

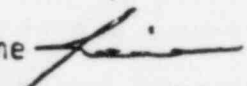


UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555

OFFICE OF THE  
COMMISSIONER

July 30, 1984

MEMORANDUM FOR: William J. Dircks  
Executive Director for Operations

FROM: James K. Asselstine 

SUBJECT: GUIDANCE TO STAFF ON THE APPLICABILITY  
OF THE COMMISSION'S SHOREHAM DECISION  
TO OTHER CASES

For purposes of the staff's short-term review of my proposal, I am providing additional details on the guidance for considering exemptions under 10 CFR section 50.12 that I believe should have been given to the staff. My proposal includes the following:

1. The guidance in the Shoreham decision applies to all operating license applications, including fuel loading, low-power and full-power licenses.

2. For operating reactors, the Shoreham guidance applies to requests for long-term or life-of-plant relief from provisions of the Commission's regulations, but does not apply to requests for temporary relief from schedular requirements. These temporary schedular requests will be handled as enforcement matters rather than as exemptions.

3. The Shoreham guidance applies to all provisions of the Commission's regulations, and not just to GDC 17 or the other General Design Criteria.

4. A showing of exigent circumstances is required in order to grant any exemption under 10 CFR section 50.12. The test for exigent circumstances involves the balancing of equities, as described in footnote 3 of the Commission's Shoreham order.

5. In all cases, the Commission regards the use of the exemption authority as extraordinary. This is consistent with the underlying principle that the Commission's regulations, which represent the Agency's fundamental judgment on what is required for safety, should be met unless there are compelling circumstances warranting an exemption.

6. The "as safe as" standard in the Shoreham decision applies to all exemption requests under 10 CFR section 50.12. The "as safe as" standard should be read reasonably to mean "substantially as safe as". In applying the "as safe as" test, the staff should first determine

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whether it is feasible to provide compensating measures to assure a level of safety that is equivalent to that provided by plant operation in full compliance with the regulations. However, even if such compensating measures are not feasible, an exemption could still be granted, assuming all other requirements of the Shoreham decision are met, if the staff determines that operation of the plant with the exemption will not result in a substantial reduction in the level of safety that would be provided by plant operation in full compliance with the regulations. In making this determination, I would permit the staff to take into account the length of time during which the plant would be allowed to operate under the exemption.

cc: Chairman Palladino  
Commissioner Roberts  
Commissioner Bernthal  
Commissioner Zech  
SECY  
OPE  
OGC



## Nuclear Information and Resource Service

134E Connecticut Avenue NW, 4th Floor, Washington, D.C. 20036 (202) 296-7562

August 6, 1984

James M. Felton, Director  
Division of Rules and Records  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

FREEDOM OF INFORMATION  
ACT REQUEST

FOIA-84-659

Rec'd 8-10-84

### FREEDOM OF INFORMATION ACT REQUEST

Dear Mr. Felton:

Pursuant to the Freedom of Information Act, 5 U.S.C. 522, as amended, the Nuclear Information and Resource Service requests the following documents regarding the NRC Staff and Commission interpretation of the policy on exemptions. Please consider "documents" to include reports, studies, test results, correspondence, memoranda, meeting notes, meeting minutes, working papers, graphs, charts, diagrams, notes and summaries of conversations and interviews, computer records, and any other forms of written communication, including internal NRC Staff memoranda. The documents are specifically requested from, but not limited to, Office of the Executive Legal Director (OELD); Office of Nuclear Reactor Regulation (NRR); and the Office of General Counsel (OGC).

Pursuant to this request, please provide all documents prepared or utilized by, in the possession of, or routed through the NRC related to:

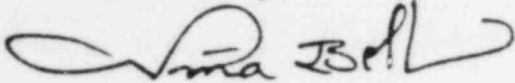
1. Recent (June, July, August 1984) interpretations of the NRC's policy and standards for exemptions, and the implications of the Commission's position on exemptions, as defined by the Commission's July vote in Shoreham and the Commission's vote on July 25, 1984

In our opinion, it is appropriate in this case for you to waive search charges, pursuant to 5 U.S.C. 552(a)(4)(A) "because furnishing the information can be considered as primarily benefiting the general public." The Nuclear Information and Resource Service is a non-profit organization serving local organizations concerned about nuclear power and providing infor-

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mation to the general public. Information required by 10 CFR 9.14a was provided by letter dated August 3, 1984.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nina Bell".

Nina Bell  
Assistant Director

cc: File