



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 17, 2011

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

IN RESPONSE REFER TO:
FOIA/PA-2011-0014A
(FOIA/PA-2011-0202)

Dear Mr. Tirone:

This responds to your appeal of the agency's April 28, 2011, decision to deny your request for expedited processing of documents from the Convention on Nuclear Safety Meetings. Your request noted that you are a reporter for a news organization and that you are seeking these records "to inform the public about matters of civic concern." You mentioned the Fukushima nuclear accident and that "[t]here are more than 60 nuclear reactors worldwide under construction with safety design features developed prior to the Fukushima accident." This did not meet the statutory standard for expedited processing, which is, for a "person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged Federal Government activity." Thus, your request for expedited processing was denied.


The denial of your request for expedited processing specified that any appeal should be addressed to the NRC's Executive Director for Operations, in accordance with agency regulations. As your May 9, 2011, appeal was addressed to the NRC Freedom of Information Act/Privacy Act Officer, it is procedurally defective. However, I also have reviewed the reasons you provided for expedited processing against the statutory standard and the corresponding criteria in the NRC's implementing regulations. I have determined that these reasons do not support a grant of your expedited processing request.

In support of your appeal, you indicate the records are "potentially highly relevant to current policy decisions being made about nuclear safety;" that the "NRC's 90-day review may result in higher safety costs for nuclear-power operators;" and that the "long-term effect on power generation and consumption isn't known." Your appeal further indicates that the records are "necessary to provide public insight into what policymakers are doing to ensure their physical safety in the event of a nuclear accident," and that you hope to have them "before the U.S. government participates in the June 20-24 ministerial conference ... to discuss new international nuclear safety rules."

While these statements are understood to identify a public interest in the Fukushima accident, and express a general interest in the overall subject matter of nuclear safety, this alone does not rise to the requisite level of "urgency to inform the public concerning actual or alleged Federal Government activity." The fact that there is some media interest in these subjects, or in the discussion of international nuclear safety as an umbrella issue, does not satisfy the requirement of demonstrated interest in a specific subject. Furthermore, it appears that your interest in these records is less to inform the public about actual or alleged Federal Government activity that has occurred, than to speculate about prospective government activity. Therefore, your appeal is denied.

This is a final agency decision. As set forth in the FOIA (5 U.S.C. 552(a)(4)(B)), judicial review of this decision is available in a district court of the United States in the district in which you reside or have your principal place of business, or in which the agency records are situated, or in the District of Columbia.

Sincerely,

A handwritten signature in black ink, appearing to read 'DBA', with a long horizontal flourish extending to the right.

Darren B. Ash
Deputy Executive Director
for Corporate Management
Office of the Executive Director for Operations