

FOIA Resource

From: JONATHAN TIRONE, BLOOMBERG/ NEWSROOM: [jtirone@bloomberg.net]
Sent: Monday, May 09, 2011 4:30 AM
To: jhertling@bloomberg.net; FOIA Resource; Brown, Natalie
Cc: cbabcock1@bloomberg.net; cglasser@bloomberg.net; mpozsgay@bloomberg.net
Subject: FOIA/PA-2011-00202: EXPEDITED TREATMENT APPEAL
Attachments: 050811foia-expedite-appeal.tif

May 8, 2011

Ms. Donna Sealing
Ms. Natalie Brown
Office of Information Services
Nuclear Regulatory Commission
Mailstop T-5 F09
Washington, DC 20555-001
Facsimile: 301-415-5130

FOIA/PA-2011-00202

FOIA/PA REQUEST
Case No.: 2011-0014A
Date Rec'd: 5-9-11
Specialist: Brown
Related Case: 2011-0202

APPEAL: REQUEST FOR EXPEDITED TREATMENT

Dear Ms. Sealing and Ms. Brown,

Thank you for your April 28 letter confirming receipt of our Freedom of Information Act request.

We are appealing your decision not to grant expedited treatment to our request. There is "urgency to inform the public about the actual or alleged Federal Government activity."

The documents requested from the Convention on Nuclear Safety Meetings, in particular that which took place April 4-10, 2011 in Vienna, Austria, are potentially highly relevant to current policy decisions being made about nuclear safety.

The unexpected events in Japan have resulted in commercial decisions including reactor shutdowns, investment delays and project cancellations. The NRC's 90-day review may result in higher safety costs for nuclear-power operators. The long-term effect on power generation and consumption isn't known.

The records we requested in our April 28 FOIA are necessary to provide public insight into what policymakers are doing to ensure their physical safety in the event of a nuclear accident. We request that we receive the documents before the U.S. government participates in the June 20-24 ministerial conference hosted by the International Atomic Energy Agency in Vienna, Austria to discuss new international nuclear safety rules.

Sincerely,
Jonathan Tirone, MaLD
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CC: Charles Glasser, Charles Babcock, James Hertling



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

April 28, 2011

FOIA/PA-2011-00202

Jonathan Tirone
Bloomberg News
Kaerntner Ring 9-13
Palais Corso 6
1010 Wien, Austria, EU

Dear Requester:

We received your Freedom of Information Act/Privacy Act (FOIA/PA) request on April 28, 2011.

Your request has been assigned the following reference number that you should use in any future communications with us about your request: **FOIA/PA-2011-00202**

To ensure the most equitable treatment possible of all requesters, the NRC processes requests on a first-in, first-out basis, using a multiple track system based upon the estimated time it will take to process the request. Based on your description of the records you are seeking, we estimate completion of your request will be over 20 working days. We will advise you of any change in the estimated time to complete your request.

Due to the unexpected events in Japan, the NRC is experiencing a larger than normal volume of FOIA requests including some that have qualified for expedited processing and have therefore been placed at the front of the queue. We are doing our best to process all requests in a timely manner but our response times are being affected. We appreciate your understanding.

For purposes of assessing fees in accordance with our regulations (10 CFR 9.33), we have placed your request in the following category: **News Media Representative**. If applicable, you will be charged appropriate fees for: **Duplication Only**.

A sheet has been enclosed that explains in detail the fee charges that may be applicable. **Please do not submit any payment unless we notify you to do so.**

A request for expedited processing can be granted only when the requester shows a "compelling need" based on meeting either of two conditions: When failure to obtain the records quickly "could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;" or, if the requester is a person "primarily engaged in disseminating information," by demonstrating that an "urgency to inform the public about the actual or alleged Federal Government activity" exists.

Your stated reason for requesting expedited processing does not meet the above criteria. Even though you are a person "primarily engaged in disseminating information," you have not demonstrated an "urgency to inform the public about the actual or alleged Federal Government activity" that exists.

Therefore, you have not demonstrated a compelling need and your request for expedited processing cannot be granted. You may appeal this determination. Any such appeal must be made in writing within 30 calendar days by addressing the appeal to the Executive Director for Operations.

The following person is the FOIA/PA Specialist who has been assigned responsibility for your request: **Natalie Brown** at **301-415-6878**.

If you have questions on any matters concerning your FOIA/PA request please feel free to contact the assigned FOIA/PA Specialist or me at (301) 415-7169.

Sincerely,

/s/

Donna L. Sealing
FOIA/Privacy Act Officer
Office of Information Services

Enclosures:
Incoming Request
Explanation of Fees

EXPLANATION OF FEES

Requester Fee Categories

Commercial: Fees are charged for document search, duplication, and review, when records are requested for commercial purposes. Fees (above the minimum fee charge) cannot be waived for this category of requester.

Educational, Non-Commercial Scientific, News Media and Privacy Act: Fees may be charged only for document duplication when records are not sought for commercial use and the request is made by an Educational or Non-Commercial Scientific Institution, whose purpose is scholarly or scientific research; or a Representative of the News Media; or a person requesting his/her own records that are in a Privacy Act system of records. No fee is charged for the first one hundred pages of duplication for this category of requester.

Non-Excepted: For any request not described above (Non-Excepted), fees may be charged for document search and duplication. No fee is charged for the first two hours of search time or for the first one hundred pages of duplication for this category of requester.

Fee Schedules

Fee schedules provide only for the recovery of the direct costs of search, duplication, or review. Review costs include only the costs for initial examination of a document to determine whether it must be disclosed and to determine whether to withhold portions that are exempt from disclosure. The fee schedule is as follows:

<u>Search & Review Conducted By</u>	<u>Rate</u>	
• SES/COMMISSIONER	\$90.53/hour	(ES-maximum)
• PROFESSIONAL	\$56.36/hour	(GG-13, Step 6)
• CLERICAL	\$25.16/hour	(GG-7, Step 7)
<u>Duplication Charges</u>	\$.20 per page	

Fees for non-standard search or duplication will be charged at the actual cost (e.g. providing copying of audio tapes or conducting computer searches).

Minimum Fee: No fee will be charged unless the fee is equal to or greater than \$25.00.

When to Pay Fees

If we estimate that fees will not exceed \$25.00 or you have stated in your request a higher amount that you are willing to pay, we assume your willingness to pay up to \$25 or the amount stipulated and you will be billed after we have completed your request.

If we estimate that fees will exceed \$25.00 or any amount that has been stated by you in your request, we will not proceed with your request until we have notified you and obtained your agreement to pay the estimated fees.

If we estimate fees will exceed \$250, you will be required to pay the estimated fees in advance before we proceed further with your request. If, while processing your request, we find that the actual fees exceed the estimated fee, we will obtain your consent to pay the additional fees before continuing to process your request. If the actual fees to process your request are less than any advance payment you have made, you will be refunded the overpayment amount.

Fee Waivers

A waiver or reduction of fees may be granted for furnishing documents if a requester, by fully addressing the eight factors in 10 CFR 9.41, clearly demonstrates that disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.