



NU Docs

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S) *89-334, 89-335, 89-336, 89-337*
FOIA - *89-335, 89-336, 89-337*
 RESPONSE TYPE
 FINAL PARTIAL
 DATE **NOV 13 1989**
 DOCKET NUMBER(S) (if applicable)

REQUESTER
Matthew T. McGrath, Esquire

PART I. - AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

- No agency records subject to the request have been located.
- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments Section.
- Agency records subject to the request that are identified on Appendix(es) _____ are already available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC 20555.
- Agency records subject to the request that are identified on Appendix(es) *B* are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.
- The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.
- Agency records subject to the request that are identified on Appendix(es) _____ may be inspected and copied at the NRC Local Public Document Room identified in the Comments Section.
- Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
- Agency records subject to the request are enclosed. *
- Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
- You will be billed by the NRC for fees totaling \$ *239.80*
- In view of NRC's response to this request, no further action is being taken on appeal letter dated _____ No. _____

PART II. A - INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, sections B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC in a folder under this FOIA number and requester name.

COMMENTS * *Copies of the records identified or enclosed Appendix B are enclosed. This completes NRC's action on your requests.*

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PDR FOIA
MCGRATH89-334 PDR

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES
Donna H. Binsley

PART II.B - APPLICABLE EXEMPTIONS

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Records subject to the request that are described on the enclosed Appendix(es) C are being withheld in their entirety or in part under the Exemptions and for the reasons set forth below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC Regulations.

1. The withheld information is properly classified pursuant to Executive Order (EXEMPTION 1)
 2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (EXEMPTION 2)
 3. The withheld information is specifically exempted from public disclosure by statute indicated: (EXEMPTION 3)
 - 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).
 4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated: (EXEMPTION 4)
 - The information is considered to be confidential business (proprietary) information.
 - The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
 - The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (EXEMPTION 5) Applicable Privilege:
 - Deliberative Process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney work product privilege. (Documents prepared by an attorney in contemplation of litigation.)
 - Attorney-client privilege. (Confidential communications between an attorney and his/her client.)
 6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (EXEMPTION 6)
 7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (EXEMPTION 7)
 - Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow them to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (EXEMPTION 7 (A))
 - Disclosure would constitute an unwarranted invasion of personal privacy (EXEMPTION 7(C))
 - The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources (EXEMPTION 7 (D))
- OTHER

PART II.C - DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25 (c) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			SECRETARY	EDO
<i>John C. Hoyle</i>	<i>Assistant Secretary of the Commission</i>	<i>App. C/1</i>	<input checked="" type="checkbox"/>	

PART II.D - APPEAL RIGHTS

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified in that section. Any such appeal must be in writing and must be made within 30 days of receipt of this response. Appeals must be addressed as appropriate to the Executive Director for Operations or to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

APPENDIX B

RECORDS MAINTAINED IN THE PDR UNDER THE ABOVE REQUEST NUMBER

<u>NUMBER</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	5/19/88	Memo for the Commission from John C. Bradburne, subject: "Dingell Subcommittee to Hold Hearing on Substandard Fasteners," (1 pg.)
2.	6/1/88	Letter to Chairman Tech from John D. Dingell regarding Hearing on substandard metal fasteners, (4 pgs.)

APPENDIX C

RECORDS TOTALLY WITHHELD

NUMBER

DATE

DESCRIPTION & EXEMPTION

1. 5/26/89 Recpt letter to Chairman Tech
from John D. Hingell
regarding Hearing on substandard
metal fasteners, (4 pgs.) -
Exemption 5

BARNES, RICHARDSON & COLBURN

ATTORNEYS & COUNSELLORS AT LAW

1619 H STREET, N.W.

WASHINGTON, D.C. 20006

TEL (202) 457-0300

CABLE "BARCHAL" D C
INTL-DOMESTIC TELEX 904129
TELECOPIER (202) 331-8748

NEW YORK
475 PARK AVENUE SOUTH
NEW YORK, N. Y. 10018
TEL (212) 725-0200
INTL-DOMESTIC TELEX 968653

CHICAGO
200 EAST RANDOLPH DRIVE
48TH FLOOR
CHICAGO, ILLINOIS 60601
TEL (312) 565-2000
INTL-DOMESTIC TELEX 6502615774 MCI

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August 4, 1989

Attention: Freedom of Information Act Request
U.S. NUCLEAR REGULATORY COMMISSION
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-89-334
Rec'd 8-8-89

Dear Sir:

This is a request under the Freedom of Information Act as amended (5 U.S.C. § 552).

I request a copy of the source materials, reports, memoranda, research, orders, opinions, etc., which were used as the basis of testimony before Congress regarding proposed legislation affecting imported industrial fasteners.

To avoid any possible misunderstanding of what is being requested I enclose an excerpt of the Congressional Hearing at which Mr. Ed Baker, III, Vendor Inspection Branch, Nuclear Regulatory Commission, testified about imported industrial fasteners. The full text of the testimony can be found in Document Serial No. 100-175 pages 270-365.

The FOIA also provides that if only portions of a file are exempt from release, the remainder must be released. I therefore request that I be provided with all non-exempt portions which are reasonably segregable. I, of course, reserve my right to appeal the withholding or deletion of any information.

I am prepared to pay reasonable costs for locating the requested file and reproducing it. If the fees will exceed \$100.00, please inform me of the charges before you fill my request. In such event, I request permission to review the records which are responsive to this request and to select those which I want copied.

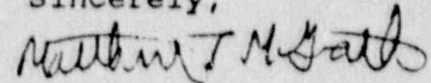
8911030001 4pp

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Page 2

If you have any question regarding this request, please telephone me at the above number.

As provided in the Freedom of Information Act, I will expect to receive a reply within ten working days.

Sincerely,

A handwritten signature in cursive script that reads "Matthew T. McGrath".

Matthew T. McGrath

Enclosure

COUNTERFEIT METAL FASTENERS
(Part 2)

HEARINGS
BEFORE THE
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
OF THE
COMMITTEE ON
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Serial No. 100-175

Printed for the use of the Committee on Energy and Commerce



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1988

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U.S. Government Printing Office, Washington, DC 20402

The Chair announces that our first group of witnesses is a panel composed of Mr. Victor Stello, Executive Director of Operations, U.S. Nuclear Regulatory Commission, who is accompanied by Mr. Brian K. Grimes, Acting Director, Division of Reactor Inspection and Safeguards; Mr. Ed Baker, III, Vendor Inspection Branch, Office of Nuclear Reactor Regulation; Mr. E. William Brach, Chief, Vendor Inspection Branch, Office of Nuclear Reactor Regulation; and Mr. William B. Hutchison, Office of Investigations.

Gentlemen, the committee thanks you for being with us.

Did I miss you, Mr. Conway? You have my apologies. We will recognize you to introduce yourself.

Mr. CONWAY. I am James T. Conway, and I am with the Vendor Inspection Branch also.

Mr. DINGELL. Thank you for being with us, Mr. Conway.

Gentlemen, the committee, as you know, receives all of its testimony under oath. Do any of you object to appearing here under oath?

[Chorus of noes.]

Mr. DINGELL. Very well.

Gentlemen, it is your right to be advised by counsel in connection with your appearance here today. Do any of you desire to be represented by counsel or advised by counsel during your appearance here today?

[Chorus of noes.]

Mr. DINGELL. Gentlemen, for your information, to inform you of your rights and the limitations on the power of the committee, copies of the rules of the subcommittee, rules of the committee and rules of the House of Representatives relative to your appearance today are before you in the red and the bound books at the committee table.

Gentlemen, if you have to objection to being sworn, if you will please rise and rise your right hand.

[Witnesses sworn.]

Mr. DINGELL. Gentlemen, consider yourselves under oath. The Chair thanks you for your presence today and for your assistance to the committee.

Mr. Stello, do you have a prepared statement?

Mr. STELLO. Yes, I do, Mr. Chairman.

Mr. DINGELL. Then you are recognized to give it.

TESTIMONY OF VICTOR STELLO, EXECUTIVE DIRECTOR FOR OPERATIONS, NUCLEAR REGULATORY COMMISSION, ACCOMPANIED BY BRIAN K. GRIMES, ACTING DIRECTOR, DIVISION OF REACTOR INSPECTION AND SAFEGUARDS, OFFICE OF NUCLEAR REACTOR REGULATION; AND ED BAKER III AND JIM CONWAY, VENDOR INSPECTION BRANCH

Mr. STELLO. Thank you, Mr. Chairman and members of the subcommittee, on behalf of the U.S. Nuclear Regulatory Commission, I thank you for this opportunity to meet with you today to discuss actions that the NRC is taking to address our concerns about the conformance of fasteners used in the Nuclear Industry.

I have attached to my prepared testimony responses to the specific questions contained in the subcommittee's letter of invitation.

Mr. DINGELL. Without objection, that addition will be inserted in the record at the appropriate place.

Mr. STELLO. Thank you, Mr. Chairman.

As you are aware, members of the NRC Staff have met with the subcommittee staff on a number of occasions to review NRC data and activities and have provided preliminary licensee fastener test result data to the subcommittee staff. Additionally, the NRC is following closely the subcommittee's review of fasteners and a counterfeit issue in other U.S. industries for its potential relation to the nuclear industry.

The NRC has been aggressive in trying to identify the scope and magnitude of the fastener conformance problem in the nuclear industry. As vendors are identified who may have deliberately supplied counterfeit, substandard fasteners to the nuclear industry, the NRC's Office of Investigations will vigorously pursue each case for an appropriate civil enforcement and/or civil prosecution through the Department of Justice. Our Office of Investigations has coordinated extensively with Federal law enforcement agencies on the fastener issue during the past year.

During the past few years, NRC has performed numerous inspections of fastener manufacturers and suppliers. Generally the inspections have been performed in response to specific fastener problems identified at nuclear power plants. However, NRC's attention on fasteners was heightened in 1986 when the Industrial Fastener Institute informed the NRC of the existence of a counterfeit market for fasteners. That is, the IFI reported SAE grade 8.2 bolts were marked as grade 8.

The NRC issued Information Notice No. 86-25 and a supplement entitled "Traceability and Material Control of Material and Equipment, Particularly Fasteners," in 1986 to alert NRC licensees of potentially significant problems related to the inspection of material, including fasteners. The purpose of this information was to prevent the use of incorrect or defective material, and especially to alert the licensees of the possible existence of counterfeit bolts.

The NRC had previously initiated a generic issue review, GI-29, Bolting Degradation or Failure in Nuclear Power Plants, which addresses the broader fastener-related issues of joint design, material selection, fabrication, installation, inspection and testing of fasteners.

After being notified by IFI of the counterfeit fastener issue and after issuing Information Notice 86-25, the NRC began a sampling and testing program of fasteners as part of inspections performed at licensee facilities and fastener manufacturers and suppliers. To date, we have sampled and tested a total of 137 fasteners from 16 nuclear power plants. This total includes 28—and that is a correction from my submitted testimony, which said 31—fasteners selected by the subcommittee staff at Calvert Cliffs and Perry Nuclear Power Plants. The NRC testing is independent of the licensee's testing of fasteners in response to NRC Bulletin 87-02, which I will discuss shortly.

The NRC test results show that 27 of the 137 fasteners failed to meet the material specification for which the fasteners were identified. This is a nonconformance rate of approximately 20 percent. It should be noted that the NRC sample selection process was biased

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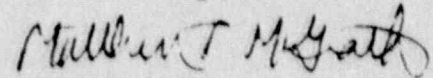
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NEW YORK, N. Y. 10016
TEL (212) 728-0200
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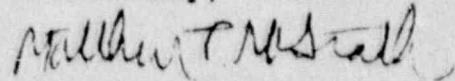
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COMMITTEE ON
ENERGY AND COMMERCE
HOUSE OF REPRESENTATIVES
ONE HUNDREDTH CONGRESS
SECOND SESSION

MAY 9 AND JUNE 16, 1988

Serial No. 100-175

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The Chair announces that our first group of witnesses is a panel composed of Mr. Victor Stello, Executive Director of Operations, U.S. Nuclear Regulatory Commission, who is accompanied by Mr. Brian K. Grimes, Acting Director, Division of Reactor Inspection and Safeguards; Mr. Ed Baker, III, Vendor Inspection Branch, Office of Nuclear Reactor Regulation; Mr. E. William Brach, Chief, Vendor Inspection Branch, Office of Nuclear Reactor Regulation; and Mr. William B. Hutchison, Office of Investigations.

Gentlemen, the committee thanks you for being with us.

Did I miss you, Mr. Conway? You have my apologies. We will recognize you to introduce yourself.

Mr. CONWAY. I am James T. Conway, and I am with the Vendor Inspection Branch also.

Mr. DINGELL. Thank you for being with us, Mr. Conway.

Gentlemen, the committee, as you know, receives all of its testimony under oath. Do any of you object to appearing here under oath?

[Chorus of noes.]

Mr. DINGELL. Very well.

Gentlemen, it is your right to be advised by counsel in connection with your appearance here today. Do any of you desire to be represented by counsel or advised by counsel during your appearance here today?

[Chorus of noes.]

Mr. DINGELL. Gentlemen, for your information, to inform you of your rights and the limitations on the power of the committee, copies of the rules of the subcommittee, rules of the committee and rules of the House of Representatives relative to your appearance today are before you in the red and the bound books at the committee table.

Gentlemen, if you have to objection to being sworn, if you will please rise and rise your right hand.

[Witnesses sworn.]

Mr. DINGELL. Gentlemen, consider yourselves under oath. The Chair thanks you for your presence today and for your assistance to the committee.

Mr. Stello, do you have a prepared statement?

Mr. STELLO. Yes, I do, Mr. Chairman.

Mr. DINGELL. Then you are recognized to give it.

TESTIMONY OF VICTOR STELLO, EXECUTIVE DIRECTOR FOR OPERATIONS, NUCLEAR REGULATORY COMMISSION, ACCOMPANIED BY BRIAN K. GRIMES, ACTING DIRECTOR, DIVISION OF REACTOR INSPECTION AND SAFEGUARDS, OFFICE OF NUCLEAR REACTOR REGULATION; AND ED BAKER III AND JIM CONWAY, VENDOR INSPECTION BRANCH

Mr. STELLO. Thank you, Mr. Chairman and members of the subcommittee, on behalf of the U.S. Nuclear Regulatory Commission, I thank you for this opportunity to meet with you today to discuss actions that the NRC is taking to address our concerns about the conformance of fasteners used in the Nuclear Industry.

I have attached to my prepared testimony responses to the specific questions contained in the subcommittee's letter of invitation.

Mr. DINGELL. Without objection, that addition will be inserted in the record at the appropriate place.

Mr. STELLO. Thank you, Mr. Chairman.

As you are aware, members of the NRC Staff have met with the subcommittee staff on a number of occasions to review NRC data and activities and have provided preliminary licensee fastener test result data to the subcommittee staff. Additionally, the NRC is following closely the subcommittee's review of fasteners and a counterfeit issue in other U.S. industries for its potential relation to the nuclear industry.

The NRC has been aggressive in trying to identify the scope and magnitude of the fastener conformance problem in the nuclear industry. As vendors are identified who may have deliberately supplied counterfeit, substandard fasteners to the nuclear industry, the NRC's Office of Investigations will vigorously pursue each case for an appropriate civil enforcement and/or civil prosecution through the Department of Justice. Our Office of Investigations has coordinated extensively with Federal law enforcement agencies on the fastener issue during the past year.

During the past few years, NRC has performed numerous inspections of fastener manufacturers and suppliers. Generally the inspections have been performed in response to specific fastener problems identified at nuclear power plants. However, NRC's attention on fasteners was heightened in 1986 when the Industrial Fastener Institute informed the NRC of the existence of a counterfeit market for fasteners. That is, the IFI reported SAE grade 8.2 bolts were marked as grade 8.

The NRC issued Information Notice No. 86-25 and a supplement entitled "Traceability and Material Control of Material and Equipment, Particularly Fasteners," in 1986 to alert NRC licensees of potentially significant problems related to the inspection of material, including fasteners. The purpose of this information was to prevent the use of incorrect or defective material, and especially to alert the licensees of the possible existence of counterfeit bolts.

The NRC had previously initiated a generic issue review, GI-29, Bolting Degradation or Failure in Nuclear Power Plants, which addresses the broader fastener-related issues of joint design, material selection, fabrication, installation, inspection and testing of fasteners.

After being notified by IFI of the counterfeit fastener issue and after issuing Information Notice 86-25, the NRC began a sampling and testing program of fasteners as part of inspections performed at licensee facilities and fastener manufacturers and suppliers. To date, we have sampled and tested a total of 137 fasteners from 16 nuclear power plants. This total includes 28—and that is a correction from my submitted testimony, which said 31—fasteners selected by the subcommittee staff at Calvert Cliffs and Perry Nuclear Power Plants. The NRC testing is independent of the licensee's testing of fasteners in response to NRC Bulletin 87-02, which I will discuss shortly.

The NRC test results show that 27 of the 137 fasteners failed to meet the material specification for which the fasteners were identified. This is a nonconformance rate of approximately 20 percent. It should be noted that the NRC sample selection process was biased

BARNES, RICHARDSON & COLBURN

ATTORNEYS & COUNSELLORS AT LAW

1819 H STREET, N.W.
WASHINGTON, D.C. 20006

TEL. (202) 467-0300

CABLE "BARCHAL" D C
INTL. DOMESTIC TELEX 9C 4129
TELECOPIER (202) 331-8740

E. THOMAS HONEY
JAMES H. LINDQUIST, P.C.
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BRIAN F. WALSH

NEW YORK
475 PARK AVENUE SOUTH
NEW YORK, N. Y. 10018
TEL. (212) 725-0200
INTL. DOMESTIC TELEX 968553

CHICAGO
200 EAST RANDOLPH DRIVE
48TH FLOOR
CHICAGO, ILLINOIS 60601
TEL. (312) 565-2000
INTL. DOMESTIC TELEX 6502815774 MCI

* NOT ADMITTED D.C.

August 4, 1989

Attention: Freedom of Information Act Request
U.S. NUCLEAR REGULATORY COMMISSION
Washington, D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-89-337
Rec'd 8-8-89

Dear Sir:

This is a request under the Freedom of Information Act as amended (5 U.S.C. § 552).

I request a copy of the source materials, reports, memoranda, research, orders, opinions, etc., which were used as the basis of testimony before Congress regarding proposed legislation affecting imported industrial fasteners.

To avoid any possible misunderstanding of what is being requested I enclose an excerpt of the Congressional Hearing at which Mr. Victor Stello, Executive Director for Operations, Nuclear Regulatory Commission, testified about imported industrial fasteners. The full text of the testimony can be found in Document Serial No. 100-175 pages 270-365.

The FOIA also provides that if only portions of a file are exempt from release, the remainder must be released. I therefore request that I be provided with all non-exempt portions which are reasonably segregable. I, of course, reserve my right to appeal the withholding or deletion of any information.

I am prepared to pay reasonable costs for locating the requested file and reproducing it. If the fees will exceed \$100.00, please inform me of the charges before you fill my request. In such event, I request permission to review the records which are responsive to this request and to select those which I want copied.

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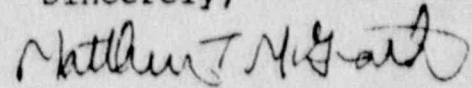
477

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If you have any question regarding this request, please telephone me at the above number.

As provided in the Freedom of Information Act, I will expect to receive a reply within ten working days.

Sincerely,

A handwritten signature in cursive script that reads "Matthew T. McGrath".

Matthew T. McGrath

Enclosure

COUNTERFEIT METAL FASTENERS
(Part 2)

HEARINGS
BEFORE THE
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
OF THE
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