

March 16, 1979

UNITED STATES
NUCLEAR REGULATORY COMMISSION SECY-79-188

~~SECRET~~
PDR

POLICY SESSION ITEM

For: The Commissioners

From: Lee V. Gossick
Executive Director for Operations

Subject: TASK FORCE ON NRC SAFEGUARDS POLICY

Purpose: To transmit the final report of the Task Force on NRC Safeguards Policy and to solicit Commission approval to implement the recommendations contained therein.

Category: This paper covers a major issue requiring Commission action.

Discussion: The "FY 78 Annual Report on Domestic Safeguards" made clear the fact that the various NRC offices with safeguards responsibilities have different approaches to safeguards regulation. In particular, the definitions of and ways of determining safeguards adequacy are different for fuel cycle facilities and associated transportation involving formula quantities of SSNM, power reactors, and non-power reactors. These variances have caused difficulties for NRC inspectors and have denigrated communications concerning the Commission's safeguards posture.

On January 26, 1979, I established a Task Force on NRC Safeguards Policy to develop a single, integrated approach to NRC safeguards regulations (see Enclosure 1). In establishing the Task Force, I noted that regulatory approaches for the various licensed activities need not be identical, but that they must be consistent.

Contact:
Thomas Rehm
49-27781

7910090 034

1114 256

In particular, I asked that the Task Force develop recommendations for the Commission that would achieve consistent policy in the following areas:

1. Definition of safeguards adequacy
2. Methods used to determine safeguards adequacy
3. Meaning and use of terms such as "reasonable" versus "high" assurance
4. Levels of design threats against which safeguards must protect
5. Need for additional or revised rules

The Task Force has prepared a final report, which is attached as Enclosure 2.

In essence, the Task Force recommends:

1. Defining safeguards adequacy in terms of the safeguards mandate contained in Sections 57c(2) and 182 of the Atomic Energy Act of 1954, as amended.
2. Joint development in the near future by NMSS, NRR, and IE of safeguards specifications describing licensee requirements in a way that will permit their use in determining the adequacy of safeguards at fuel cycle facilities possessing formula quantities of SSNM and at nuclear power plants.
3. Eliminating the term "high assurance" from 10 CFR 73.55(a) and 73.20(a) of the proposed Upgrade Rule and substituting words that express the intent of those used in the NRC Memorandum and Order (January 21, 1977) concerning the Natural Resources Defense Council

petition for emergency safeguards measures, i.e., "will provide reasonable assurance that activities involving special nuclear material are not inimical to the common defense and security, and do not constitute an unreasonable risk to the public health and safety."

4. Specifying the safeguards general performance requirements in 10 CFR Part 73 in terms of malevolent acts to be thwarted rather than types of facilities to be protected. This recommendation would result in:
 - a) the inclusion in 10 CFR 73.1(a) of a single threat statement containing two discrete malevolent acts -- sabotage and theft or diversion of formula quantities of SSNM.
 - b) deletion of the design basis threats now contained in 73.55(a) and 73.20(a) of the proposed Upgrade Rule.
 - c) references to the new 73.1(a) in the general performance requirements contained in 73.55(a) and the proposed 73.20(a).
5. No new rules are needed at this time, but implementation of the third and fourth recommendations above would necessitate some revisions to 10 CFR 73.1(a), 73.55(a), and 73.20(a) of the proposed Upgrade Rule. The text of these revised rules is contained in the Commission paper from Robert S. Minogue, Office of Standards Development, and William J. Dircks, Office of Nuclear Material Safety and Safeguards, entitled "Strengthened Physical Protection Requirements for Fuel Cycle Facilities and Transportation Involving Formula Quantities of Strategic Special Nuclear

Material - (Short Title - Safeguards Upgrade Rule)."

Recommendation: That the Commission:

1. Approve defining safeguards adequacy in terms of the safeguards mandate contained in the Atomic Energy Act.
2. Approve the development by NMSS, NRR, and IE of safeguards specifications describing licensee requirements in a way that will permit their use in determining the adequacy of safeguards at fuel cycle facilities possessing formula quantities of SSNM and at nuclear power plants.
3. Approve eliminating the term "high assurance" from 10 CFR Part 73 and substituting words that express the intent of those used in the NRC Memorandum and Order concerning the Natural Resources Defense Council petition for emergency safeguards measures, i.e., "will provide reasonable assurance..."
4. Approve specifying the safeguards general performance requirements in 10 CFR Part 73 in terms of malevolent acts to be thwarted rather than types of facilities to be protected.
5. Approve the revisions to 10 CFR 73.1(a), 73.55(a), and 73.20(a) of the proposed Upgrade Rule that will result from implementation of recommendations 3 and 4 above.
6. Note that the text of the revised rules is contained in the Commission paper entitled "Strengthened Physical Protection Requirements for Fuel Cycle Facilities and Transportation Involving Formula Quantities of Strategic Special Nuclear Material - (Short Title - Safeguards Upgrade Rule)."

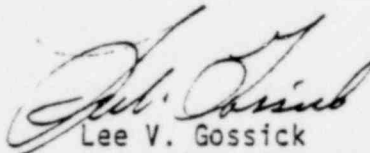
7. Note that the appropriate Congressional Committees will be informed of implementation of the Task Force's recommendations, once approved.

Coordination:

The Offices of Nuclear Material Safety and Safeguards, Nuclear Reactor Regulation, Inspection and Enforcement, and Standards Development concur in the contents of this paper. The Office of the Executive Legal Director has no legal objection to the contents of this paper.

Scheduling:

For consideration at an early policy session. It is recommended that the rationale for the fourth recommendation above be discussed in closed session in accordance with exemption one(1) of the Sunshine Act. The remaining recommendations can be discussed in open session.



Lee V. Gossick
Executive Director for Operations

Enclosures:

1. My memorandum of 1/26/79 establishing the Task Force on NRC Safeguards Policy
2. Final Report of the Task Force on NRC Safeguards Policy

This paper will be scheduled for consideration, in conjunction with SECY-79-187, at an Open (Portions may be closed) Meeting in the near future. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

DISTRIBUTION

Commissioners
Commission Staff Offices
Exec Dir for Operations
ACRS
Secretariat

1114 260