



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2017-0359

1

RESPONSE TYPE INTERIM FINAL

REQUESTER:

Andrew DeSalvo

DATE:

FEB 21 2017

DESCRIPTION OF REQUESTED RECORDS:

Copy of the FOIA Requests and NRC response to the FOIA Requests for FOIA/PA-2017-0209, FOIA/PA-2017-0207 and FOIA/PA-2017-0198

PART I. -- INFORMATION RELEASED

- Agency records subject to the request are already available in public ADAMS or on microfiche in the NRC Public Document Room.
- Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

PART I.A -- FEES

AMOUNT*

\$ 0.00

- You will be billed by NRC for the amount listed.
- None. Minimum fee threshold not met.
- You will receive a refund for the amount listed.
- Fees waived.

*See Comments for details

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

In conformance with the FOIA Improvement Act of 2016, the NRC is informing you that: (1) you have the right to seek assistance from the NRC's FOIA Public Liaison; (2) you have the right to seek dispute resolution services from the NRC's FOIA Public Liaison or the Office of Government Information Services; a

SIGNATURE - FREEDOM OF INFORMATION ACT OFFICER

Stephanie Blaney

2017-0359

1

**RESPONSE TO FREEDOM OF INFORMATION
ACT (FOIA) REQUEST Continued**

RESPONSE
TYPE

INTERIM

FINAL

REQUESTER:

Andrew DeSalvo

DATE:

FEB 21 2017

PART I.C COMMENTS (Continued)

Enclosed please find the requested copies of the FOIA Requests and NRC responses as specified:

2017-0198: incoming request and final response

2017-2007: incoming request

Please note that this FOIA/PA request is still open and that the NRC is therefore unable to provide a response at the present time.

2017-0209: incoming request and final response

CASE NO: 2017-0198
DATE REC'D: 12/14/2016
SPECIALIST:
RELATED CASE:

From: [DeSalvo, Andrew](#)
To: [FOIA Resource](#)
Cc: [R2Allegations Resource](#)
Subject: [External_Sender] Allegation-Related FOIA Requests; ALLEGATION REPORT RII-2016-A-0014
Date: Tuesday, December 13, 2016 4:38:53 PM

Andrew DeSalvo
(203)805-1581
andrew.desalvo@yahoo.com

December 13, 2016

Freedom of Information, Privacy & Information Collections Branch
Customer Service Division, Office of the Chief Information Officer
Mail Stop: T-5F09
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
FOIA.Resource@nrc.gov Ph: 301-415-7169 Fax: 301-415-5130

SUBJECT: Allegation-Related FOIA Requests; ALLEGATION REPORT RII-2016-A-0014

To whom it may concern;

Please provide the maximum protection allowed by the FOIA to protect against the disclosure of the identity of
allegers, for Allegation-Related FOIA Requests, enclosed below.

Yours sincerely,

ANDREW DeSALVO
(203)805-1581
andrew.desalvo@yahoo.com

enclosure

ANNEX I

Allegation-Related FOIA Requests

FOIA/PA-2017-0070
FOIA/PA-2017-00190
FOIA/PA-2017-00074A
FOIA/PA-2017-0075A
FOIA 017-0113 Appeal 2017-0074A
FOIA/PA-2017-00120 (Design of the Turkey Point Cooling Reservoir)
FOIA/PA-2017-00121 (topographic (hydrographic) survey)
FOIA/PA-2017-00078A
FOIA/PA-2016-0225
FOIA/PA-2017-00120
FOIA 2017-00121
FOIA/PA-2017-0070 Final Response; RECORDS DENIED: Prima Facie Information, 4 pgs.
FOIA/PA-2016-00623 design control measures ICW, CCW, CCS Turkey Point Units 3 and 4;
FOIA/PA-2016-00281

ANNEX II

MEMORANDUM OF POINTS AND AUTHORITY

6.0 Freedom of Information Act Requests

6.1 Allegation-Related FOIA Requests

Upon receipt of a FOIA request, it is normal practice under the Privacy Act (PA) to protect from release, an alleged's identity or alleged-identifying information unless mandated by the FOIA in some circumstances. (See Manual Sections 1.2 and 4.2.a). "Fingerprinting" information that may lead to identifying an alleged is also normally redacted when responding to a FOIA request. In cases involving non-discrimination issues in which NRC determines that it is appropriate to release the identity of an alleged because the alleged is considered "widely known" in association with an allegation concern, the responsible OAC will make reasonable efforts to inform the alleged before the FOIA release. The means of determining an alleged to be "widely known" in association with an allegation concern and subsequently notifying the alleged about the information release are discussed in Manual Section 4.2.f (See definition of "widely known alleged" in the Manual Glossary). (8.8 Handbook, Section II.Q.1)

6.2 "Fingerprinting" Information

"Fingerprinting" information includes any piece or pieces of information which, separately or combined, may be analyzed and result in the identification of the alleged. Questions regarding whether specified information would fingerprint or has fingerprinted an alleged may be directed to an OAC, a regional/headquarters office FOIA coordinator, the AAA, regional counsel or a designated OGC attorney, or the FOIA Privacy, and Information Collections Branch in OIS (see Manual Exhibit 23).

6.3 General Guidance for Responding to Allegation-Related FOIA Requests

Disclosures may be necessary to further the NRC mission or to address safety concerns; however, it is NRC policy to provide the maximum protection allowed by the FOIA to protect against the disclosure of the identity of alleged. More specific guidance with regard to allegation-related information that may or may not be disclosed in response to a FOIA request, based on the type of information requested and the source of the request (alleged or third party), is provided in Sections 6.4 through 6.13 below and in Manual Exhibit 23. (8.8 Handbook, Section II.Q.2)

6.4 OE Allegation-Related FOIA Response Reviews

Management Directive 3.1, "Freedom of Information Act," directs the AAA or his/her designee in OE to review and concur in all responses to FOIA requests involving allegation records.

Through concurrence, the AAA certifies that the information to be disclosed from the record, or portion thereof, would not cause harm to an open allegation or disclose the identity of an alleged whose identity still warrants protection. This supplemental review by OE provides an independent look and quality check of the documents identified and reviewed by the regional and headquarters offices in response to allegation-related FOIA requests. Effort is made by OE to complete the review and provide the results to the FOIA Privacy, and Information Collections Branch in OIS within 5 working days, so as not to delay FOIA response times.

6.5 FOIA Exemptions Related to Withholding Alleged-Identifying Information

The FOIA exemptions that may justify withholding information that would identify an alleged, NRC Allegation Manual, Rev. 1 4/23/2015

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witness, or confidential source are 5 U.S.C. 552(b)(7)(C), and (b)(7)(D). These FOIA exemptions are to be considered on a case-by-case basis by those responding to an allegation-related FOIA request including the OAC, the Director of OI (for OI confidential sources), regional counsel or a designated attorney in OGC, a regional/headquarters office FOIA coordinator, OIS FOIA Privacy, and Information Collections Branch support personnel, or other designated individuals. FOIA Exemption 7(C) authorizes protection of records or information compiled for law enforcement purposes for which release could reasonably be expected to constitute an unwarranted invasion of personal privacy. Alleged and witnesses who have standard allegation process identity protection or have been granted confidential source status are protected under FOIA Exemption 7(D). As such, NRC may withhold information that has the potential for causing the identity of these individuals to be revealed.

6.6 Withholding Release of an Alleged's Name in Response to a FOIA Related to an Overriding Safety Issue

In cases in which the NRC has disclosed the name of an alleged to the licensee in furtherance of an investigation or because of an overriding safety issue, the NRC will continue to withhold the alleged's name from release pursuant to a FOIA request from another party, unless the alleged is already widely known in association with the allegation. The reason for withholding the alleged's name in this instance is to protect the alleged from public scrutiny or criticism that might arise if the alleged's identity was publicly revealed.

6.7 FOIA Exemption 7(A)

During review of an open allegation file, all documentation related to the allegation may be exempt from release under FOIA, in accordance with FOIA Exemption 7(A), when the release of information could reasonably be expected to interfere with potential or ongoing law enforcement proceedings. When an allegation is closed, its documentation may be subject to release under the FOIA, with appropriate redactions to protect the identity of the alleged and to avoid the release of other sensitive information.

While Exemption 7(A) would apply in most circumstances if an allegation is still open, information can be released from an open allegation file in response to a FOIA request in some cases.

Examples:

if a FOIA request is submitted after an OI investigation is completed and all subsequent related actions, including enforcement, are also completed, and the only remaining action is to develop allegation closure documentation, it would be difficult to assert in this circumstance that the allegation was still open. (In this instance, every effort should be made to issue the allegation closure documentation before the FOIA response documentation is released.)

as noted in Manual Section 5.9.f.2, an individual may be provided with a copy of the transcript of his/her interview with OI in order to prepare for a preliminary enforcement conference.

as noted in Manual Section 5.9.f.3, when OI has completed its investigation of a discrimination concern but the allegation file remains open because the matter remains
NRC Allegation Manual, Rev. 1 4/23/2015

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open with DOL, information about the results of the OI investigation is provided to both the alleged and the licensee in the form of an OI synopsis, and OI report factual summary, or a redacted copy of the OI report itself. The letters providing this information to the alleged and the licensee also inform both parties that the complete OI report may be requested under the FOIA, if desired. Subsequently, if the OI report is requested under FOIA by the alleged, or another party (including the licensee), even though the DOL case and related allegation file remain open, the OI report would normally be released, after review and appropriate redaction.

The decision to release the OI report should be determined on a case-by-case basis, since FOIA Exemption 7(A) specifies that an open case can be withheld in its entirety if release of the information could inappropriately interfere with the efforts of any regulatory authority evaluating a particular concern, not just NRC. As an example, if OI concludes that a discrimination concern is unsubstantiated, but the matter remains open with DOL, it is possible that the release of the OI report could interfere with DOL's evaluation. Since, in most instances of this type, the investigation stage of DOL's review has already been completed (i.e., the concern is past the DOL/OSHA investigative stage and is with either DOL/ALJ or DOL/ARB), it is reasonable to assume that releasing the OI report will not impact subsequent DOL investigatory efforts. Notwithstanding, this aspect must be considered before making the decision to release the OI report. There is no requirement for NRC to notify DOL of its decision in this matter.

6.8 Document Retention Requirements Applying to FOIA Exemption 7(A)

When withholding the release of an entire allegation file under FOIA Exemption 7(A), the OAC may either provide the records to the FOIA contact in OIS with indication that they are to be withheld or retain the records and provide the FOIA contact with a 7(A) certification signed by two individuals (see Management Directive 3.1, "Freedom of Information Act," for further information). If a 7(A) certification is used, the FOIA request will "freeze" the documents in the file for 6 years, i.e., the documents cannot be destroyed because they have been captured

under a FOIA request. A copy of the 7(A) certification form should be placed in the allegation file as a reminder of the "document freeze." In the absence of a 7(A) certification form, when an allegation file is closed, only those documents necessary to account for official action are required to be retained.

6.9 Allegor FOIA Request for Documents from Closed Allegations Submitted by the Allegor

When an allegor files a FOIA request seeking documents from closed allegation files that were submitted by him/her, much of the related allegation file may be released, unless the documents would identify a witness or affect the personal privacy of another individual, the documents were covered by attorney/client privilege, the document contains pre-decisional information, or the release of a particular document could reasonably be expected to harm an NRC investigation. Manual Exhibit 23 provides additional detail regarding information that may be withheld/redacted, and FOIA exemptions that may be applied depending on the affiliation of an individual identified in a document that has been captured under FOIA. If an allegor's FOIA request captures an open allegation, the contents of the open allegation file may be withheld in whole or in part, under Exemption 7(A), 7(C) or 7(D). If an allegor files a FOIA request seeking the documents from his/her own open allegation file(s), the entire file may be withheld under Exemption 7(A) if disclosure could reasonably be expected to interfere with an ongoing NRC Allegation Manual, Rev. 1 4/23/2015

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investigation or proceeding. However, anytime Exemption 7(A) is employed, each record or category of records must be considered for disclosure on a case-by-case basis. It is also noted that a FOIA request made by an allegor for information pertaining to himself/herself must be accompanied by written certification of the allegor's identity (see MD 3.1, "Freedom of Information Act").

6.10 Third Party FOIA Request

When a FOIA request is filed by a third party (i.e., the public, the licensee, licensee counsel, licensee employees, or the media), the agency will not release the name of the allegor or fingerprinting information related to the allegor unless the allegor is widely known in association with the allegation. The third party will receive redacted versions of the documents protecting the name of the allegor or witnesses, if any, and any other information that might allow the requestor (or the public) to identify the allegor or witnesses. The staff will also redact information concerning other persons mentioned who have personal privacy interests, information covered by the attorney/client privilege, information that is pre-decisional, safeguards or proprietary information, or information that would interfere with an ongoing investigation. Manual Exhibit 23 provides additional detail regarding information that may be withheld/redacted, and FOIA exemptions that may be applied depending on the affiliation of an individual identified in a document that has been captured under FOIA. The third party will receive licensee and agency technical evaluations and the OI investigation synopsis. When a third party files a FOIA request seeking documents from an open allegation file, the entire file may be withheld if disclosure could reasonably be expected to interfere with an ongoing investigation or proceeding. However, each record or category of records must be considered for disclosure on a case-by-case basis to determine whether Exemption 7(A) applies. If Exemption 7(A) does not apply, information that merits withholding under another exemption may be withheld (see Manual Section 6.7).

6.11 Third Party FOIA Request for Allegations Submitted by a Specific Individual

If a FOIA request is filed by a third party for allegations submitted to NRC by a specific individual, the requestor should be informed that the NRC cannot confirm or deny the existence of records subject to the request, because even denying the existence of records could provide information that the documents the FOIA requester is seeking indeed exist. This neither-confirm-nor-deny response is occasionally referred to as a "Glomar response," based on a legal case that established this precedent. If a Glomar response is employed, case law has demonstrated that it is unnecessary for responsible staff to provide estimates for efforts required to respond to the FOIA request.

6.12 Use of AMS to Create Reports Responsive to FOIA Requests

Both the AAA and the OACs are authorized to create special reports derived from the AMS database using Microsoft Access to be responsive to FOIA requests. For this reason, every

effort should be made to ensure that data entered into AMS is current and accurate (see Manual Section 7.3.j). Reports prepared for the purpose of responding to FOIA requests must be suitably redacted to protect the identity of the alleged and any witnesses before being released. NRC Allegation Manual, Rev. 1 4/23/2015

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6.13 FOIA Response Reference Table

A reference table providing guidance for the processing of FOIA requests after an OI investigation is closed and enforcement action is completed is provided in Manual Exhibit 23.

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Confidentiality Statement:

This electronic message, and any attachment, contains privileged and confidential information from Andrew J. DeSalvo, intended for the use of the individual or entity named above. If you are not the intended RECIPIENT, immediately and permanently delete the message and any attachment from your system. Disclosure, copying, distribution, or use of the contents of this message is strictly prohibited. If you have received this email in error, please notify promptly by telephone at (203)805-1581 or by email reply.

Dear FOIA Requester:

The FOIA Improvement Act of 2016, which was enacted on June 30, 2016, made several changes to the Freedom of Information Act (FOIA). Federal agencies must revise their FOIA regulations to reflect those changes by December 27, 2016. In addition to revising our regulations, we intend to update the Form 464, which we use to respond to FOIA requests.

In the interim, please see the comment box in Part I.C of the attached Form 464. The comment box includes information related to the recent changes to FOIA that is applicable to your FOIA request, including an updated time period for filing an administrative appeal with the NRC.

Sincerely yours,

Nina Argent /S/

Nina Argent
FOIA Officer (Acting)



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2017-0198

1

RESPONSE TYPE INTERIM FINAL

REQUESTER:

Andrew DeSalvo

DATE:

12/16/2016

DESCRIPTION OF REQUESTED RECORDS:

protect against the disclosure of the identity of allegor

PART I. -- INFORMATION RELEASED

- Agency records subject to the request are already available in public ADAMS or on microfiche in the NRC Public Document Room.
- Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

PART I.A -- FEES

AMOUNT*

\$

*See Comments for details

- You will be billed by NRC for the amount listed.
- None. Minimum fee threshold not met.
- You will receive a refund for the amount listed.
- Fees waived.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

In conformance with the FOIA Improvement Act of 2016, the NRC is informing you that you have the right to seek assistance from the NRC's FOIA Public Liaison.

Since your FOIA request cannot be considered perfected we are administratively closing your FOIA request. Please see additional comments on next page.

SIGNATURE - FREEDOM OF INFORMATION ACT OFFICER

Nina Argent, Acting FOIA Officer

**RESPONSE TO FREEDOM OF INFORMATION
ACT (FOIA) REQUEST Continued**

2017-0198

1

RESPONSE
TYPE

INTERIM

FINAL

REQUESTER:

Andrew DeSalvo

DATE:

12/16/2016

PART I.C COMMENTS (Continued)

Mr. DeSalvo,

Based on these communications, the NRC regrettably is unable to identify records that you may be seeking under FOIA. Your request appears to be requesting allexer protection which is not a FOIA request. You should understand that the purpose of the FOIA is to give the public access to existing Government records. That is, the Act does not require agencies to create records or develop information to satisfy your request, or to conduct research or investigations or analyze data to answer your written questions. Based on this determination your request can not be considered to be perfected and has been administratively closed.

CASE NO: 2017-0207
DATE REC'D: 12/23/16
SPECIALIST:
RELATED CASE:

From: [Michelle Gaylord](#)
To: [FOIA Resource](#)
Subject: [External_Sender] FOIA Request
Date: Thursday, September 29, 2016 4:35:59 PM

I am seeking access to records under the Freedom of Information Act.

First Name: Michelle
Last Name: Gaylord
Company: Nuclear Plant Journal
Address: 1400 Opus Place, Suite 904, Downers Grove, IL 60504
Email: michelle@goinfo.com
Phone: 630-858-6161x103

Request: Recipients of Licensee event reports and/or NRC inspection reports. Please provide an excel document with names, company, emails, phone numbers, addresses.

--

Thank you,
Michelle Gaylord
Assistant Editor and Marketing Manager
Nuclear Plant Journal
O: 630-858-6161 x103
D: 630-364-4780
F: 630-852-8787
Website: www.NuclearPlantJournal.com

CASE NO: 2017-0209
DATE REC'D: 12/27/2016
SPECIALIST:
RELATED CASE:

From: [Michael Ravnitzky](#)
To: [FOIA Resource](#)
Subject: [External_Sender] FOIA request for NRC OIG records
Date: Sunday, December 25, 2016 4:57:53 PM

December 25, 2016

Nuclear Regulatory Commission
Freedom of Information Act Officer

To whom it may concern:

I request the following NRC Office of Inspector General records under the provisions of the Freedom of Information Act:

A copy or printout of the list of NRC OIG investigations closed during calendar year 2015 and calendar year 2016.

This type of record is available from existing records or else from the database of IG investigations using an ordinary search and no special programming.

This is an individual noncommercial request. I affirm that this request is not for any commercial purpose. I agree to pay up to \$30 for applicable fees if necessary.

If the records are provided in electronic format, please ensure that they are scanned for best legibility, such as in black and white, not color, and at a high resolution.

If this request arrived at the wrong office, please refer it to the correct office, or let me know so that I may re-submit it.

Thank you for your assistance.

Sincerely,

Michael Ravnitzky



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2017-0209

1

RESPONSE TYPE INTERIM FINAL

REQUESTER:

Michael Ravnitzky

DATE:

12/27/2016

DESCRIPTION OF REQUESTED RECORDS:

Copy or printout of the list of NRC OIG investigations closed during calendar year 2015 and calendar year 2016

PART I. -- INFORMATION RELEASED

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PART I.A -- FEES

AMOUNT*

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- You may appeal this final determination within 30 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

Per your email, dated December 27, 2016, to withdraw your request at this time, we have administratively closed your request.

SIGNATURE - FREEDOM OF INFORMATION ACT OFFICER

fir
Nina Argent (Acting)

Add Continuation Page

Delete Continuation Page

Dear FOIA Requester:

The FOIA Improvement Act of 2016, which was enacted on June 30, 2016, made several changes to the Freedom of Information Act (FOIA). Federal agencies must revise their FOIA regulations to reflect those changes by December 27, 2016. In addition to revising our regulations, we intend to update the Form 464, which we use to respond to FOIA requests.

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Sincerely yours,

Stephanie Blaney /S/

Stephanie Blaney
FOIA Officer