



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 30, 2005

SECRETARY

COMMISSION VOTING RECORD

DECISION ITEM: SECY-05-0091

TITLE: TASK FORCE REPORT ON PUBLIC DISCLOSURE OF
SECURITY-RELATED INFORMATION

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of June 30, 2005.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

A handwritten signature in black ink, appearing to read "Annette L. Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook
Secretary of the Commission

Attachments:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons
OGC
EDO
PDR

VOTING SUMMARY - SECY-05-0091

RECORDED VOTES

| | APRVD | DISAPRVD | ABSTAIN | NOT PARTICIP | COMMENTS | DATE |
|------------------|-------|----------|---------|-----------------|----------|---------|
| CHRM. DIAZ | X | | | | X | 6/8/05 |
| COMR. McGAFFIGAN | X | | | | X | 6/6/05 |
| COMR. MERRIFIELD | X | | | | X | 6/7/05 |
| COMR. JACZKO | X | | | | X | 6/13/05 |
| COMR. LYONS | X | | | | X | 6/14/05 |

COMMENT RESOLUTION

In their vote sheets, all Commissioners approved the staff's recommendation and provided some additional comments. Subsequently, the comments of the Commission were incorporated into the guidance to staff as reflected in the SRM issued on June 30, 2005.

NOTATION VOTE


RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: CHAIRMAN DIAZ
SUBJECT: **SECY-05-0091- TASK FORCE REPORT ON
PUBLIC DISCLOSURE OF SECURITY-RELATED
INFORMATION**

Approved xx ^{w/comments} Disapproved _____ Abstain _____
Not Participating _____

COMMENTS:

I approve, subject to the attached comments.


SIGNATURE
June 8, 05
DATE

Entered on "STARS" Yes No _____

CHAIRMAN DIAZ'S COMMENTS ON SECY-05-0091

I approve the Task Force recommendation on public disclosure of security-related information. I believe the Task Force has done an excellent job in providing guidance on the appropriate criteria for the disclosure and release of security-related information. The analyses, associated recommendations, and proposed guidance should aid the agency in its commitment to making documentary material available to the public that must or should be disclosed and to protecting the documentary material that must or should be withheld. For example, I believe the agency will greatly benefit by the addition of the proposed guidance on evaluation of security-related information to the NRC Management Directive 3.1 on the Freedom of Information Act. This guidance should enhance the transparency and timeliness of the NRC's decision-making in this area as well as the full and deliberate consideration of the protections available for information that could be useful, or could reasonably be expected to be useful, to a terrorist.

Each of the recommendations is important, from the recommendation that the staff ensure that all agency records within the purview of 5 U.S.C. 552(a)(2) are promptly made available to the public via the agency's Publicly Available Records System (PARS) to the recommendation that the staff clearly articulate appropriate controls relating to information disclosure when requesting that external organizations produce documents containing classified or sensitive unclassified information under NRC contract, grant or other agreement.

I look forward to receipt of the planned staff paper that will request further guidance on several issues and propose revised SISPS disclosure policies. Either in that paper or separately, the staff should advise the Commission of the actions it has taken or plans to take to implement the recommendation regarding contracts, grants or other arrangements for preparation of reports on security-related matters.

A handwritten signature in black ink, appearing to be "LWJ", is written below the text.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MCGAFFIGAN
SUBJECT: **SECY-05-0091- TASK FORCE REPORT ON
PUBLIC DISCLOSURE OF SECURITY-RELATED
INFORMATION**

Approved X ^{w/comments} Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

The task force is to be commended for writing a clear and usable discussion of what materials must be released to the public and what materials may be withheld from public disclosure under the applicable statutes and regulations. Upon completion of Commission voting on this item, I recommend releasing the report to the public. By following the guidance in this document our reasoning for withholding materials should be much clearer, especially for those who only occasionally interact with NRC with respect to information requests.

Edward M. Gaffigan Jr.

SIGNATURE

June 6, 2005

DATE

Entered on "STARS" Yes X No _____

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER MERRIFIELD
SUBJECT: **SECY-05-0091- TASK FORCE REPORT ON
PUBLIC DISCLOSURE OF SECURITY-RELATED
INFORMATION**

Approved Disapproved Abstain

Not Participating

COMMENTS:

See attached comments.



SIGNATURE

DATE

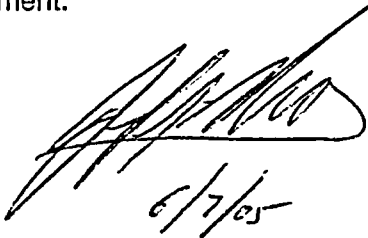
6/7/05

Entered on "STARS" Yes No

Commissioner Merrifield's Comments on SECY-05-0091

I approve the Task Force's recommendations, as well as the proposed addition to Management Directive 3.1, "Freedom of Information Act." I would like to commend the staff for producing a well-written and thorough analysis of what can be a challenging area of the law. I believe this guidance will significantly enhance the staff's understanding of appropriate consideration and withholding of sensitive security information. I would also like to thank the staff for its quick response to the Commission's Staff Requirements Memorandum by engaging the Department of Justice and working collegially to produce an excellent work product.

In light of the "Lessons Learned" section of the report, OGC should formulate model language to be incorporated into future contracts and grants that would prescribe clear requirements for production of reports, publication of results, and responsibility for identifying and marking sensitive information. This list is by no means exhaustive, and OGC should carefully consider the report's recommendations to determine if other areas might benefit from development of model language. Any model language should be carefully reviewed prior to inclusion into future documents and if necessary, specifically tailored to meet the needs of the Agency in a particular agreement.



6/7/05

NOTATION VOTE


RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER JACZKO
SUBJECT: **SECY-05-0091- TASK FORCE REPORT ON
PUBLIC DISCLOSURE OF SECURITY-RELATED
INFORMATION**

Approved Disapproved Abstain

Not Participating

COMMENTS: See attached comments.



SIGNATURE
6/13/05

DATE


Entered on "STARS" Yes No

**Commissioner Jaczko's Comments on SECY-05-0091
Task Force Report on Public Disclosure of Security-Related Information**

Because transparency is such a crucial issue for this agency and a guiding principle for me in my work on the Commission, I have been actively engaged on FOIA matters and strongly supported the formation of this Task Force. I am thus greatly appreciative of the Task Force's efforts to accomplish the direction provided by the Commission regarding this important subject and I approve of the Task Force's recommendations. I also commend the Task Force for drafting a comprehensible paper on these often complicated matters and believe that this paper should be made publicly available. This report and the General Guidance, which will be incorporated into Management Directive 3.1, will provide much needed direction to the staff, as well as an explanation to our external stakeholders, and will aid with the agency's consistent application of FOIA exemptions.

In furtherance of this end, and to ensure that this guidance is effectively integrated into all agency FOIA reviews, the Task Force should develop and implement a training program for NRC staff members who routinely deal with FOIA matters. Because FOIA continues to evolve through court decisions, the training program material should be updated on a periodic basis and the updated information routinely provided to those with FOIA duties. Additionally, in developing this training program, the Task Force should consider developing a program that would allow the material to be accessed with ease, perhaps a web-based training module, so that staff members with periodic FOIA questions would be able to easily review the latest agency guidance.

Finally, I look forward to reviewing the paper outlining the SISP criteria for nuclear materials related-information to see how the SISP criteria correlates with the FOIA exemptions.

 ce/1/17/05

NOTATION VOTE

RESPONSE SHEET


TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER LYONS
SUBJECT: **SECY-05-0091- TASK FORCE REPORT ON
PUBLIC DISCLOSURE OF SECURITY-RELATED
INFORMATION**

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS:

see attached comments



SIGNATURE
6/14/05

DATE

Entered on "STARS" Yes ✓ No _____

Commissioner Lyons' Comments on SECY-05-0091

I appreciate the task force's efforts in preparing a "Report on Public Disclosure of Security-Related Information." The members of the task force should be commended for the development of a comprehensive review of the Commission's authority to withhold from public disclosure information that could be useful, or could reasonably be expected to be useful, to a terrorist. The task force also prepared staff guidance that is suitable for incorporation into an NRC Management Directive. In addition, the task force posed lessons learned regarding the discussions with the National Academy of Sciences regarding the public release of the spent nuclear fuel storage report by that body.

I approve all five of the task force's recommendations. I would only restate the second recommendation to read: "That to the extent practicable, the SISP criteria should follow the principles for withholding security-related information under FOIA."

Finally, I believe that the task force's report is a good resource on the legal framework governing disclosure of security related information under FOIA. The report should be made publically available, along with the SECY and attached "Criteria Governing Withholding of Security-Related Information."