

From: "Howard Crystal" <howardcrystal@meyerglitz.com>
To: TWFN_DO.twf2_po(FOIA)
Date: Thu, Dec 16, 1999 10:28 AM
Subject: FOIA Request

FOI/WPA REQUEST
Case No: 2000-0081
Date Filed: 12-16-99
Action Off: Pool
Related Case: _____

December 15, 1999

VIA E-MAIL AND U.S. MAIL
Carol Ann Reed
Freedom of Information Act Officer
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Ms. Reed:

On behalf of the Natural Resources Defense Council (NRDC), I am writing to request certain information under the Freedom of Information Act, 5 U.S.C. § 552 ("FOIA"). NRDC is a non-profit organization, headquartered in Washington, D.C.. It is dedicated to advocacy on behalf of environmental concerns, including nuclear regulatory matters.

This request concerns the Nuclear Regulatory Commission's (NRC) compliance with the Government in the Sunshine Act (Act). 5 U.S.C. § 552b. According to a recent Federal Register Notice, the Commission has implemented a new definition of "meeting" under the Sunshine Act, thereby permitting interactions among commissioners which were previously covered by the Act to fall outside the Act's requirements. See 64 Fed. Reg. 39,393 (July 22, 1999). In announcing this new approach, the Commission explained that "the NRC has decided to maintain a record of the date and subject of, and participants in, any scheduled non-Sunshine Act discussions that three or more Commissioners attend, for at least the initial six month period of implementing the rule." *Id.* at 39,394.

NRDC requests a copy of the following:

1. All of the records which have been generated as a result of the Commission's July 1999 announcement that it will maintain records of non-Sunshine Act discussions.
2. All records since July 22, 1999 which in any way discuss NRC's compliance with the new Rule concerning the definition of "meeting" under the Sunshine Act, which are not already part of the Administrative Record in NRDC v. NRC, No. 99-1383.
3. All records related to any joint discussions between more than two of the NRC Commissioners since July 22, 1999, be they scheduled or unscheduled, other than those discussions which complied with the Sunshine Act's requirements. This request includes, but is not limited to, records concerning scheduled or unscheduled discussions which were never considered

by the NRC to be covered by the Sunshine Act, such as discussions of a social nature, as well as records concerning scheduled or unscheduled discussions which fall under the Sunshine Act regulation as it was implemented until July 22, 1999, but which, under the new definition of "meeting," are no longer deemed to be covered by the Act.

These records should be provided within twenty working days. 5 U.S.C. 552(a)(6)(A)(i). In addition, any records or segments of records that are deemed to be exempt from FOIA should be specifically described and correlated with a particular FOIA exemption.

We request that you waive any applicable fees for this request. NRDC is a non-profit public interest group (tax exempt number 8200 07080 01) which has spent many years engaged in advocacy and litigation related to commercial applications of nuclear power, including many administrative, legal, and other advocacy matters before the NRC. It also publishes a magazine and other publications, and engages in other forms of public education, which address these issues.

The disclosure of the requested information would be in the public interest, particularly considering the NRC's recent decision to implement a new definition of "meeting," which will hide from public view discussions of the Commissioners which, had they occurred previously, were required to be subject to the Sunshine Act's openness provisions.

Please feel free to contact me directly should you have any questions regarding this request.

Sincerely,
/s/

Howard Crystal
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NOTICE NOTICE NOTICE NOTICE

Please note that my e-mail address has changed:
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NEW e-mail: howardcrystal@meyerglitz.com

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