeguards information to properly handle and store the information.

9. What should members of the public do if they discover this kind of information?

Answer:

In the interest of protecting the public health and safety, the public should notify the NRC [(301)816-5100] of the materials in their possession, after which the NRC will promptly instruct them on proper handling procedures.

10. Do these requirements apply to licensees and organizations?

Answer:

Requirements for proper handling and storage of SGI apply equally to all persons given access to the information.

11. Why was the information designated SGI?

Answer?

We cannot divulge the nature of the information or why it was designated SGI because that would defeat the purpose of having the designation. However, generally, Safeguards

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Information concerns the physical protection of operating power reactors, spent fuel shipments, Strategic Special Nuclear Material, or other radioactive material.

12. I heard that NRC, especially since 9/11, has gotten carried away with designating SGI. Is this another case of NRC over-reacting?

Answer:

The NRC is not over-reacting by protecting information that requires protection. Under the provisions of Section 147 of the Atomic Energy Act of 1954, as amended, new classes of information have been brought under the Safeguards Information protection regime since 9/11. In an attempt to enhance consistency in designating Safeguards Information, the NRC is currently writing a Safeguards Information designation guide to ensure that Safeguards Information designation is consistent and that only Safeguards Information is withheld from public disclosure.

13. Some organizations claim that NRC is designating information SGI to suppress free speech and to criticisms of the security programs. Is this what NRC is doing?

Answer:

It has never been the intent of the NRC to stifle legitimate criticism. In fact, the NRC has a long tradition of public involvement in the regulatory process which we plan on continuing. Indeed, we have included openness as a major agency goal in our Strategic Plan. Having said that, the NRC has a continuing obligation to ensure the common defense and security by ensuring that protected information that can aid an adversary, is not discussed in open forums. The unauthorized release of such information remains a serious concern for the NRC in the current threat environment.

14. How long is information protected as SGI?

Answer:

The information is protected as long as the information retains its sensitivity.

15. I've seen the information. What is the big deal? Why does NRC consider it SGI?

Answer:

We cannot divulge the nature of the information or why it was designated as SGI because that would defeat the purpose of having the designation. However, generally, Safeguards Information concerns the physical protection of operating power reactors, spent fuel shipments, Strategic Special Nuclear Material, or other radioactive material.

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16. I read the information. Now that I am read in, how can I get access to other SGI?

Answer:

No person may have access to Safeguards Information unless the person has an established "need-to-know" for the information and has the necessary access authorization.

17. We understand that the NRC's Inspector General has raised similar concerns about the mishandling of SGI. Doesn't this case make the IG's point that SGI should be eliminated in favor of designating the information classified?

Answer:

The IG report has not been formally issued yet and, therefore, we cannot comment on it at this time. However, regardless of the type of protected information being handled, sometimes errors occur, even with classified information. Therefore, any protection system is only effective if properly implemented and understood by the users of the information.