

# Union of Concerned Scientists

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DELIVERED BY EMAIL

August 27, 2012

Freedom of Information Act and Privacy Act (FOIA/PA) Officer  
U.S. Nuclear Regulatory Commission  
Mail Stop T5-F09  
Washington, DC 20555-0001  
Fax: (301) 415-5130  
FOIA.resource@nrc.gov

Re: FOIA Request

FOIA/PA REQUEST  
Case No.: 2012-0309  
Date Rec'd: 8/28/12  
Specialist: Blaney  
Related Cases: \_\_\_\_\_

Dear FOIA Officer:

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, we request access to and copies of all records and information produced or disseminated on or after December 1, 2007 including, but not limited to, documents, internet materials, memoranda, notes, letters, e-mail, employee handbooks, employment contracts, workplace posters, annual reports, and other records relevant to, or contained in any file, official or otherwise, pertaining to:

1. Any policy, whether known by the terms media, social media, new media, communication, information, dissemination, publication, or public affairs policy, or any combination of these or other labels, governing communications including, but not limited to, telephone calls, interviews, press releases or media advisories, and press conferences, between agency employees and the media, whether by print, broadcast, internet, or otherwise (henceforth "media communication policies") EXCLUDING (a) Management Directive 3.4, "Release of Information to the Public"<sup>1</sup>, (b) Management Directive 5.5, "Public Affairs Program"<sup>2</sup>, (c) Management Directive 7.3, "Participation in Professional Organizations"<sup>3</sup>, and (d) NRC's "Privacy Impact Assessment for the Official Presence Use of Social Media Platforms"<sup>4</sup>;
2. Any policy, whether known by the terms publication, communication, information, dissemination, congressional, or public policy, or any other combination of these or other labels, governing the review, approval, publication, and/or presentation of scientific information gathered and/or expressed by agency

<sup>1</sup> Available at <http://pbadupws.nrc.gov/docs/ML0802/ML080250350.pdf>

<sup>2</sup> Available at <http://pbadupws.nrc.gov/docs/ML0414/ML041410577.pdf>

<sup>3</sup> Available at <http://pbadupws.nrc.gov/docs/ML0414/ML041410583.pdf>

<sup>4</sup> Available at <http://pbadupws.nrc.gov/docs/ML1130/ML11307A211.pdf>

employees including, but not limited to, scientific reports, journals, articles, web postings, conference presentations, congressional testimony, directed at the scientific community, Congress, or the general public (henceforth “non-media communication policies”), EXCLUDING (a) Directive 3.1 “Freedom of Information Act” dated March 30, 2006<sup>5</sup>, (b) Directive 3.2 “Privacy Act,” dated June 27, 2007<sup>6</sup>, (c) Directive 3.9 NRC “Staff and Contractor Speeches, Papers, and Journal Articles on Regulatory and Technical Subjects” dated November 16, 1995<sup>7</sup>, (d) Coordination and Information Exchange Meetings between the NRC Staff and Organizations Involved in the Study of the Nuclear Power Industry: Policy Statement,<sup>8</sup> and (e) Federal Register: May 28, 2002 (Volume 67, Number 102) entitled Enhancing Public Participation in NRC Meetings<sup>9</sup>;

3. Any supporting materials including, but not limited to, guidelines, notes, frequently asked questions, memoranda, status sheets, templates, instructions, reports, explanatory or introductory letters, and training materials, developed to assist in the interpretation, clarification, implementation, and enforcement of said media and non-media communication policies;
4. Any agency employees’ complaints and/or suggestions regarding said media and non-media communication policies;
5. Any mechanisms, protocols, or other systems developed for the evaluation, review, and/or updating of said media and non-media communication policies by agency officials, agency employees, media personnel, or other individuals;
6. Any mechanisms, protocols, or other systems developed for reporting and resolving disputes, conflicts of interest, or allegations of misconduct in media communications or in the implementation of said media and non-media communication policies;
7. Any records relating to said media and non-media communications policies that contain the statutorily-prescribed addendum of the anti-gag statute<sup>10</sup>;
8. Any references to the Whistleblower Protection Act (WPA)<sup>11</sup> made in relation to said media and non-media communications policies; and
9. Any references to “Sensitive but Unclassified” (SBU) information made in relation to said media and non-media communications policies.

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<sup>5</sup> Available at <http://pbadupws.nrc.gov/docs/ML1100/ML110050002.pdf>

<sup>6</sup> Available at <http://pbadupws.nrc.gov/docs/ML0719/ML071930016.pdf>

<sup>7</sup> Available at <http://pbadupws.nrc.gov/docs/ML1100/ML110070679.pdf>

<sup>8</sup> Available at <http://www.nrc.gov/reading-rm/doc-collections/commission/policy/50fr41480.pdf>

<sup>9</sup> Available at <http://www.nrc.gov/reading-rm/doc-collections/commission/policy/67fr36920.html>

<sup>10</sup> Currently at Sec. 715 of H.R. 2055, the “Consolidated Appropriations Act, 2012.”

<sup>11</sup> 5 U.S.C. 2302(b)(8).

## **Additional Instructions**

When possible please identify what request(s), numbered one through nine above, each item that your agency discloses is responsive to. If any of the material covered by this request has been destroyed or removed, please provide all surrounding documentation including, but not limited to, a description of the action taken regarding the materials and justification for those actions taken. For any documents or portions you deny due to a specific FOIA exemption, please provide a *Vaughn* Index (*Vaughn v. Rosen*, 484 F.2d 820, 827 (D.C. Cir. 1973), *cert. denied*, 415 U.S. 977 (1974)), including a detailed justification of your grounds for claiming such exemption and explanation of why the exemption is relevant to the document or portion of the document withheld.

The Union of Concerned Scientists (UCS) requests that all fees incurred in connection with the attached request to your agency be waived, because “disclosure of the information is in the public interest and is not primarily in the commercial interest of the requester.” 5 U.S.C. §552 (a)(4)(A)(iii). See below for further justification for our fee waiver request.

The Union of Concerned Scientists consents to the deletion of any material that would violate an individual’s rights under the Privacy Act. We will work with your office to further refine the request if you find any terms too imprecise, conduct searches for unclassified responsive records, or engage in any other reasonable activities that would lessen the agency’s burden and costs.

Since the request is extensive we are happy to work with your office to prioritize the various searches and we would prefer to receive the responsive documents in batches as they are collected.

## **The Requesters’ Public Interest Status and History**

The Union of Concerned Scientists (UCS) is a non-profit, non-partisan, public interest organization chartered under IRS Code §501 (c)(3) as a non-profit, educational and charitable organization. We seek to serve the public by working for a healthy environment and a safer world. We do this by combining independent scientific research and citizen action to develop innovative, practical solutions and to secure responsible changes in government policy, corporate practices, and consumer choices.

UCS is actively involved in working with government agencies, elected officials and the public toward solutions to ensure that the best possible science is available for policy-makers to use in crafting the policies that protect human health and the environment. UCS has an active membership of over 75,000 persons. Approximately one-third of our members are scientists of varying disciplines. The rest are citizens/activists/environmentalists. UCS has a website ([www.ucsusa.org](http://www.ucsusa.org)) that receives tens of thousand of hits per day. One research aspect of this effort is focused on how freely and openly scientific information is communicated to the media. UCS will review

the documents obtained via this request so as to better understand how NRC communicates with the public and the media.

### **Dissemination of the Requested Information**

In our efforts to promote respect for federal scientists and the work they do, UCS works closely with Members of Congress, the media, and the public to alert them to any abuses of science in the federal policy-making process. The documents and other materials provided to UCS in response to this FOIA request will be used in connection with a campaign aimed at informing key decision-makers at the federal level, the general public, and self-selected subscribers.

The combined circulation and viewer-base of our national, regional, and self-subscribed outlets ensure that the information will, indeed, be widely distributed to diverse segments of the public who will benefit from the authorized disclosures concerning federal policy-making. As a consequence of this dissemination, public understanding and trust of government operations will certainly be enhanced.

### **Non-commercial use of the Requested Information**

Disclosure of this information by UCS is in no way connected with any commercial interest since UCS is a non-profit, tax-exempt organization under §501 (c)(3) of the IRS Code. The information we are seeking is crucial to advance public knowledge and will not be put to any commercial use.

Please be reminded that under the Freedom of Information Act, we are entitled to a response to this request within twenty working days. Should this request be denied for any reason, we ask that a detailed explanation be provided along with the name of the person to whom administrative appeals should be addressed. If you have any questions regarding this request we would appreciate you contacting us directly by telephone or email, rather than by mail.

Thank you in advance for your assistance and cooperation.

Sincerely,

Gretchen Goldman  
Paul Rogerson  
Union of Concerned Scientists  
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