



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2018-000493

1

RESPONSE TYPE INTERIM FINAL

REQUESTER:

Jack Kolar, Government Accountability Project

DATE:

04/13/2018

DESCRIPTION OF REQUESTED RECORDS:

Records, or groups of records, as described in items 1-20 of your request.

PART I. -- INFORMATION RELEASED

- The NRC has made some, or all, of the requested records publicly available through one or more of the following means: (1) <https://www.nrc.gov>; (2) public ADAMS, <https://www.nrc.gov/reading-rm/adams.html>; (3) microfiche available in the NRC Public Document Room; or FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>.
- 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 Part I.D -- Comments) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Part I.D -- Comments.

PART I.A -- FEES

AMOUNT

- You will be billed by NRC for the amount indicated.
- You will receive a refund for the amount indicated.
- Fees waived.
- Since the minimum fee threshold was not met, you will not be charged fees.
- Due to our delayed response, you will not be charged fees.

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"). See 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 90 calendar days of the date of this response. If you submit an appeal by mail, address it to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Mail Stop T-2 F43, Washington, D.C. 20555-0001. You may submit an appeal by e-mail to FOIA.resource@nrc.gov. You may fax an appeal to (301) 415-5130. Or you may submit an appeal through FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>. Please be sure to include on your submission that it is a "FOIA Appeal."

PART I.C -- REFERENCES AND POINTS OF CONTACT

You have the right to seek assistance from the NRC's FOIA Public Liaison by submitting your inquiry at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>, or by calling the FOIA Public Liaison at (301) 415-1276.

If we have denied your request, you have the right to seek dispute resolution services from the NRC's Public Liaison or the Office of Government Information Services (OGIS). To seek dispute resolution services from OGIS, you may e-mail OGIS at ogis@nara.gov, send a fax to (202) 741-5789, or send a letter to: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. For additional information about OGIS, please visit the OGIS website at <https://www.archives.gov/ogis>.



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PART I.D -- COMMENTS

This interim response also serves to acknowledge receipt of your request. We have placed your request in the simple track. Based on your description of the records you are seeking, we estimate completion of your request will be on or before May 10, 2018. For purposes of assessing fees in accordance with our regulations (10 CFR 9.33), we have placed your request in the following category: representative of the news media. If applicable, you will be charged appropriate fees for duplication. However, because you have indicated that you prefer to receive our response electronically, you will not incur duplication charges. Since these are no billable fees, your request for a fee waiver is considered moot.

We note that items 4-20 of your request duplicate the records, or groups of records, that are described in items 75-94 of a prior request that you submitted (NRC-2018-000096, formerly FOIA/PA-2018-0003). Although we have issued seven interim responses to NRC-2018-000096, those items remain open and we are continuing to process your request for those items. We expect to be issuing additional responses to you with respect to those items in the near future. We also note that we are processing those items, taking into account the privacy waiver furnished by Lawrence Criscione, dated September 28, 2016. As such, no additional privacy waiver is necessary. We will not be addressing these same items in this request.

Accordingly, our responses to the instant request will be limited to the records described in items 1-3 of your request:

1. ML17352A430, Study of Reprisal and Chilling Effect for Raising Mission-Related Concerns and Differing Views.
2. All records pertaining to the authoring of, review of, and response to ML17352A430.
3. All records pertaining to the ACRS External Hazards Working Group Report, including all internal and external communications.

This interim response addresses item 1, and one record responsive to item 2. We expect to issue a final response with respect to any other records responsive to item 2, and all records responsive to item 3, in a final response.

In response to a prior FOIA request, NRC-2018-000318, we processed ML17352A430 and its transmittal memorandum, ML17352A411. We consider the transmittal memorandum to be included in the records that are responsive to item 2 of your request. In our April 2, 2018 response, we released the transmittal memorandum in part, and withheld the study in its entirety, both on the basis of exemption 5 as it incorporates the deliberative process privilege. You may find this response, including the released record, in FOIA Online by searching on NRC-2018--000318. We also expect this response to be available in public ADAMS in the near future.

Signature - Freedom of Information Act Officer or Designee

Stephanie A. Blaney

Digitally signed by Stephanie A. Blaney
Date: 2018.04.13 07:14:46 -04'00'



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PART II.A -- APPLICABLE EXEMPTIONS

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by the statute indicated.
 - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
 - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
 - 41 U.S.C. 4702(b), which prohibits the disclosure of contractor proposals, except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or confidential commercial or financial information that is being withheld for the reason(s) indicated.
 - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10.CFR 2.390(d)(1).
 - The information is considered to be another type of confidential business (proprietary) information.
 - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
 - Deliberative process privilege.
 - Attorney work product privilege.
 - Attorney-client privilege.
- Exemption 6: The withheld information from a personnel, medical, or similar file, is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
 - (A) Disclosure could reasonably be expected to interfere with an open enforcement proceeding.
 - (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
 - (D) The information consists of names and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
 - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
 - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
 - Other

PART II.B -- DENYING OFFICIALS

In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			EDO	SECY
Stephanie A. Blaney	FOIA Officer	transmittal memo (in part) & study (in full)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

Appeals must be made in writing within 90 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."

January 12, 2018

MEMORANDUM TO: Anne T. Boland, Director
Office of Enforcement

FROM: Renée M. Pedersen */RA/*
Sr. Differing Professional Views Program Manager
Office of Enforcement

SUBJECT: STUDY OF REPRISAL AND CHILLING EFFECT FOR RAISING
MISSION-RELATED CONCERNS AND DIFFERING VIEWS AT
THE NUCLEAR REGULATORY COMMISSION

This memorandum transmits the results of a study conducted by the Office of Enforcement (OE) in response to the tasking identified in the third action item in the June 9, 2016, Agency Action Plan. The focus of the study is on developing and enhancing activities that address concerns of reprisal and chilling effect for raising mission-related concerns and differing views (i.e., protected activity/protected disclosure). The study does not assess the agency's existing differing views processes or any other agency processes. The goal was to gain a better understanding of the issues and maximize potential strategies for improvements to support employee engagement and ultimately, the U.S. Nuclear Regulatory Commission (NRC) mission.

(b)(5)



CONTACT: Renée Pedersen, OE
(301) 287-9426

(b)(5)



As next steps, the considerations identified above will be evaluated in concert with offices with programmatic and legal responsibilities. A proposal will be made to the Executive Director for Operations on recommended options to be pursued in support of closure of the Agency Action Plan tasking and for sharing the report with other offices, the OIG and NTEU.

Enclosure:
As stated

cc: Victor M. McCree, EDO
Daniel H. Dorman, EDO
Michael R. Johnson, EDO

SUBJECT: STUDY OF REPRISAL AND CHILLING EFFECT FOR RAISING MISSION-RELATED CONCERNS AND DIFFERING VIEWS AT THE NUCLEAR REGULATORY COMMISSION Date: January 12, 2018

ADAMS Package: ML17352A434
MEMO: ML17352A411
Enclosure: ML17352A430

OFFICE	OE: DVPM	NMSS	OE: D
NAME	RPedersen	PHolahan	ABoland
DATE	12/18/2017	01/10/2018	01/11/2018

OFFICIAL RECORD COPY