UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

July 28, 2011

Mr. David A. Heacock
President and Chief Nuclear Officer
Virginia Electric and Power Company
Innsbrook Technical Center
5000 Dominion Boulevard
Glen Allen, VA 23060-6711

SUBJECT: UPDATE OF NUCLEAR REGULATORY COMMISSION (NRC) DISTRIBUTION LIST FOR DOCUMENTS CONTAINING SAFEGUARDS (SGI), OFFICIAL USE ONLY (OUO), AND ROUTINE INFORMATION (NORTH ANNA POWER STATION)

Dear Mr. Heacock:

I am writing to request current information on those individuals authorized to receive documents containing Safeguards (SGI), Official Use Only (OUO), and Routine information on issues relating to your facility. Safeguards information is a special category of sensitive unclassified information authorized by Section 147 of the Atomic Energy Act of 1954, as amended (the Act), to be protected. While SGI is considered sensitive unclassified information, it is handled and protected more like classified confidential information than like other sensitive unclassified information (e.g., privacy and proprietary information).

Access to SGI is controlled by a valid need-to-know basis. It is the responsibility of the NRC to maintain the integrity of SGI distribution, therefore we are currently in the process of verifying the identity, and contact information of individuals designated to receive documents with SGI, OUO, and Routine information for your facility.

You are requested to provide an updated distribution list of those persons who should receive documents containing SGI, OUO, and Routine information within 20 days of the date of this letter to: ATTN: Document Control Desk, Washington, D.C. 20555-0001; with a copy to the Regional Administrator Region II, so that we can verify and/or update our distribution information.

Please ensure that each list clearly specifies the individuals who are authorized to receive matter specific correspondence. To facilitate this request, I have enclosed a copy of the NRC's official distribution list on file, which has been organized by category. Additionally, you will find NRC Regulatory Issue Summary 2005-26 defining control of sensitive unclassified non-safeguards information related to nuclear power reactors, and NRC Regulatory Issue Summary 2003-08, Summary of Safeguards Information Requirements.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at http://www.nrc.gov/reading-rm/adams.html (the Public Electronic Room).

Should you have any questions concerning this letter, please contact us.

Sincerely,

/RA/

Michael E. Ernstes, Chief
Plant Support Branch 2
Division of Reactor Safety

Docket No.: 50-338, 50-339
License No.: NPF-4, NPF-7

Enclosure:
1. Current Official Distribution List
2. NRC Regulatory Issue Summary 2005-26
3. NRC Regulatory Issue Summary 2003-08

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*See previous concurrence page

X PUBLICLY AVAILABLE ☐ NON-PUBLICLY AVAILABLE ☐ SENSITIVE X NON-SENSITIVE

ADAMS: X Yes ACCESSION NUMBER: ML112101783 X SUNSI REVIEW COMPLETE X FORM 665 ATTACHED

OFFICE	RII: DRS	RI: DRS	RII: DRP				
SIGNATURE	RA - ME For JC	RA	RA				
NAME	J. CALLOWAY	M. ERNSTES	G. MCCOY				
DATE	07/28/2011	07/27/2011	07/27/2011				
E-MAIL COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY DOCUMENT NAME: G:\DRSII\PSBII\SGI PROTECTION LETTERS\2011 SGI DISTRIBUTION UPDATE\NORTHANNA SGI UPDATE 2011 .DOCX

OFFICIAL DISTRIBUTION LIST
North Anna Power Station

ROUTINE DISTRIBUTION:
cc w/encl:

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Virginia Electric and Power Company
Electronic Mail Distribution

Fred Mladen
Director, Station Safety & Licensing
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N. L. Lane
Site Vice President
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Michael Crist
Plant Manager
North Anna Power Station
Virginia Electric & Power Company
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OFFICIAL DISTRIBUTION LIST
North Anna Power Station

OFFICIAL USE ONLY (OUO) DISTRIBUTION
cc w/encl:

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Mineral, VA 23117

OFFICIAL DISTRIBUTION LIST
North Anna Power Station

SAFEGUARDS (SGI) DISTRIBUTION:
cc w/encl:

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
WASHINGTON, D.C. 20555-0001

November 7, 2005

NRC REGULATORY ISSUE SUMMARY 2005-26
CONTROL OF SENSITIVE UNCLASSIFIED NONSAFEGUARDS INFORMATION RELATED TO NUCLEAR POWER REACTORS

ADDRESSEES

All holders of operating licenses for nuclear power reactors and holders of and applicants for certificates for reactor designs.

INTENT

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to inform the addressees of the appropriate handling of information that warrants controls because of continuing concerns about terrorist attacks against the critical infrastructure of the United States. The NRC intends to balance its responsibility to preserve public access to information and support meaningful participation in NRC's regulatory processes against its responsibility to withhold information that might unnecessarily compromise the security of nuclear facilities. Licensees for operating nuclear power plants and reactor facility designers may need to assess their document control procedures to ensure they protect sensitive information. Although no specific action or written response is required, the NRC encourages the addressees for this RIS, vendors and contractors, and others who may possess sensitive information to destroy, mark, or otherwise control the information to avoid inadvertently providing assistance to those who might use the information for malevolent acts.

BACKGROUND INFORMATION

NRC traditionally has given the public access to a significant amount of information about the facilities and materials the agency regulates. Openness has been and remains a cornerstone of NRC's regulatory philosophy. The Atomic Energy Act, subsequent legislation, and various NRC regulations have given the public the right to participate in the licensing and oversight process for nuclear power reactors and other NRC licensees. To participate in a meaningful way, the public must have access to information about the design and operation of regulated facilities and use of nuclear materials. However, NRC and other Government agencies have always withheld some information from public disclosure for reasons of security, personal privacy, or commercial or trade secret protection. In light of increased terrorist activity worldwide, NRC reexamined its document disclosure policies.

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Since the events of September 11, 2001, NRC has issued advisories and taken specific actions regarding the security of its licensed facilities. NRC has also assessed and revised its policies and practices for control of information so that information that could reasonably be expected to be useful to terrorists in planning or executing an attack against nuclear power plants or other NRC-licensed facilities will be withheld from public disclosure. The most recent and detailed guidance on the control of information related to operating nuclear power plants is provided in the Commission paper SECY-04-0191, "Withholding Sensitive Unclassified Information Concerning Nuclear Power Reactors From Public Disclosure," dated October 19, 2004, and the associated staff requirements memorandum dated November 9, 2004. Also see SECY-05-0091, "Task Force Report on Public Disclosure of Security-Related Information," dated May 18, 2005, and the associated staff requirements memorandum dated June 30, 2005. The NRC staff is preparing similar guidance for materials licensees and expects to make it available to the public in early 2006.

SUMMARY OF ISSUE

Considering the various reviews, legislation, and other changes since September 11, 2001, the NRC staff believes that clarifying NRC's current procedures and policies regarding the control of information will be beneficial to stakeholders. NRC will continue to make available to the public most of the information that the agency receives from or sends to its licensees. In addition, the public will have access to a large amount of information included in various reports produced by the NRC staff. Much of NRC's information also will be readily available to the public via the NRC Web site (www.nrc.gov) and the NRC's electronic document management system (ADAMS) (www.nrc.gov/reading-rm/adams.html). In addition, other information may be released to the public in response to formal or informal requests. The exceptions for certain information to be withheld from public disclosure for reasons other than security (e.g., privacy, proprietary, and pre-decisional information) have not changed as a result of recent events. The appropriate handling of Safeguards Information (SGI) is discussed in RIS-2003-08, "Protection of Safeguards Information From Unauthorized Disclosure," dated April 30, 2003, and more specific SGI designation guidance documents.

NRC withheld from public disclosure some information related to protecting operating nuclear power plants although it does not meet the existing criteria for designation as SGI. This type of information was recognized before September 11, 2001, and, when submitted to NRC by a licensee, was withheld from public disclosure according to the provisions of 10 CFR 2.390(d)(1). This regulation states:

> (d) The following information is considered commercial or financial information within the meaning of §9.17(a)(4) of this chapter and is subject to disclosure only in accordance with the provisions of §9.19 of this chapter.
> (1) Correspondence and reports to or from the NRC which contain information or records concerning a licensee's or applicant's physical protection, classified matter protection, or material control and accounting program for special nuclear material not otherwise designated as Safeguards Information or classified as National Security Information or Restricted Data.

NRC expects that licensees will continue to request NRC withhold some information citing 10 CFR 2.390(d)(1) and that the volume of material requested to be withheld from public disclosure under this provision will increase as the NRC staff and licensees implement the guidance in this RIS. NRC changed its procedures shortly after September 11, 2001, to withhold from public disclosure various categories of documents likely to include individual records that warrant withholding under 10 CFR 2.390. The NRC staff will assess the need to withhold such document categories if licensees routinely identify specific documents containing sensitive information. The NRC staff will interact with licensees on a case-by-case basis regarding the use of the provisions of 10 CFR 2.390(d)(1) to assure that information is properly controlled, under either Section 2.390(d)(1) or one of the other Freedom of Information Act (FOIA) exemptions that might be applicable. Licensees that identify information to be withheld from public disclosure in accordance with 10 CFR 2.390(d)(1) or other provision in the regulation should use the same general practices as used for proprietary commercial or financial information. As shown on the attached diagram, the cover letter should clearly state that the document includes sensitive information and the affected pages should include the marking “Security-Related Information — Withhold Under 10 CFR 2.390.” Unlike the requirements for withholding proprietary information, licensees are not required to provide an affidavit for sensitive information withheld under 10 CFR 2.390(d) and related to (1) physical protection or (2) material control and accounting.

Most information received and generated by NRC deals with design, operations, or other matters not directly related to the physical security of nuclear facilities or radioactive materials. This information, if not protected as proprietary or under another exception, is generally made available to the public. After September 11, 2001, NRC and other Government agencies responded to concerns that some information easily available on public Web sites or by other means might be useful to terrorists. SECY-04-0191 provides the primary NRC guidance on whether information related to operating nuclear power plants should be withheld from public disclosure in light of the post-September 11 concerns. The NRC staff has posted the guidance and related material within the public reading room (http://www.nrc.gov/reading-rm.html) on the NRC Web site, and stakeholders can ask questions or make suggestions about the guidance and the examples.

As discussed in SECY-04-0191, other Government agencies have issued regulations or guidance for protecting information that could be reasonably expected to be useful to terrorists in planning or executing an attack on critical infrastructure.

- Protected critical infrastructure information (PCII) is information related to the security of critical infrastructure that is voluntarily provided to the Department of Homeland Security (DHS).

- Critical energy infrastructure information (CEII) is defined in Federal Energy Regulatory Commission (FERC) regulations as information related to energy-related infrastructure (e.g., hydroelectric dams and electric transmission systems).

- Sensitive security information (SSI) is defined in Transportation Safety Administration (TSA) and Department of Transportation (DOT) regulations as information about the security of transportation assets, including pipelines.

Licensees may need to assess and revise their procedures for handling sensitive unclassified nonsafeguards information in their normal activities and interactions with parties other than NRC. During discussions of existing practices with various licensees, the NRC staff discovered that licensees vary in how they treat and protect information that was previously unprotected but now is considered sensitive. Some licensees have instituted more restrictive controls. Some have determined that their routine business practices provide an appropriate level of protection for the sensitive information.

As described in 10 CFR 2.390, information deemed sensitive because it relates to physical protection or material control and accounting is protected in much the same way as commercial or financial information. As with proprietary information, licensees are expected to have sufficient internal controls to keep the information confidential. Possible methods to prevent the inadvertent release of sensitive unclassified nonsafeguards information include marking documents as described in 10 CFR 2.390, restricting access to electronic recordkeeping systems, and controlling the reproduction, distribution, and destruction of potentially sensitive records. NRC uses the marking "Security-Related Information — Withhold Under 10 CFR 2.390" and encourages the use of this marking by licensees and others possessing information deemed sensitive using the guidance in SECY-04-0191. Licensees should ensure that similar controls are in place when sensitive information is provided to outside parties such as contractors or other Government agencies. The NRC staff posted information on NRC's Web site (http://www.nrc.gov/reading-rm.html) and included a feedback form for questions or suggestions on how to effectively control sensitive information.

BACKFIT DISCUSSION

This RIS requires no action or written response. Any action on the part of addressees to assess and revise their document control procedures in accordance with the guidance contained in this RIS is strictly voluntary and, therefore, is not a backfit under 10 CFR 50.109. Consequently, the NRC staff did not perform a backfit analysis.

FEDERAL REGISTER NOTIFICATION

A notice of opportunity for public comment on this RIS was not published in the *Federal Register* because it is informational and pertains to a staff position that does not represent a departure from current regulatory requirements and practice. NRC intends to work with the Nuclear Energy Institute, industry representatives, members of the public, and other stakeholders in modifying related guidance documents.

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT OF 1996

The NRC has determined that this action is not a rule and thus is not subject to the Small Business Regulatory Enforcement Fairness Act of 1996.

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not contain information collections and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

CONTACT

Please direct any questions about this matter to the technical contacts listed below or to the appropriate Office of Nuclear Reactor Regulation (NRR) project manager.

/RA/ By Patrick L. Hiland For/
Michael J. Case, Director
Division of Inspection and Regional Support
Office of Nuclear Reactor Regulation

Technical Contacts: William Reckley, NRR
301-415-1323
E-mail: wdr@nrc.gov

Margie Kotzalas, NRR
301-415-2737
E-mail: mxk5@nrc.gov

Attachment: Marking diagram for documents withheld under 10 CFR 2.390

Note: NRC generic communications may be found on the NRC public Web site, http://www.nrc.gov, under Electronic Reading Room/Document Collections.

SUGGESTED MARKINGS

Withhold From Public Disclosure In Accordance With 10 CFR 2.390

Overall page marking on the top of all pages

Security-Related Information
Withhold Under 10 CFR 2.390

Ensure Subject Line is non-sensitive

Subject

XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

Appropriate Controls

Access:	Need-to-know in order to perform official licensee functions.
Storage:	Openly within licensee facilities with electronic or other access controls, for example, key cards, guards, alarms.
Mail:	U.S. Postal Service first class mail, single opaque envelope with no markings to indicate 10 CFR 2.390 contents.
Electronic Transmission:	Over encrypted phone, facsimile, computer, if available; otherwise over non-encrypted circuits where recipient will be present to receive the transmission.

SUMMARY OF SAFEGUARDS INFORMATION REQUIREMENTS

I. AUTHORITY

The Atomic Energy Act of 1954, as amended, 42 U.S.C. §§ 2011 *et seq*. (Act), grants the Nuclear Regulatory Commission broad and unique authority to prohibit the unauthorized disclosure of Safeguards Information upon a determination that the unauthorized disclosure of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of theft, diversion, or sabotage of materials or facilities subject to NRC jurisdiction. Section 147 of the Act, 42 U.S.C. § 2167.

For licensees and any other person, whether or not a licensee (primarily 10 C.F.R. Part 50 reactor licensees, 10 C.F.R. Part 70 licensees for special nuclear material, and their employees and contractors) subject to the requirements in 10 C.F.R. Part 73, Safeguards Information is defined by NRC regulation as follows:

> *Safeguards Information* means information not otherwise classified as National Security Information or Restricted Data which specifically identifies a licensee's or applicant's detailed, (1) security measures for the physical protection of special nuclear material, or (2) security measures for the physical protection and location of certain plant equipment vital to the safety of production or utilization facilities.

10 C.F.R. § 73.2.

Specific requirements for the protection of Safeguards Information are contained in 10 C.F.R. § 73.21. Access to Safeguards Information is limited as follows:

> (c) *Access to Safeguards Information*. (1) Except as the Commission may otherwise authorize, no person may have access to Safeguards Information unless the person has an established "need to know" for the information and is:
>
> (i) An employee, agent, or contractor of an applicant, a licensee, the Commission, or the United States Government. However, an individual to be authorized access to Safeguards Information by a nuclear power reactor applicant or licensee must undergo a Federal Bureau of Investigation criminal history check to the extent required by 10 CFR 73.57;
>
> (ii) A member of a duly authorized committee of the Congress;
>
> (iii) The Governor of a State or designated representatives;
>
> (iv) A representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who has been certified by the NRC;

> (v) A member of a state or local law enforcement authority that is responsible for responding to requests for assistance during safeguards emergencies; or
>
> (vi) An individual to whom disclosure is ordered pursuant to § 2.744(e) of this chapter [10 CFR 2.744(e)].
>
> (2) Except as the Commission may otherwise authorize, no person may disclose Safeguards Information to any other person except as set forth in paragraph (c)(1) of this section.

10 C.F.R. § 73.21(c).

The "need to know" requirement is specified by NRC regulation as follows:

> *Need to know* means a determination by a person having responsibility for protecting Safeguards Information that a proposed recipient's access to Safeguards Information is necessary in the performance of official, contractual, or licensee duties of employment.

10 C.F.R. § 73.2.

Thus, unless otherwise authorized by the Commission, NRC regulations limit access to Safeguards Information to certain specified individuals who have been determined to have a "need to know," i.e., specified individuals whose access has been determined to be necessary in the performance of official, contractual or licensee duties of employment.

Furthermore, except as otherwise authorized by the Commission, no person may disclose Safeguards Information to any other person unless that other person is one of the specified persons listed in 10 C.F.R. § 73.21(c)(1) and that person also has a "need to know." 10 C.F.R. § 73.21(c)(2). These regulations and prohibitions on unauthorized disclosure of Safeguards Information are applicable to all licensees and all individuals:

> This part [10 C.F.R. Part 73] prescribes requirements for the protection of Safeguards Information in the hands of any person, whether or not a licensee of the Commission, who produces, receives, or acquires Safeguards Information.

10 C.F.R. § 73.1(b)(7).

The Commission's statutory authority to protect and prohibit the unauthorized disclosure of Safeguards Information is even broader than is reflected in these regulations. Section 147 of the Act grants the Commission explicit authority to "issue such orders, as necessary to prohibit the unauthorized disclosure of safeguards information . . . ." This authority extends to information concerning special nuclear material, source material, and byproduct material, as well as production and utilization facilities.

The Act explicitly provides: "Any person, whether or not a licensee of the Commission, who violates any regulations adopted under this section shall be subject to the civil monetary penalties of Section 234 of this Act." Section 147a of the Act. Section 234a of the Act provides for a civil monetary penalty not to exceed $120,000 for each violation. S*ee* 10 C.F.R. § 2.205(j) (2003). Furthermore, a willful violation of any regulation or order governing Safeguards Information is a felony subject to criminal penalties in the form of fines or imprisonment, or both. *See* Sections 147b and 223a of the Act.

The NRC Enforcement Policy outlines potential NRC actions against both licensees and individuals for violations of the regulations and Orders using criteria that evaluate both the details and severity of the violation.

II. DISCUSSION

All licensees and all other persons who now have, or in the future may have, access to Safeguards Information must comply with all applicable requirements delineated in regulations and Orders governing the handling and unauthorized disclosure of Safeguards Information. As stipulated in 10 C.F.R. § 73.21(a), licensees and persons who produce, receive or acquire Safeguards Information are required to ensure that Safeguards Information is protected against unauthorized disclosure. To meet this requirement, licensees and persons subject to 10 C.F.R. § 73.21(a) shall establish and maintain an information protection system governing the proper handling and unauthorized disclosure of Safeguards Information. All licensees should be aware that since the requirements of 10 C.F.R. § 73.21(a) apply to all persons who receive Safeguards Information, they apply to all contractors whose employees may have access to Safeguards Information and they must either adhere to the licensee's policies and procedures on Safeguards Information or develop, maintain and implement their own information protection system, but the licensees remain responsible for the conduct of their contractors. The elements of the required information protection system are specified in 10 C.F.R. § 73.21(b) through (i). The information protection system must address, at a minimum, the following: the general performance requirement that each person who produces, receives, or acquires Safeguards Information shall ensure that Safeguards Information is protected against unauthorized disclosure; protection of Safeguards Information at fixed sites, in use and in storage, and while in transit; inspections, audits and evaluations; correspondence containing Safeguards Information; access to Safeguards Information; preparation, marking, reproduction and destruction of documents; external transmission of documents; use of automatic data processing systems; and removal of the Safeguards Information category.

As noted above, in addition to the responsibility of each licensee to ensure that all of its employees, contractors and subcontractors, and their employees comply with applicable requirements, all contractors, subcontractors, and individual employees also are individually responsible for complying with applicable requirements and all are subject to civil and criminal sanctions for failures to comply. The NRC considers that violations of the requirements applicable to the handling of Safeguards Information are a serious breach of adequate protection of the public health and safety and the common defense and security of the United States.

As a result, the staff intends to use the NRC Enforcement Policy, including the discretion to increase penalties for violations, to determine appropriate sanctions against licensees and individuals who violate these requirements. In addition, the Commission may use its discretion, based on the severity of the violation, to further increase the penalty for any violation up to the statutory maximum. Willful violations of these requirements will also be referred to the Department of Justice for a determination of whether criminal penalties will be pursued.