



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

ANNOUNCEMENT NO. 40

DATE: February 18, 1988

TO: All NRC Employees

SUBJECT: PROCESSING FREEDOM OF INFORMATION ACT REQUESTS

On February 1, 1988, new NRC regulations will become effective that implement recent amendments to the Freedom of Information Act (FOIA) regarding the assessment and waiver of fees for those who request records under the Act. The new amendments provide for the following categories of charges:

1. Commercial use requesters will be charged for time spent searching, reviewing [for disclosure] and duplicating records released publicly;
2. News media requesters or an educational or non-commercial scientific institution whose requests are not for commercial use will only be charged for duplication of records released publicly which exceed 100 pages; unless they petition for and qualify for a fee waiver;
3. All other requesters will be charged for search time which exceeds 2 hours, and for the cost of duplicating records released publicly which exceed 100 pages unless they petition for and qualify for a fee waiver.

As a result of these regulations, employees assigned to process FOIA requests must record and report the time spent searching for and reviewing records. Because the new amendments require that requesters be provided estimates of charges, employees should notify Office FOIA Coordinators of the estimated time to search for and review responsive records.

The statute does not allow the agency to charge many requesters for search and review time. Thus, a possibility exists that the NRC could receive requests with broad scopes involving burdensome searches. In addition, many requesters have very specific interests, but may write a request very broadly because they lack sufficient information to focus the request precisely. Therefore, employees assigned an FOIA request to process should review the scope of the request to determine if the requester's needs could possibly be met by formal reports, documents already in the PDR, or through a search that will require less effort. Where it is believed that the scope of a request may be reduced, contact the Office FOIA Coordinator.

I would also like to briefly review other employee obligations under the Freedom of Information Act. First, employees assigned to search for records responsive to FOIA requests must make a search to identify all agency records in the office or individual files that are reasonably believed to be responsive to the request, whether these records are generated by the employee's office, another NRC office, or outside the NRC. Agency records are those records, including drafts, relating to agency affairs that are created or obtained during the course of agency business, and are in the possession or control of the NRC. Agency records do not include copyrighted publications or personal records. Personal records are those which are uncirculated, are retained or disposed at the employee's sole discretion, and are not required to be created or retained by agency management.

Second, employees should review documents responsive to the request and recommend to management the information that should be released, and that which should be withheld from public disclosure under one of the nine FOIA exemptions. The FOIA only permits those portions of a record that meet the FOIA exemption criteria to be withheld. Thus, exempt information in a record must be segregated from that which can be released. Care should be taken to assure that information exempt from public disclosure is clearly identified to management and the NRC FOIA staff.

Third, as a legal matter, employees must not destroy records once they are known to be subject to an FOIA request until copies have been provided in response to the request. All agency records responsive to an FOIA request must be identified and addressed in NRC's FOIA response to the requester.

Employees who have questions regarding the scope of an FOIA request, the type of search required by a request, or about the coverage of FOIA exemptions, should contact their office FOIA Coordinator or the FOIA staff in the Division of Rules and Records, Office of Administration and Resources Management.



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Operations