**From:** Network Announcement
**To:** Network Announcement
**Date:** Mon, Dec 3, 2001 4:51 PM
**Subject:** **Freedom of Information Act**

**Please direct all replies to Carol Ann Reed (CAR2).**

**Freedom of Information Act**

The purpose of this announcement is to notify employees of two changes to NRC's Freedom of Information Act (FOIA) procedures.

1. As a result of the change in administration, a new standard has been set for the defense of FOIA law suits by the Department of Justice (DOJ).

The New Standard: Attorney General Ashcroft's October 2001 policy provides that DOJ will defend decisions to withhold information unless the use of a FOIA exemption lacks a sound legal basis, both factually and legally, or presents an unwarranted risk of adverse impact on the ability of other agencies to protect other important records.

Change to NRC's FOIA Process: "Forseeable harm statements" will no longer be required when office FOIA coordinators submit records to be withheld based on application of a FOIA exemption.

2. As a result of the September 11, 2001, terrorist attack, the staff believes that recent FOIA requests have sought records that could be potentially helpful to an adversary. When reviewing records subject to the requests, the staff should apply the FOIA exemptions the same way they were applied in the past. If information is withholdable because it is Safeguards Information, follow the normal procedures for this type of information.

Change to NRC's FOIA Process: If the staff locates records that they believe contain information that could be potentially helpful to an adversary (but not Safeguards Information), they should list these records separately and provide a statement explaining the sensitivity of the information. If it is not apparent from the record itself, please note who originated the record (NRC or an outside entity) and whether it has previously been made publicly available. The office FOIA coordinator's response must indicate that a senior office manager agrees that the records contain information that could be potentially helpful to an adversary and that they agree with the sensitivity statement accompanying the recommendation to withhold the records. The FOIA staff will work with OGC to review such information for possible withholding.

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