

January 28, 2015

Julian Tarver DOC 885530
Clallam Bay Correction Center
1830 Eagle Crest Way
Clallam Bay, WA 98326

IN RESPONSE REFER TO
FOIA/PA 2015-0008A
(FOIA/PA 2015-0077)

Dear Mr. Tarver,

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated December 17, 2014, in which you appealed the agency's December 9, 2014, decision related to your December 5, 2014, Freedom of Information Act/Privacy Act (FOIA/PA) request FOIA/PA 2015-0078 enclosed. In the December 17, 2014, letter, you said, "the findings of Form 754 does not exist, but it's mentioned in past records released that relate to firearms and weapons." Also enclosed is your December 5, 2014, FOIA request and NRC Form 464 in response to your December 5, FOIA request.

Acting on your appeal, we have conducted another search for records subject to your request and have found that NRC Form 754, "Armed Security Personnel Firearms Background Check," is not currently available.

Although the form is not approved and is not in use, the full Office of Management and Budget (OMB) submission from the proposed rule is publicly available, including the draft Form 754 as submitted to OMB.

NRC Form 754 will be used in the process for licensees to submit their security personnel for firearms background checks under Section 161A of the Atomic Energy Act of 1954, as amended. The NRC made a draft version of Form 754 available for public comment in conjunction with the published proposed Enhanced Weapons rule (printed in the Federal Register (FR) at 76 FR 6200 February 3, 2011). The staff's development of NRC Form 754 has been coordinated with the Federal Bureau of Investigations Criminal Justice Information Services Division, which is the agency that will carry out the firearms backgrounds checks. Page 6225 of the FR notice, under "Document Availability" noted that the draft of NRC Form 754 could be found on the NRCs public Agencywide Documents Access and Management System under Accession No. ML092650459.

The Commission has not yet approved the final Enhanced Weapons rule; consequently, OMB has not approved the final NRC Form 754. The NRC staff does not expect to send the final Enhanced Weapons rule to the Commission (for review and approval) until 2016. Therefore, final approval of NRC Form 754 will not occur until after the Commission approves the final Enhanced Weapons rule.

A change has occurred from the 2011 proposed rule, regarding which NRC licensees will have to conduct firearms background checks. Henceforth, only NRC licensees who apply Section 161A authority will be required to conduct firearms background checks. The NRC expects to issue a supplemental proposed rule in 2015 to discuss this change.

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

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740
E-mail: ogis@nara.gov
Telephone: 202-741-5770
Fax: 202-741-5769
Toll Free: 1-877-684-6448

Sincerely,

/RA/

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

Enclosures: As stated

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Darren B. Ash
 Deputy Executive Director
 for Corporate Management
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