

SYNOPSIS

This investigation was initiated on June 30, 1999, by the Nuclear Regulatory Commission's Office of Investigations (OI), Region I, to determine if the New York Power Authority's Operational Review Group (ORG) Manager at Indian Point 3 (IP3) backdated a deviation event report (DER), specifically an Investigative Critique Package (ICP), with a November 23, 1998, date, rather than dating it when it was actually signed (i.e., on or about February 1, 1999).

Based on the evidence developed during this investigation and the staff's assessment that, although the manager's dating of the form was inaccurate, it is not material in the context of a 50.9 violation, OI cannot substantiate wrongdoing in this matter.

§9.23 Requests for records.

(a)(1) A person may request access to records routinely made available by the NRC under §9.21 in person or in writing at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555.

(1) Each record requested must be described in sufficient detail to enable the Public Document Room to locate the record. If the description of the record is not sufficient to allow the Public Document Room staff to identify the record, the Public Document Room shall advise the requester to select the record from the indexes published under §9.21(c)(6).

(ii) In order to obtain copies of records expeditiously, a person may open an account at the Public Document Room with the private contracting firm that is responsible for duplicating NRC records.

(2) A person may also order records routinely made available by the NRC under §9.21 from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia, 22161.

(b) A person may request agency records by submitting a request authorized by 5 U.S.C. 552(a)(3) to the Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The request must be in writing and clearly state on the envelope and in the letter that it is a "Freedom of Information Act request." The NRC does not consider a request as received until it has been received and logged in by the Director, Division of Freedom of Information and Publications Services, Office of Administration.

(1) A Freedom of Information request covers only agency records that are in existence on the date the Director, Division of Freedom of Information and Publications Services, receives the request. A request does not cover agency

records destroyed or discarded before receipt of a request or which are created after the date of the request.

(2) All Freedom of Information Act requests for copies of agency records must reasonably describe the agency records sought in sufficient detail to permit the NRC to identify the requested agency records. Where possible, the requester should provide specific information regarding dates, titles, docket numbers, file designations, and other information which may help identify the agency records. If a requested agency record is not described in sufficient detail to permit its identification, the Director, Division of Freedom of Information and Publications Services, shall inform the requester of the deficiency within 10 working days after receipt of the request and ask the requester to submit additional information regarding the request or meet with appropriate NRC personnel in order to clarify the request.

(3) Upon receipt of a request made under paragraph (b) of this section, the NRC shall provide written notification to the requester that indicates the request has been received, the name of the individual and telephone number to contact to find out the status of the request, and other pertinent matters regarding the processing of the request.

(4) (i) The NRC shall advise a requester that fees will be assessed if—

(A) A request involves anticipated costs in excess of the minimum specified in §9.39; and

(B) Search and duplication is not provided without charge under §9.39; or

(C) The requester does not specifically state that the cost involved is acceptable or acceptable up to a specified limit.

(ii) The NRC has discretion to discontinue processing for records responsive to a request made under this paragraph (b) until—

(A) A required advance payment has been received;

(B) The requester has agreed to bear the estimated costs;

(C) A determination has been made on a request for waiver or reduction of fees; or

(D) The requester meets the requirements of §9.39.

(c) If a requested agency record that has been reasonably described is located at a place other than the NRC Public Document Room or NRC headquarters, the NRC may, at its discretion, make the record available for inspection and copying at the other location.

(d) Except as provided in §9.39—

(1) If the record requested under paragraph (b) of this section is a record available through the National Technical Information Service, the NRC shall refer the requester to the National Technical Information Service; and

(2) If the requested record has been placed in the NRC Public Document Room under §9.21, the NRC may inform the requester that the record is in the PDR, and that the record may be obtained in accordance with the procedures set forth in paragraph (a) of this section.

(e) The Director, Division of Freedom of Information and Publications Services, shall promptly forward a Freedom of Information Act request made under §9.23(b) for an agency record which is not publicly available in the NRC Public Document Room under §9.21 to the head of the office primarily concerned with the records requested and to the General Counsel, as appropriate. The responsible office will conduct a search for the agency records responsive to the request and compile those agency records to be reviewed for initial disclosure determination under §§9.25 and 9.27.

[52 FR 49356, Dec. 31, 1987, as amended at 53 FR 43420, Oct. 27, 1988; 53 FR 52993, Dec. 30, 1988; 54 FR 53316, Dec. 28, 1989]

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