



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

April 18, 1980

Mr. Thomas B. Cochran
Natural Resources Defense Council, Inc.
1725 I Street, N.W.
Washington, D.C. 20006

IN RESPONSE REFER TO
FOIA-80-191

Dear Mr. Cochran:

This is in response to your letter dated April 4, 1980, in which you requested, pursuant to the Freedom of Information Act, the Government in the Sunshine Act, and the Federal Advisory Committee Act, the conflict of interest statements submitted by members of the Advisory Committee on Reactor Safeguards (ACRS).

Your request is granted in part and denied in part. The only statute relevant to this determination is the Freedom of Information Act. The Sunshine Act is not applicable because the information you requested has not been discussed at a Commission meeting, and the Federal Advisory Committee Act is not applicable because the information you request has not been discussed at ACRS meetings.

Under the Ethics in Government Act of 1978, ACRS members who work for the NRC for more than 60 days in a calendar year are required to submit annually a Financial Disclosure Report (Form 278) which is made available to the public upon request. The Act provides that the Office of Government Ethics, Office of Personnel Management, may exempt special government employees who work for an agency more than 60 days a year, but less than 130, from the public disclosure provision. In 1979, 14 ACRS members submitted Financial Disclosure Reports. Two of the members, Chester P. Siess and J. Carson Mark, had worked more than 130 days for the ACRS in 1978. Their statements were placed in the Public Document Room and are available for your inspection.

An exemption was requested from public disclosure for the remaining 12 members of the ACRS who were required to fill out these statements. On January 28, 1980, J. Jackson Walter, Director, Office of Government Ethics, granted this request in part, stating that the Commission need not disclose the Financial Reports submitted by ACRS members in 1979, but that the Commission would be required to make public the reports submitted in 1980. Under these circumstances, public disclosure of these 1979 reports would constitute a clearly unwarranted invasion of personal privacy. Your request for these statements is denied pursuant to Exemption 6 of the FOIA

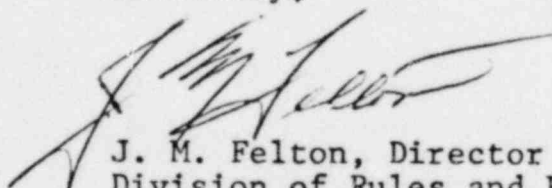
(5 U.S.C. §552(b)(6)) and 10 CFR 9.5(a)(6) of the Commission's implementing regulations. The denying official is Leonard Bickwit, Jr., General Counsel.

It should be noted that by May 15, 1980, the 14 ACRS members who worked more than 60 days in 1979 will be required to submit a new Financial Disclosure Report. The Ethics in Government Act provides that the Commission must make these documents available for public inspection no later than 15 days after receipt. Because the Office of Government Ethics has directed the NRC to make these statements public, they will be available for your inspection by June 1.

Dr. Harold Lewis did not work for the ACRS for more than 60 days in calendar year 1978. He was, therefore, not required to submit a Financial Disclosure Report (Form 278). Instead, pursuant to Executive Order 11222 and the Commission's implementing regulations, 10 CFR 0.735-28, Dr. Lewis submitted a Confidential Statement of Employment and Financial Interests (Form 443). The Executive Order and the Commission's regulations provide that these Confidential Statements shall be held in confidence and that no information as to the contents thereof shall be disclosed except as the Chairman of the Civil Service Commission (now the Office of Personnel Management) or the Chairman of the NRC may determine for good cause shown. You have not attempted to establish why his statement should be disclosed so a finding of good cause shown has not been made. Under these circumstances, disclosure would constitute an unwarranted invasion of personal privacy. Your request for this document is denied under Exemption 6 of the FOIA, which is cited above. The denying official is Leonard Bickwit, Jr., General Counsel. I also wish to advise you at this time that Dr. Lewis also did not work 60 days for the ACRS during calendar year 1979, and therefore will not be required to submit a Financial Disclosure Report in May. Instead, he will submit a Confidential Statement of Employment and Financial Interests which will not be available for public inspection.

To the extent your request has been denied, you may appeal to the Commission within 30 days from the receipt of this letter. Any such appeal must be in writing, addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

Sincerely,



J. M. Felton, Director
Division of Rules and Records
Office of Administration