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NINETY-SIXTH CONGRESS
Congress of the United States
House of Representatives
GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
SUBCOMMITTEE

Preyer

OF THE
COMMITTEE ON GOVERNMENT OPERATIONS
RAYBURN HOUSE OFFICE BUILDING, ROOM B-349-B-C
WASHINGTON, D.C. 20515

August 3, 1979

Honorable Joseph M. Hendrie, Chairman
Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Dear Mr. Chairman:

Thank you for providing so promptly a revision of clause 2 of the safeguards information section of H.R. 2608. While I think that we are moving closer to agreement, I am still troubled by some of the language you propose.

My major objection is to paragraph B, which seems to be just as broad as the existing clause 2. Paragraph B fails to specify which aspects of programs, procedures, or physical structures may be withheld. As a result, discretion to withhold safeguards information would be essentially unqualified.

Also, I am uncertain as to the meaning of the "particularly vulnerable" clause of paragraph B. The word "particularly" suggests that the paragraph can be invoked only in the case of nuclear facilities or materials that are more vulnerable than normal. If this is what was intended, I am confused as to the purpose. In any event, I cannot agree to paragraph B.

I have only minor objections to paragraph A, however, and believe that it can be the basis of a compromise. I would like to make two changes to your draft language. The first change would make it clear that only those portions of a study or report that identify specific methods, techniques, substances, or devices would be withholdable. Second, I would replace the words "could provide" with "are likely to provide". This will mean that something more than a theoretical possibility is needed to justify withholding.

Consistent with the second change, I also propose to alter corresponding language which appears on lines 24 and 25 of page 9 and on

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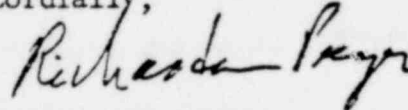
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lines 7 and 8 of page 10 of the Interior Committee bill. In place of "could have a significant adverse effect", I would put "is likely to have a significant adverse effect."

The text of Section 147(a), altered as I have suggested is attached. Please let me know what you think.

Cordially,



Richardson Preyer
Chairman

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"Sec. 147. SAFEGUARDS INFORMATION.--

"a. In addition to any other authority or requirement regarding protection from disclosure of information and notwithstanding section 552 of title 5, United States Code, relating to the availability of records, the Commission shall prescribe such regulations or orders as it may deem necessary to prohibit the unauthorized disclosure of:

"(1) safeguards information which identifies a licensee's or applicant's detailed--

"(A) control and accounting procedures or security measures (including security plans, procedures, and equipment) for the physical protection of special nuclear material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security;

"(B) security measures (including security plans, procedures, and equipment) for the physical protection of source material or by-product material, by whomever possessed, whether in transit or at fixed sites, in quantities determined by the Commission to be significant to the public health and safety or the common defense and security; or

"(C) security measures (including security plans, procedures, and equipment) for the physical protection of and the location of certain plant equipment vital to the safety of production or utilization facilities involving nuclear materials covered by (A) and (B) in this paragraph; and

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"(2) those portions of studies, reports, and analyses which are conducted by or on behalf of the Commission, its licensees, or applicants for Commission licenses and which identify in detail specific methods, techniques, substances, or devices which are likely to provide a significantly enhanced ability to gain unlawful access to safeguarded nuclear facilities or material,

if the unauthorized disclosure of such information is likely to have a significant adverse effect on the health and safety of the public or the common defense and security by facilitating theft, diversion, or sabotage of such material or such facility. The Commission shall exercise the authority in this subsection so as to apply the minimum restrictions needed to achieve the objectives of protecting the health and safety of the public or the common defense and security, and upon a determination that the unauthorized disclosure of such information is likely to have a significant adverse effect on the health and safety of the public or the common defense and security by facilitating theft, diversion, or sabotage of such material or such facility. Any person, whether or not a licensee of the Commission, who violates any regulation adopted under this section shall be subject to the civil monetary penalties of section 234 of this Act. Nothing in this section shall be construed to authorize the withholding of information from the duly authorized committees of the Congress.

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