March 16, 1978

SECY-78-158

COMMISSIONER ACTION

For: The Commissioners

From: Lee V. Gossick, Executive Director for Operations

Subject: OPERATING ASSUMPTION COVERING THE USE OF AND RELIABILITY PLACED IN INFORMATION FROM THE INTELLIGENCE COMMUNITY

Purpose: To request Commission concurrence or comments.

Discussion: Enclosed is a revised marked-up statement regarding use of intelligence information in the agency's safeguards program. The statement has been revised to delete a reference to intelligence on actual diversion or thefts and to add two sentences stressing the need to make intelligence information available to appropriate staff on as wide a distribution basis as possible.

Coordination: NMSS, IE and NRR concur in this paper. ELD has no legal objection.

Lee V. Gossick
Executive Director for Operations

Enclosure:
Operating Assumption Covering the Use of and Reliability Placed in Information From the Intelligence Community

NOTE: Commissioners' comments should be provided directly to the Office of the Secretary by close of business Wednesday, March 29.

Commission staff office comments, if any, should be submitted to the Commissioners NLT March 24, 1978, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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OPERATING ASSUMPTION COVERING THE USE OF AND RELIABILITY PLACED IN INFORMATION FROM THE INTELLIGENCE COMMUNITY

Background: Implicit in the Energy Reorganization Act of 1974, which directs NRC to increase the importance placed on safeguarding special nuclear material (SNM) against theft, diversion and sabotage* and nuclear facilities against sabotage, is an emphasis on threat evaluation and risk assessment.

In performing its continual assessment of the threat to nuclear facilities, or materials, NRC relies heavily on existing efforts within the U.S. Intelligence Community. These agencies provide NRC (1) reports dealing with threats to nuclear facilities and (2) collateral information of an analagous nature such as adversary characteristics, previous acts of violence, bombing incidents, target profiles, and other data useful to threat assessment. Since such intelligence information may result from ongoing investigations or come from ~~protected~~ sensitive sources and methods it is ~~treated as sensitive information and~~ not generally disseminated to the staff. Additionally, the acquisition and dissemination of foreign intelligence information, especially compartmented information, must be handled by special procedures. Only those

*10 CFR 73.2(p) - "Industrial sabotage" means any deliberate act directed against a plant in which an activity licensed pursuant to the regulation in 10 CFR 73 is conducted or to any component of such a plant, which could directly or indirectly endanger the public health and safety by exposure to radiation, other than such acts by an enemy of the United States, whether foreign government or other person.

persons with proper intelligence clearances can be permitted access to such information and only when a need-to-know is established. ~~Consequently, it is impractical to disseminate intelligence information to more than a few NRC personnel with specific threat assessment or safeguards management responsibilities.~~ At the same time, however, it is emphasized that because of the varied programmatic interests in the NRC offices in the safeguards area, it is important that care be exercised to assure that all appropriate NRC personnel are kept informed of relevant and significant intelligence information related to their job activities. In addition, there is a body of non-compartmented information which can and should be made available to NRC personnel who have the proper clearance and need-to-know.

Given the dire consequences which could arise from the theft of SNM or sabotage of a licensed facility, it will be necessary for NRC staff to operate on the basis of a conservative assumption to preclude over-reliance upon information from the U.S. Intelligence Community. The operating assumption reflected as follows should be used by NRC staff in planning and implementing safeguards programs.

Operating Assumption: A prudent, viable safeguards system should not rely for its effectiveness on the accuracy and timely availability of intelligence information concerning the plans, characteristics and intentions of a hostile adversary, with respect to theft or diversion of SNM or sabotage of a nuclear facility. Therefore, safeguards for licensed material and facilities should

be structured to prevent theft and sabotage regardless of whether or not such information is known in advance.

Degree of Conservatism: This operating assumption accommodates the conservative perception that, given the manifestation of a significant threat to the nuclear industry, there is a possibility that the U.S. Intelligence Community would not be able to collect and report that information to the NRC in a sufficiently accurate and timely manner so that appropriate safeguards actions might be taken to thwart the threat.

~~To-date,-the-U.S.-Intelligence-Community-has-not-to-our-knowledge-developed information-of-planned-or-actual-thefts,-sabotages-or-diversions-of-SNM-or sabotages-of-nuclear-facilities.--To-our-knowledge-there-have-been-no-such serious-acts-perpetrated-in-this-country,-and-we-know-of-no-current-or-historic evidence-that-any-organized-or-known-groups-presently-intend-to-commit-such acts-of-sabotage,-theft,-or-diversion.--In-reality-then,-the-U.S.-Intelligence Community-remains-untested-with-respect-to-its-intelligence-gathering-and reporting-capabilities-in-the-arena-of-significant-threats-to-the-U.S.-nuclear industry.~~

In spite of this "conservative" operating assumption, an effective approach to the safeguards problem should include a key role for intelligence. Timely availability of such information from the Intelligence Community would give NRC additional options. If a transportation hijacking of SNM is planned by an adversary force, for example, and intelligence of such plans is made available in a timely fashion, the shipment might be cancelled, rerouted, or

additional security forces might be dispatched to protect the threatened cargo. A foreign shipment of SNM targeted by a terrorist group might be embargoed by NRC in concert with other federal agencies if credible intelligence information was developed and made available in sufficient time to act. Given advance warning of a planned malevolent event, physical security countermeasures at a threatened fuel cycle facility or power plant might be taken. Intelligence information can be an important element in the overall safeguards program and could play a vital role in minimizing the chances of successful sabotage, diversion or theft.