

From: Scott, Michael
Sent: Wednesday, June 10, 2015 5:39 PM
To: john.miller03803@outlook.com
Subject: Response to Your Communication to USNRC

Dear Mr. Miller,

My name is Michael Scott; I am the Deputy Director for the Division of Reactor Projects in Region I of the US Nuclear Regulatory Commission ("NRC"). This email is in reference to your email dated March 2, 2015, concerning the preservation of documents related to a contemplated notice of enforcement discretion ("NOED") for Seabrook Nuclear Generating Station.

First of all, I would like to extend my appreciation to you for raising this issue. In light of your email, NRC Region I re-evaluated whether the draft NOED in question should have been preserved according to Management Directive 3.53, which establishes the NRC's record management program. Following our re-evaluation, it was determined that the draft NOED does constitute a Federal record worthy of preservation. A copy of the draft NOED was located and was entered into the NRC's Agency-Wide Documents Access and Management System ("ADAMS"). It can be located using the following accession number: ML15161A040.

It is worth noting that NextEra, the operator of the Seabrook Station, provided a draft NOED request to the NRC, but never followed through with a formal request as the specific basis for the proposed NOED was otherwise resolved. Due to the time sensitive nature of NOED requests, allowing our staff access to draft NOED requests provides our technical experts more time to fully assess the safety aspects integral to subsequent NRC decision-making. At the time, the NRC staff involved with the review of the draft NOED did not believe that it was required to be preserved per Management Directive 3.53. That belief was, in part, based on the status of the NOED: that it was shared for review but never formally requested, and, as such, an NRC decision was never rendered. In contrast, for those NOEDs that are formally requested and an NRC decision made, it has been the consistent practice to treat such NOED requests as official records. With that said, draft NOEDs shared with Region I staff, regardless of whether formally requested or not, will be preserved as official records.

Furthermore you are correct that were the NRC to have been at that time in receipt of a Freedom of Information Act ("FOIA") request for the draft NOED, deletion of the draft NOED from email records would have been inappropriate. However, the NRC was not in possession of such a FOIA request at that time.

Again, thank you for raising this concern.

Sincerely yours,

Michael Scott