

Roland Frye, Jr.

*The Nuclear Regulatory Commission Is Not Required by Statute to Release Terrorism  
Related Portions of Environmental Impact Statements*

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Abstract by Brooksley Crisman

Roland Frye's article examines the balancing act between the public's right to know about the risks of a terrorist attack on U.S. non-military nuclear facilities and the government's duty to ensure public safety by preventing information useful to terrorists from becoming public. Specifically, the article explores the tension between the Nuclear Regulator Commission's (NRC) duty to release environmental impact statements concerning terrorism risks to nuclear facilities as required by the National Environmental Policy Act (NEPA) and the NRC's obligation under the Atomic Energy Act (AEA) to prevent sensitive information about those facilities from becoming public.

Following the acts of terror on September 11, 2001 multiple public interest groups have requested that the NRC release detailed environmental impact statements addressing potential risks at nuclear plants. The NRC issued orders refusing all such requests. The author argues that if the judicial directs the NRC to prepare environmental impact statements analyzing the risks of terrorist attacks, those reports would not be released to the public under the four exemptions to the Freedom of Information Act (FOIA). The author examines both the Commission's refusal to release information as well as analyzes the NRC's legal authority to withhold the information under NEPA and FOIA.