



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 19, 2022

A. Christopher Bakken III
Executive Vice President
Entergy Infrastructure
Entergy Nuclear
1340 Echelon Parkway
Jackson, MS 39213

Dear Christopher Bakken:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of October 12, 2022, (Agencywide Documents Access and Management System (ADAMS) Accession No. ML22291A451) concerning the release of investigation-based information prior to a pre-decisional enforcement conference (PEC). In your letter, you requested that “the Commission reconsider the NRC’s current practice of not releasing investigative reports for non-discrimination cases to licensees at the pre-decisional stage of the enforcement process.”

The Commission originally considered the release of investigation-based information to licensees prior to a PEC in 1999.¹ The staff and Commission weighed the potential benefit of making additional information available to improve communication at a PEC against the need to protect the federal investigative and fact-finding process. This issue was addressed not only in the 1999 review, but also, as you noted in your letter, in the 2002 Discrimination Task Group report,² as well as a 2005 Commission paper.³

Each of the three previous reviews included a discussion of the pros and cons of releasing the Office of Investigations (OI) Report of Investigation (ROI) to a licensee prior to a PEC and recommended that providing a “factual summary”⁴ of the ROI would achieve the appropriate balance in non-discrimination cases. In each case, the Commission approved this recommendation.⁵ This decision remains as the Commission policy to provide factual summaries of an ROI only.

¹ See generally, SECY-99-019, Release of Investigative Information from Office of Investigations Reports to Licensees and Subjects of Investigations for Purposes of Predecisional Enforcement Conferences, January 20, 1999 (ADAMS Accession No. ML12265A467)

² SECY-02-0166, Policy Options and Recommendations for Revising the NRC’s Process for Handling Discrimination Issues, Attachment 1: Discrimination Task Group Report, 59, April 2002 (ADAMS Accession No. ML022120514).

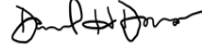
³ SECY-05-0213, Policy Options and Recommendations for the Release of Reports Prepared by the Office of Investigations, November 17, 2005 (ADAMS Accession No. ML060050271).

⁴ As described in the Enforcement Manual (ADAMS Accession No. ML22056A177), Part II, Section 1.7, Factual Summaries, factual summaries provide enough information to permit a licensee or individual to understand the basis for the violation and independently verify the facts of the case while also protecting the sources of the investigation.

⁵ SRM-SECY-99-0019, Staff Requirements – SECY 99-019 - Release of Investigative Information from Office of Investigations Reports to Licensees and Subjects of Investigations for Purposes of Predecisional Enforcement Conferences, May 27, 1999 (ADAMS Accession No. ML003752007); SRM-SECY-02-0166, Staff Requirements - Policy Options and Recommendations for Revising the NRC’s Process for Handling Discrimination Issues, March 26, 2003 (ADAMS Accession No. ML030850783); SRM-SECY-05-0213, Staff Requirements - Policy Options and Recommendations for the Release of Reports Prepared by the Office of Investigations, January 5, 2006 (ADAMS Accession No. ML060060088).

The bases for the Commission's policy to not release investigation-based information prior to a PEC for non-discrimination cases remains valid. The use of factual summaries allows us to share key information concerning the case for the licensee to understand while allowing us to protect the identity of alleged and witnesses. Your letter did not provide additional information not previously considered by the NRC. Therefore, we do not plan to change our policy for non-discrimination cases.

Sincerely,



Signed by Dorman, Dan
on 12/19/22

Daniel H. Dorman
Executive Director
for Operations

SUBJECT: RESPONSE TO REQUEST FOR NRC DISCLOSURE ON
 NON-DISCRIMINATION INVESTIGATION REPORTS TO LICENSEES AT THE
 PRE-DECISIONAL STAGE OF THE ENFORCEMENT PROCESS DATED:
 December 19, 2022

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ADAMS Accession Numbers: ML22291A452 (Pkg); ML22339A084 (Ltr)

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