


May 13, 1980

SECY-80-245

COMMISSIONER ACTION

For: The Commissioners

From: William J. Dircks, Director
Office of Nuclear Material Safety
and Safeguards 

Thru: William J. Dircks, Acting Executive
Director for Operations

Subject: WITHHOLDING OF NRC SPENT FUEL ROUTE
INFORMATION FROM PUBLIC DISCLOSURE

Purpose: To obtain a Commission decision concerning
the release of spent fuel route information
to the general public.

Category: This paper covers a policy matter.

Issue: Whether the staff should continue to withhold
spent fuel shipment route information from
public disclosure. This is a safeguards,
rather than safety issue. Safety concerns
related to spent fuel shipments are beyond the
scope of this paper.

Decision
Criteria: Dissemination of specific route information should
occur if release of approved routes or segments of
routes will not significantly decrease shipment
security.

Alternatives:

1. Continue the current staff practice of releasing
spent fuel route information and other shipment
security information only to state and LLEA
officials and informing such officials that the
information is sensitive security data and should
not be disclosed.
2. Revise staff practice regarding the withholding
of spent fuel route information, and publish a
periodically updated NUREG report containing
maps of such routes showing both Interstate
and secondary highway route segments.

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L. J. Evans, Jr.
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SECY NOTE: This paper is currently scheduled for a
Commission briefing at an open meeting on
Thursday, May 15, 1980.

3. Revise staff practice regarding the withholding of spent fuel route information, and publish a periodically updated NUREG report containing maps of only the Interstate highway segments of such routes.

Discussion:

Background

In order CLI 80-3, in the matter of Duke Power Company, Docket No. 70-2623, of February 29, 1980, the Commission indicated an intention to address the generic question of public availability of spent fuel routing information. This paper is a staff response to that intent, and identifies options available to the Commission.

On April 23, 1980, the Commission approved revised interim protection requirements for spent fuel shipments. The new requirements contain routing criteria which are expected to result in the increased utilization of Interstate highways for such shipments. This approval may have a bearing on the information withholding option selected.

As additional background, the Commission should note that only spent fuel shipment route information has been considered for public release. Other detailed security information relative to spent fuel shipments such as shipment schedules, communications details, and special protective measures will continue to be withheld. Also, in accordance with Appendix A of 10 CFR Part 95, route information for Category I shipments, which will carry an NSI classification, will continue to be withheld.

Current Staff Practice

The following are examples of information which are released to the public at large:

- a. Rationale indicating the need for protection requirements.
- b. Specific regulatory requirements for the protection of shipments.
- c. Criteria used by the staff in determining whether a given licensee proposal for complying with a requirement would be accepted or rejected.
- d. Alternative approaches, acceptable to the staff, that could be used to comply with a given requirement.

Following are examples of the types of protection information that the staff has provided to state and LLEA officials only:

- a. Identification of a staff-approved route or routes over which a shipment must travel.
- b. Shipment schedules (when specified in other than broad terms such as "during 1978" or "during the period July - October").
- c. Details of licensee communications equipment.
- d. Details of specific immobilization features.
- e. Procedures used to cope with threats and safeguards emergencies.

(Note: this paper deals only with the release of item (a) above...identification of routes. This paper does not consider any changes in the current position for items b through e.)

Possible Benefits of Disclosure

There has been demonstration of considerable public interest in wanting to know the routes over which spent fuel shipments will travel. In the case of the Duke Oconee-McGuire hearing, two of the parties to the hearing urged that routes be made public. Public and Congressional interest was also demonstrated in the public comments received in response to the interim rule for the protection of spent fuel.

A predominant point in these letters of inquiry is that the writers want to know whether their area is to be exposed to the risks associated with spent fuel shipments. Some writers suggest that as members of the public, they have the right to this information. Some writers would use the information to influence route selection through protest, through legislation, passage of prohibition resolutions, or through other means. Writers further suggest that withholding of routes would create suspicion and opposition upon potential discovery by local residents that their community lies on a spent fuel shipment route. Some writers contend that public confidence in the NRC would be adversely affected if the Commission continues to support a secrecy requirement which they regard as specious.

Finally, much of the correspondence from the public refers to safety concerns. In this regard, the release of spent fuel route information and the associated public discussion may serve to heighten public awareness of the distinctions between spent fuel shipment safety and spent fuel shipment safeguards. In particular, the Commission's concerns with respect to route information will be clearly linked to protection against adversary action rather than accidents. Also, the other prudent measures adopted by the Commission for the protection of spent fuel shipments from terrorist action would be brought to the public's attention.

Possible Harm From Disclosure

Information of the kind that is currently withheld would be essential to an individual or group planning to sabotage a spent fuel shipment. Such an individual or group would need detailed, concrete information about the shipment routing, schedule, and protective measures in order to proceed against a shipment.

This information would ease the dedicated saboteur's burden of devising and implementing a plan of action against a shipment. Having definite knowledge of routes would reduce the element of doubt for potential adversaries bent on sabotaging a given spent fuel shipment. The release of shipment routes would also reduce the chances of detecting potential saboteurs attempting to obtain such information.

In addition, it is possible that release of route information could provoke persons who would not have otherwise considered sabotaging a shipment, but when presented with specific route information, would be tempted to carry out such an act.

The staff has recognized that shipments on secondary highways (as opposed to Interstate highways) are significantly more vulnerable to adversary attack due to such factors as reduced speeds, seclusion and cover. Accordingly, the staff believes that the public disclosure of spent fuel routes on secondary highways would be unadvisable.

As previously mentioned, the recent revision to 10 CFR §73.37 will probably result in increased utilization of Interstate highways for spent fuel shipments. Because the number of possible Interstate routes is relatively few when compared with all possible routes, the staff acknowledges that Interstate highway route segments would tend to be obvious. Therefore, it is believed that release of Interstate route segments would not significantly decrease shipment security.

While the possible harms described above are not trivial, an adversary would need to know more than a route, particularly a segment of a route that can be easily discerned, before being able to successfully sabotage a spent fuel shipment. The staff recognizes, for example, that a route might be of little use to an adversary if he had no idea when a given shipment would occur.

Analysis of Alternatives

The alternative approaches are evaluated as follows:

Alt. 1 Continue the current staff practice of releasing spent fuel routes and other shipment security information only to state and LLEA officials and informing such officials that the information is sensitive security data and should not be disclosed.

PRO:

- a. Maintains current level of protection of public health and safety.
- b. Policy is simple to apply in practice.
- c. Additional resources are not required.

CON:

- a. Policy not fully responsive to public request for route information.

Resource Estimate

This alternative is current policy. The corresponding resource level will be used as a reference level for estimating the resources needed to carry out the other alternatives.

Alt. 2 Revise staff practice regarding the withholding of spent fuel routes, and publish a periodically updated NUREG report containing maps of such routes, showing both Interstate and secondary highway route segments.

- PRO: a. Is totally responsive to public interest in knowing routes.
- CON: a. Sacrifices a moderate amount of protection of public health and safety.
- b. May provoke local jurisdictions to pass prohibition of spent fuel shipment resolutions.
- c. Requires additional resources to complete periodic updates of routes for publication.

Resource Estimate

The staff estimates that the compilation and publication of route maps would require an additional one half man-year during the next two years.

Alt. 3 Revise staff practice regarding the withholding of spent fuel routes and publish a periodically updated NUREG report containing maps of only the Interstate highway segments of such routes.

- PRO: a. Due to the fact that the preponderance of spent fuel shipment routes will follow Interstate highways, this alternative is substantially responsive to public interest in knowing routes.
- b. Protects the most vital part of spent fuel shipment routes (secondary highway segments).
- CON: a. Sacrifices a small amount of protection of public health and safety.
- b. May provoke local jurisdictions to pass prohibition of spent fuel shipment resolutions.
- c. Requires additional resources to complete periodic updates of routes for publication.

Resource Estimate

The staff estimates that the compilation and publication of route maps would also require an additional one half man-year during the next two years.

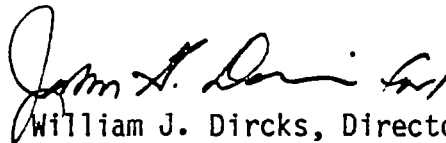
Recommendations:

That the Commission:

1. Approve Alternative 3: That the staff revise its practice regarding the withholding of spent fuel route information and publish a periodically updated NUREG report containing maps of only the Interstate highway portions of such routes.
2. Note: That only spent fuel route maps are being considered for release, and that other specific security-related information regarding such shipments will continue to be withheld under the provisions of 10 CFR 2.790(d) and 10 CFR 9.5(a).
3. Note: That an Environmental Impact Statement need not be prepared because the decision and subsequent consequences are essentially procedural and have no significant impact on the environment.

Coordination:

The Offices of Standards Development and Inspection and Enforcement do not concur in this paper, and prefer Alternative 1, because they believe that the potential harm of route disclosures outweighs the benefits to the public (see enclosed memos). The Office of the Executive Legal Director has no legal objection, but recommends that 10 CFR 2.790(d)(1), currently relied upon as authority for non-disclosure of routing information, be appropriately amended if either Alternative 2 or Alternative 3 permitting greater disclosure is adopted.



William J. Dircks, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Memo Fm. R. B. Minogue to
W. J. Dircks Dtd. 4/23/80
2. Memo Fm. V. Stello to
W. J. Dircks Dtd. 4/30/80

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Thursday, May 29, 1980.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT May 21, 1980, 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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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

APRIL 23, 1980

MEMORANDUM FOR: William J. Dircks, Director
Office of Nuclear Material Safety & Safeguards.

FROM: Robert B. Minogue, Director
Office of Standards Development

SUBJECT: NMSS STAFF PAPER ON WITHHOLDING OF MRC SPENT
FUEL ROUTE INFORMATION FROM PUBLIC DISCLOSURE

I think that specific advance transport route information that involves regulated material of potential terrorist interest should be withheld from public disclosure to the extent allowed by law. Some years ago, when I was more heavily involved with safeguards, I pointed out to a reporter that I didn't believe Wells Fargo posted the dates, times, and routes of their gold shipments (so as not to make the task of the highwaymen any easier). By analogy, if nuclear material being shipped is considered to be a potential terrorist target, as we imply when we require physical protection to be provided, than we should not make the job of the terrorist any easier. For this reason, I do not concur in the alternative recommended in the proposed NMSS staff paper to release spent fuel route information to the public.

Robert B. Minogue
Robert B. Minogue, Director
Office of Standards Development



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555
SSINS 6310

APR 30 1980

MEMORANDUM FOR: William J. Dircks, Director
Office of Nuclear Material Safety and Safeguards

FROM: Victor Stello, Jr., Director
Office of Inspection and Enforcement

SUBJECT: PROPOSED COMMISSION PAPER ON WITHHOLDING OF NRC SPENT
FUEL ROUTE INFORMATION FROM PUBLIC DISCLOSURE

The Office of Inspection and Enforcement cannot concur with Alternative 3 of the subject paper because of the potential harm that could result from disclosure.

Recent criticism of the NRC for releasing the Barrier Data Base, MITRE Handbooks, Sandia Handbooks, and other documents relating to safeguarding a facility is a case in point. The spent fuel route is site-specific and much more comprehensive than the Barrier Data Base. The only other critical information that an adversary would need is the date and time of the shipment, which could be determined by mere observation at the point of origin. If we believe that a terrorist threat may exist in the United States and that spent fuel is a viable target, I don't see the rationale for releasing such sensitive information. The only rationale given in the paper is to be responsive to some elements of the public. It should be evident by the public outcry over the release of the Barrier Data Base, MITRE Handbooks, Sandia Handbooks, and other documents, that the public is also concerned over unnecessary release of sensitive information.

The NRC has a debilitating reputation in government and industry for being unable or unwilling to protect sensitive information. In this regard, IE would advocate the withholding of more critical information than is currently the vogue.

As long as the need for physical protection exists, the Office of Inspection and Enforcement cannot concur with any alternative except Alternative 1.

R. C. Stello, Jr.

Victor Stello, Jr.
Director
Office of Inspection
and Enforcement