

April 9, 1998

SECY-98-074

FOR: The Commissioners

FROM: L. Joseph Callan /s/
Executive Director for Operations

SUBJECT: PROCESS FOR THE DECLASSIFICATION AND RELEASE OF
INVENTORY DIFFERENCE DATA

PURPOSE:

To seek Commission approval of the proposed revision to the process for the declassification and release of inventory difference data used in the annual NUREG-0430 report.

BACKGROUND:

Volumes of the Licensed Fuel Facility Status Report (NUREG-0430) series are published periodically, to provide the public with safeguards information concerning U.S. Nuclear Regulatory Commission (NRC) licensed fuel facilities. The first semiannual issue of NUREG-0430 was published in May 1978, and was later placed on an annual publication schedule in 1990. Information in the report includes inventory difference (ID) data for active fuel fabrication facilities. Currently, the Office of Nuclear Material Safety and Safeguards (NMSS), Division of Fuel Cycle Safety and Safeguards (FCSS), is responsible for issuance of this annual NUREG report.

DISCUSSION:

All NRC-licensed fuel cycle facilities authorized to possess and use more than one effective kilogram of special nuclear material are required to report the results of each physical inventory to NRC. Only ID data associated with highly-enriched uranium material is reported and protected as classified information, because of its strategic significance.

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According to the National Security Council (NSC) Decision Memorandum 347 of January 1977, those ID data must remain classified for a period of at least 6 months after they are generated, or during any longer period of active ongoing investigation. At the end of the 6-month period or the conclusion of a related investigation, whichever is later, such ID data may be declassified by a Commission vote. By a Commission negative consent paper (SECY 85-252 of July 17, 1985), the Commission delegated the authority to the Executive Director for Operations (EDO), to determine that all declassification criteria are met and to issue such new reports, on Commission approval. As a consequence, each annual NUREG report must be prepared as a classified document. Accordingly, this report cannot be declassified and released to the public until the staff has completed all investigations of ID information in the report and the Commission approves such actions via a routine staff request for Commission approval, by a negative consent memorandum. The Commission most recently approved the release of one of these reports in SECY 97-284, dated December 9, 1997.

In the spirit of the NSC decision memorandum, and to lessen the burden during the process of classification and subsequent declassification within a short period of time, the staff believes that this protocol should be streamlined. The staff proposes that the Commission eliminate the annual Commission negative consent paper, and agree on declassification by the Director of Fuel Cycle Safety and Safeguards of all ID data after the 6-month period, and after completion of the staff's evaluation of reported ID data, and any needed investigation. In proposing this simplified process, the staff recognizes the importance of the need for keeping the EDO and the Commission informed about significant information pertaining to any active investigations associated with the ID data and the circumstances surrounding them. This approach will allow flexibility to declassify and publish the ID data in a more efficient manner by reducing the effort that would otherwise be required to perform the administratively cumbersome task of ID data preparation, handling, and protection throughout the data classification and declassification processes. The staff believes that these recommendations will not result in any adverse impact on the safeguards program.

RECOMMENDATIONS:

The staff recommends that the Commission:

1. Authorize the Director, FCSS, NMSS to automatically declassify the ID data reported to NRC after 6 months from the date of the ID determination and in the absence of active investigation; and
2. Eliminate the annual Commission negative consent paper for the declassification of ID data.

The Commissioners

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COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection to its contents.

L. Joseph Callan
Executive Director
for Operations

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*See Previous Concurrence

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