

**From:** [Edwin Lyman](#)  
**To:** [Andrukat, Dennis](#)  
**Cc:** [Brochman, Phil](#); [Bagley, Susan](#); [White, Bernard](#); [Diane Curran \(dcurran@harmoncurran.com\)](mailto:dcurran@harmoncurran.com)  
**Subject:** RE: Mr. Lyman's request for DG-5033 has been received and is under consideration  
**Date:** Monday, May 09, 2011 5:00:54 PM

---

Dear Mr. Andrukat,

My justification for need-to-know is as follows.

The NRC's current strategic plan states that

"The NRC views nuclear regulation as the public's business and, as such, believes it should be transacted as openly and candidly as possible to maintain and enhance the public's confidence. Ensuring appropriate openness explicitly recognizes that the public must be informed about, and have a reasonable opportunity to participate meaningfully in, the NRC's regulatory processes. At the same time the NRC must also control sensitive information so that security goals are met."

In the security arena, the public is excluded from most discussions. While this is appropriate as a general matter, it has resulted in a situation in which NRC's stated goals for maximizing public participation are not being met. Security matters have largely become a dialogue between the regulator and the regulated industry, with little or no independent scrutiny. This could be partially remedied by including in the discussion members of the public who are authorized to receive non-public information, who are bound by non-disclosure agreements not to disclose such information, and who have demonstrated interest and expertise in the matters under discussion. However, the NRC has not previously considered the merits of such an objective as a reason for granting "need-to-know" to any stakeholders other than those directly involved with or affected by particular actions.

In the matter at hand, I have had a long and demonstrated interest in reactor and spent fuel security issues, on behalf of both my previous employer, the Nuclear Control Institute, and current employer, the Union of Concerned Scientists (UCS). In CLI-04-21, the NRC upheld the determination of the Atomic Safety and Licensing Board that I was an expert in nuclear security qualified to receive safeguards information during that adjudication. In SECY-10-0114, the NRC staff states that UCS has "demonstrated a significant interest in ISFSI security issues," and also suggested that some of UCS's comments on the draft technical basis for the ISFSI rulemaking "might be technically acceptable."

I am currently advising San Luis Obispo Mothers for Peace, another group that has a strong and demonstrated interest in ISFSI security matters. I believe that this record establishes that I could make a useful contribution to the record with regard to specific issues integral to the development of the ISFSI security rulemaking, such as those addressed in DG-5033. To that end, I believe that a positive need-to-know determination would be justified.

I currently hold an active NRC L clearance and therefore meet the qualifications for receipt of safeguards information. I do not possess approved storage for such information. Therefore, if granted access, I would need to inspect DG-5033 at NRC and submit my comments directly on-site in handwritten form or through an approved electronic means.

Alternatively, my colleague Diane Curran, who has served as legal counsel for San Luis Obispo Mothers for Peace, does have an approved file cabinet in her office. I am copying this message to her so that she may consider making a similar need-to-know request. I understand that she also holds an active NRC L clearance.

I appreciate the opportunity to make this request.

Sincerely,

Dr. Edwin Lyman  
Senior Scientist  
Union of Concerned Scientists  
(202) 331-5445  
elyman@ucsusa.org

---

**From:** Andrukat, Dennis [mailto:Dennis.Andrukat@nrc.gov]  
**Sent:** Tuesday, May 03, 2011 3:05 PM  
**To:** Edwin Lyman  
**Cc:** Brochman, Phil; Bagley, Susan; White, Bernard  
**Subject:** RE: Mr. Lyman's request for DG-5033 has been received and is under consideration

Mr. Lyman,

Please feel free to send an email with additional information. The earliest I would expect an answer regarding DG-5033 would be next week – this is due to the Mr. Brochman, Ms. Bagley, and Mr. White are out of the office attending the dry cask forum this week. We will let you know the result and/or if we have any questions. I hope this helps to answer your question.

Kind Regards,

**Dennis Andrukat**  
*Security Specialist*  
*U.S. Nuclear Regulatory Commission*  
*NSIR/DSP/MWISB*  
*301.415.3561*  
[Dennis.Andrukat@nrc.gov](mailto:Dennis.Andrukat@nrc.gov)

---

**From:** Edwin Lyman [mailto:ELyman@ucsusa.org]  
**Sent:** Tuesday, May 03, 2011 2:58 PM  
**To:** Andrukat, Dennis

**Cc:** Brochman, Phil; Bagley, Susan; White, Bernard

**Subject:** RE: Mr. Lyman's request for DG-5033 has been received and is under consideration

Dear Mr. Andrukat,

Thanks for your response.

I would like to send additional information supporting the case for my request. Would that be possible?

Best regards,

Ed Lyman

UCS

---

**From:** Andrukat, Dennis [mailto:Dennis.Andrukat@nrc.gov]

**Sent:** Tuesday, May 03, 2011 8:53 AM

**To:** Edwin Lyman

**Cc:** Brochman, Phil; Bagley, Susan; White, Bernard

**Subject:** Mr. Lyman's request for DG-5033 has been received and is under consideration

Mr. Lyman,

Thank you for attending yesterday's public meeting relating to the draft regulatory basis for the proposed ISFSI rulemaking. The NRC has received your request for a copy of DG-5033 and any accompanying material to include your request for an opportunity to make a case for need-to-know. Your request is currently under consideration. We will contact you when your request has been processed.

Please feel free to contact me with any questions.

Kind Regards,

**Dennis Andrukat**

*Security Specialist*

*U.S. Nuclear Regulatory Commission*

*NSIR/DSP/MWISB*

*301.415.3561*

[Dennis.Andrukat@nrc.gov](mailto:Dennis.Andrukat@nrc.gov)

SENT TO PHIL + BERNIE  
TO CONSIDER/PROCESS S/3

U.S. Nuclear Regulatory Commission  
Public Meeting, May, 2, 2011

### Request for copy of Draft Regulatory Guide DG-5033

Topic: draft Adversary Threat Characteristics applicable for ISFSIs

Name, Organization, Phone Number, & E-mail	SGI Clearance? Your Need-To-Know?	Mailing Address (used to receive SGI material)
<p>EDWIN LYMAN UNION OF CONCERNED SCIENTISTS (UCS) 31-5444 elyman@ucsun.org</p>	<p>Active NRC Clearance would like the opportunity to make a case for <u>need-to-know</u></p>	