



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

MAR 08 1985

PDR  
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Mr. David Berick, Director  
Nuclear Waste and Safety Project  
Environmental Policy Institute  
218 D Street, SE  
Washington, DC 20003

IN RESPONSE REFER  
TO FOIA-84-709

Dear Mr. Berick:

This is in further response to your letter dated August 29, 1984, in which you requested, pursuant to the Freedom of Information Act (FOIA), nine categories of documents concerning uranium mill tailings regulations.

Portions of the documents listed on Appendix D are being released. The deleted portions of these documents represent information which does not pertain to uranium mill tailings and is, therefore, outside the scope of your request. The documents listed on Appendix E are being released in the NRC PDR.

Portions of the document listed on Appendix F and all of the documents listed on Appendix G are being withheld pursuant to Exemption (5) of the FOIA (5 U.S.C. 552(b)(5)) and 10 CFR 9.5(a)(5) of the Commission's regulations. The information being withheld in the document on Appendix F consists of Commissioner Asselstine's handwritten comments on a draft of the mill tailings implementation and enforcement policy. The information being withheld in documents 1 and 2 on Appendix G consists of drafts of a proposed letter to Congress and the proposed regulations. The information withheld in document 4 on Appendix G consists of the analyses of the various positions regarding the implementation of the proposed NRC regulations. The information being withheld in documents 3, 5, 6, 7 and 8 on Appendix G consists of the advice, opinions, and recommendations of a member of Commissioner Bernthal's staff to the Commissioner or information exchanged between Commissioner Bernthal and Chairman Palladino regarding the proposed amendments to the uranium mill tailings regulations. Because these documents reflect the predecisional process of the agency, the documents are exempt from mandatory disclosure. Release of the documents would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. The documents do not contain any reasonably segregable factual portions.

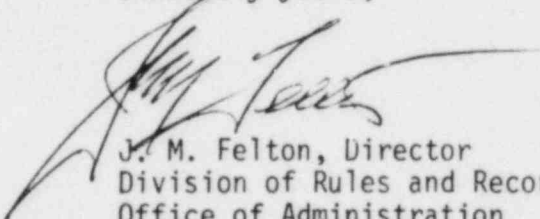
The documents or portions identified above as being released at this time are being placed in the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555. You may obtain access by presenting a copy of this letter or by requesting folder FOIA-84-709 in your name.

Pursuant to 10 CFR 9.15 of the Commission's 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 person responsible for this denial is John Hoyle, Assistant Secretary of the Commission.

This denial may be appealed to the Commission within 30 days from the receipt of this letter. Any such appeal must be in writing, addressed 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."

The search for and review of additional documents subject to your request are continuing. We will notify you as soon as our efforts are completed.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "J. M. Felton", is written over the typed name and title.

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

Enclosures:  
As stated

APPENDIX D

1. 5/21/84 Report of meeting between Chairman Palladino & Administrator Ruckelshaus (15 pages)
2. 5/21/84 Two packages of information on meeting with Ruckelshaus (177)
3. 7/17/84 Letter to J. Cannon from W. J. Dircks with attached minutes of 4/13/84 meeting (5 pages)

APPENDIX E

1. 6/16/80 Note to R. A. Scarano from G. Cunningham re: legal opinion on application of the land ownership requirements (7 pages)
2. 9/29/81 Memo for J. B. Martin from R. A. Scarano re: Status Report on Technical Assistance to OGC with attached memo for S. Eilperin, et al., from H. Miller with attachment (50 pages)
3. 1/27/82 Memo for J. B. Martin from R. A. Scarano re: Status Report on Technical Assistance to OGC (1 page)
4. 5/28/82 Memo for J. B. Martin from R. A. Scarano re: Status Report on Technical Assistance to OGC (2 pages)
5. 2/15/84 Memo for Chairman Palladino from W. J. Dircks re: Meeting with Assistant Administrator Cannon, EPA, on 2/7/84 with attached letter to W. D. Ruckelshaus from N. J. Palladino dated 1/16/84 (2 pages)
6. 7/31/84 Letter to A. Simpson from J. G. Davis re: proposed amendments (2 pages)
7. 8/6/84 Letter to M. Udall from C. Kammerer re: proposed amendments (1 page)
8. 8/6/84 Letter to R. L. Ottinger from C. Kammerer re: proposed amendments (1 page)
9. 8/6/84 Letter to A. Simpson from C. Kammerer re: proposed amendments (1 page)
10. 8/6/84 Letter to S. S. Stratton from C. Kammerer re: proposed amendments (1 page)

APPENDIX F

1. 7/25/84      Memo for S. J. Chilk from T. A. Rehm re: SECY-83-523/523A  
PROPOSED AMENDMENTS TO URANIUM MILL TAILINGS REGULATIONS  
& ADVANCE NOTICE OF PROPOSED RULEMAKING - POLICY  
STATEMENT (16 pages)

APPENDIX G

1. 3/21/84 Draft SECY paper re: Proposed Amendments to Uranium Mill Tailings Regulations (SECY-83-523 and 523A and Memorandum dated 3/2/84) (Letters to Congress) (6 pages)
2. 4/24/84 Note to D. Garner from K. Dragonette re: working copies of modified A-2 proposed rule (52 pages)
3. 4/27/84 Memo to Commissioner Bernthal from L. Stoloff summarizing meeting with Chairman Palladino
4. 4/30/84 Enclosure 8, Minimum Exception Requirements of NRC, NRC Actions of Enforcing Remaining EPA Standards, Resources Required to Undertake Activities (21 pages)
5. 6/28/84 Memo to Commissioner Bernthal from L. Stoloff containing recommendations for action on original rulemaking package
6. 8/8/84 Memo to the Chairman from Commissioner Bernthal providing corrections to Chairman's summary of events
7. 8/28/84 Memo to Commissioner Bernthal from L. Stoloff containing recommendation for action on revised rulemaking packages
8. 9/5/84 Memo to Commissioner Bernthal from L. Stoloff recommending action on revised rulemaking packages



# ENVIRONMENTAL POLICY INSTITUTE

August 29, 1984

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

FREEDOM OF INFORMATION  
ACT REQUEST

FOIA-84-709

Rec'd 8-31-84

## Freedom of Information Act Request

Dear Director,

This is a Freedom of Information Act request by the Environmental Policy Institute pursuant to 5 U.S.C. 552.

The Environmental Policy Institute requests the following information and documents:

- 1) All vote sheets, instructions to staff, policy and implementation statements, decision documents, corrections, editorial changes, substantive revisions, and all other documentation considered or approved or transmitted by any Commissioner in his consideration of, or by the Commission in its consideration of, SECY-83-523/523A--"Proposed Amendments to Uranium Mill Tailings Regulations and Advance Notice of Proposed Rulemaking" and/or the proposed rules.
- 2) All memoranda, directions to staff, revisions, editorial or other corrections transmitted by any Commissioner, the Commission, or any Office of the Commission including the Office of the Secretary and the Office of General Counsel to the NRC staff related to, or requesting revision of SECY-83-523/523A or the proposed revisions to the Commission's uranium mill tailings regulations discussed in SECY-83-523/523A.
- 3) The July 10, 1984 memorandum from Samuel J. Chilk to William J. Dircks transmitting the Commission's approved course of action regarding SECY-83-523/523A and revision of the Commission's uranium mill tailings regulations, and all subsequent communications from any Commissioner or any Office of the Commission including the Office of General Counsel and the Office of the Secretary related to, or modifying, or amending, this memorandum and the approved course of action described in the memorandum.
- 4) Any and all revisions of the proposed uranium mill tailings regulations and policy and implementation statements related thereto developed in response to the approved course of action described in the July 10, 1984 memorandum or subsequent directive from the Commission or any Commissioner prepared by the NRC staff or any Office of the Commission including the Office of General Counsel related to the revision of the Commission's

uranium mill tailings regulations and related policy and implementation statements.

5) All communications, invoices, manifests from the Nuclear Regulatory Commission transmitting the proposed revisions of the Commission's uranium mill tailings regulations and related policy and implementation statements to the Office of the Federal Register for subsequent publication including all notices and letters to the public, interested parties, and members of congress announcing this action.

6) All communications, invoices, manifests from the Nuclear Regulatory Commission to the Office of the Federal Register requesting suspension of publication of the Commission's proposed revisions of its uranium mill tailings regulations and related policy and implementation statements and any communications from the Commission or any Office of the Commission announcing this action.

7) All communications from the Commission, the Chairman, or any other Commissioner or Office of the Commission including the Office of General Counsel concerning the decision to suspend publication of the proposed revisions of the Commission's uranium mill tailings regulations and related policy and implementation statements.

8) All meeting minutes and communications from the Commission, the Chairman, the Office of General Counsel, the Office of the Secretary or from any Commissioner concerning revision, modification, continued suspension, reconsideration and any other action related to the suspended revisions of the Commission's uranium mill tailings regulations and related policy and implementation statements including minutes from the August 1, 1984 meeting of Commissioners Bernthal, Palladino, and Asselstine. These communications should include the August 3, 1984 memo from Chairman Palladino to the other Commissioners explaining his vote and understanding of the Commission's course of action taken upon consideration of SECY-83-523/523A.

9) All entries in phone logs, meeting logs, correspondence logs, and visitor logs of the Commission or any Commissioner related to the Commission's consideration of SECY-83-523/523A and the proposed revisions of the Commission's uranium mill tailings regulations, the subsequent decision to publish the proposed revisions and related policy and implementation statements entries, and the subsequent decision to suspend publication including contacts from congressional staff and members of congress.

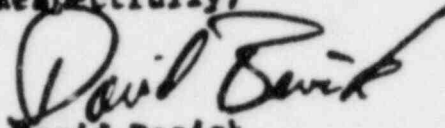
The Environmental Policy Institute is a non-profit, tax exempt public interest organization located in the District of Columbia. The Institute has monitored and participated in the Commission's development of uranium mill tailings regulations and implementation of the Uranium Mill Tailings Radiation Control Act of 1978 and subsequent amendments since 1978.



The information the Institute hereby requests will be used exclusively in the public interest to assure that the Commission complies with P.L. 95-604 and P.L. 97-415 requiring it to promulgate regulations to protect public health and safety and the environment from the the hazards of uranium mill tailings in a timely manner.

The Institute therefore requests a waiver of fees under 5 U.S.C. 552(a)(4)(A).

Respectfully,

A handwritten signature in dark ink, appearing to read "David Berick", written in a cursive style.

David Berick  
Director, Nuclear Waste and  
Safety Project