



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

MAY 15 1990

Ref: SA/JOL

MEMORANDUM FOR: Guy H. Cunningham, ELD

FROM: G. Wayne Kerr, Assistant Director  
for State Agreements Program  
Office of State Programs

SUBJECT: REQUEST FOR GUIDANCE ON FREEDOM OF INFORMATION ACT

State Agreements Program, as part of its on-site reviews of Agreement State Programs, performs evaluations of Agreement State inspectors in the field. These inspector evaluations are an important ingredient in our staff's evaluation of the State's compliance program and specifically aid us in evaluating the performance of the State Programs against the indicator, "Inspector Performance and Capability" (Enclosure 1). This and all other indicators and guidelines are oriented to evaluation of programmatic functions performance and not of individuals. The inspector evaluations are a step in the process and not the end result. Reports of the inspector evaluations are documented and included as an appendix to our reports to support our findings, comments and recommendations.

In response to recent GAO comments, the Commission has committed to furnishing copies of our review meeting reports to the States. We anticipate these reports would also be available for public disclosure if requested under the Freedom of Information Act (FOIA). We believe, however, that the appendices containing our evaluations of inspectors should be excluded since they specifically report on the performance and capabilities of named individuals and their disclosure would constitute a clearly unwarranted invasion of personnel privacy. We propose, therefore, to exclude the appendix from the copy of the report furnished to the State (Enclosure 2) and that they be excludable under the FOIA.

We would appreciate an opinion from ELD on this proposal.

A handwritten signature in cursive script that reads "G. Wayne Kerr".

G. Wayne Kerr, Assistant Director  
for State Agreements Program  
Office of State Programs

Enclosures:

1. Guide for Evaluation of State Radiation Control Programs Under Agreement With the U.S. Nuclear Regulatory Commission Pursuant to Section 274 of the Atomic Energy Act of 1954, As Amended.
2. Draft Transmittal Letter to State.

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