

PDR-016



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

FEB 01 1985

James B. Dougherty
Attorney at Law
3045 Porter Street, NW
Washington, DC 20008

IN RESPONSE REFER
TO FOIA-85-3

Dear Mr. Dougherty:

This is in partial response to your letter of January 2, 1985, in which you requested, pursuant to the Freedom of Information Act (FOIA), three categories of documents relating to the transportation of radioactive materials.

Enclosed are the 21 documents listed on the enclosed Appendix A. These documents respond chiefly to categories one and two of your request. The NUREG documents listed on the enclosed Appendix B respond generally to category three of your request. These NUREG documents are already publicly available at the NRC's Public Document Room (PDR) located at 1717 H Street, NW, Washington, DC. The PDR accession number is indicated beside each document description for your information. Attached is a notice which explains charges and procedures for obtaining documents from the PDR.

We would like to direct your attention to a recent FOIA request and NRC responses dated December 11, 1984 and January 29, 1985, regarding the transportation of radioactive materials, which are available for public inspection, and copying for a fee, in the NRC's PDR. These records are filed under FOIA-84-821 (MILLAR) and contain a large volume of documents which may satisfy your interest for the purposes of your proposed articles. Also, for further information regarding category three of your request, you may want to write to FEMA at the following address: Ms. Linda Keener, FOI/PA Specialist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472.

We suggest that you review the documents filed under FOIA-84-821 and notify us if you are interested in any additional documents related to the three categories of your request.

The search for and review of additional documents subject to categories one and two of your request have not been completed. As soon as the search and review have been completed, we will communicate with you.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. M. Felton", written over a horizontal line.

J. M. Felton, Director
Division of Rules and Records
Office of Administration

Enclosures: As stated

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APPENDIX A

1. 7/2/79 Memoranda of Understanding between the Department of Transportation and Nuclear Regulatory Commission regarding the Transportation of Radioactive Materials (2 pages)
2. 2/4/80 Letter to L. D. Santman from Donald A. Nussbaumer, re: Requests DOT concurrence on final version of NUREG-0535, "Review and Assessment of Packaging Requirements (Yellowcake) and Emergency Response to Transportation Accidents" (1 page)
3. 3/25/80 Letter to L. D. Santman from Donald A. Nussbaumer, re: Same request as No. 2 (1 page)
4. 4/21/81 Letter to L. D. Santman from John G. Davis, re: NRC participation in IAEA meeting held in Vienna, Austria (1 page)
5. 9/17/81 Letter to John G. Davis from Charles R. Johnson (Nuclear Assurance Corp.), re: Results of tests and inspections of the NAC-1D spent fuel shipping cask with enclosed report entitled Cask NAC-1D, Surface Contamination Evaluation (28 pages)
6. 10/4/82 Letter to L. D. Santman from Richard E. Cunningham, re: Request for review and comment on a draft Commission paper without enclosure (1 page)
7. 10/13/82 Letter to L. D. Santman from William J. Dircks, re: Response to DOT letter concerning NRC participation in the continuing process of revising IAEA transport regulations (2 pages)
8. 1/9/83 Letter to L. D. Santman from Richard E. Cunningham, re: Transmittal of summary of transportation incidents with enclosed summary (3 pages)
9. 4/4/83 Letter to L. D. Santman from Richard E. Cunningham, re: Criteria used for establishing maximum quantities of radioactive materials which may be transported in Type A packages (1 page)
10. 5/9/83 Memo for Thomas T. Martin from Richard E. Cunningham, re: Security of Radioactive Material in Transit without enclosures (Note: Enclosures are identical to No. 9) (1 page)
11. 8/16/83 Memo for Thomas T. Martin from Richard E. Cunningham, re: Security of Radioactive Material in Transit (1 page)

12. 11/9/83 Letter to Leon D. Santman from Richard E. Cunningham, re: Recent meeting of ACRS to discuss the radiological aspects of NRC's transportation regulations without enclosure (2 pages)
13. 12/12/83 Federal Register notice entitled Arizona Department of Transportation; Application for Inconsistency Ruling; Public Notice and Invitation to Comment and published by the Department of Transportation (3 pages)
14. 3/13/84 Letter to Leon D. Santman from Richard E. Cunningham, re: Expressing thanks for his letter of 3/8/84 (1 page)
15. 6/8/84 Federal Register Notice, proposed rulemaking entitled Modification of Protection Requirements for Spent Fuel Shipments(6 pages)
16. 6/8/84 Letter to Leon D. Santman from Richard E. Cunningham, re: Transmittal of comments on IAEA TECDOC-262 with enclosed comment sheets (5 pages)
17. 7/24/84 Letter to Robert L. Krick from Richard E. Cunningham, re: Comments on proposed joint study among DOT, NRC, and the Federal Railroad Administration (2 pages)
18. 9/10/84 Letter to Robert L. Krick from Richard E. Cunningham, re: Expressing thanks for his letter and suggesting coordination of activities through periodic meetings (1 page)
19. 11/5/84 Letter to Leon D. Santman from Richard E. Cunningham, re: Transmits NRC comments on draft document "Schedules of Requirements for the Transport of Specified Types of Radioactive Material Consignments" with attached comment sheets (3 pages)
20. Excerpt Section 73.37, Requirements for physical protection of irradiated reactor fuel in transit (2 pages)
21. Undated NUREG/BR-0020, Information Package on Spent Nuclear Fuel Shipments for Law Enforcement Agencies (fold-out pamphlet)

APPENDIX B - DOCUMENTS LOCATED IN PDR

1. NUREG-0845, "Agency Response Procedures for the NRC Incident Response Plan" #8203290061
2. NUREG-0561, Revision 1, "Physical Protection of Shipments of Irradiated Reactor Fuel" #7906290197
3. NUREG-0725, Revision 4, "Public Information Circular for Shipments of Irradiated Reactor Fuel" #8407190487
4. NUREG-0923, "Advance Notification of Shipments of Nuclear Waste and Spent Fuel" #8206240082

JAMES B. DOUGHERTY
ATTORNEY AT LAW

January 2, 1985

Director
Office of Administration
U.S. Nuclear Regulatory Commission
Washington DC 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-85-3

Rec'd 1-7-85

FREEDOM OF INFORMATION ACT REQUEST

To Whom It May Concern:

Pursuant to the Freedom of Information Act, 5 U.S.C. §552, I hereby request that the Nuclear Regulatory Commission identify and provide me with a copy of the documents described below. Please consider the term "document" to include reports, studies, intergovernmental and interagency agreements, intra-agency and inter-agency memoranda, material submitted to congressional committees and subcommittees, and correspondence. I do not seek copies of notes of meetings, telephone conversations, or the like, and I am not interested in computer data.

1. Please provide copies of all documents related to any and all agreements between NRC and the Department of Transportation relating to the transportation of radioactive materials. This includes programs to provide assistance and advice to state and local governments.

2. Please provide copies of all documents relating to programs for governmental regulation of the routing of shipments of radioactive materials. This includes documents regarding regulatory programs and proposed regulatory programs of other federal agencies as well as state and local governments. It also includes documents regarding proposed or contemplated NRC programs for regulating the routing of shipments of radioactive materials.

3. Please provide copies of all documents relating to federal and nonfederal governments' programs for responding to emergencies relating to the transportation of radioactive materials.

Where documents that are responsive to the above request are located in the Public Document Room, it will be unnecessary to provide me with a copy; a citation will suffice. With respect to documents that are not located in the Public Document Room, I submit that I am entitled to a waiver of search and reproduction fees, for the following reasons:

(1) the information I seek will be used to prepare a forthcoming article concerning the transportation of radioactive materials, to be published in the Environmental Law Reporter and possibly elsewhere;

(2) the article will be disseminated not only to the thousands of professionals that read the Environmental Law Reporter, but will be circulated by me to legislators, governmental officials, nonprofit organizations, and many others;

(3) to the extent that my research leads to improved methods for regulating the transportation of radioactive materials, its tangible benefits may include an increase in the protection of the public health and safety, and a decreased cost of regulation;

(4) my article will be submitted to the Environmental Law Reporter, a nonprofit publication, without charge;

(5) I would find it very difficult to pay significant search and reproduction fees, since I maintain a "public interest" law practice and charge extremely low fees for my work, if anything at all;

(6) because my article will be aimed at better informing those involved in making and enforcing the laws concerning the transportation of radioactive materials, your waiver of search and reproduction charges will-

tend to enhance the public's health and safety and the quality of the environment,

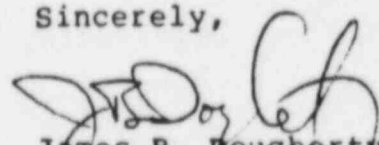
result in improved regulatory processes,

reduce the cost of regulating the transportation of radioactive materials, and

contribute substantially to the ongoing debate over this important issue of public policy.

If you do not agree that I am entitled to a waiver of search and reproduction fees, please inform me before incurring costs of more than \$10.00

Sincerely,



James B. Dougherty