



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

June 29, 1984

Docket No. 50-382

NOTE FOR: Waterford Unit 3 Team Members

FROM: Dennis M. Crutchfield
Waterford Team Leader

SUBJECT: FREEDOM OF INFORMATION ACT (FOIA) REQUESTS

We have received a number of FOIAs relative to the work being done by the team at Waterford. In accordance with the law, we have to make available to the public "agency records." I have enclosed a copy of an announcement from the Chairman relative to our obligations under the FOIA for your information.

I have informed the NRC FOIA staff that the team will make available all "agency records" whether requested or not dealing with the teams activity. The documents will not be made available until after completion of our safety review and publication of the SSER. Consequently, you should not dispose of any draft or other "agency records." Rather a copy should be made and sent to me so that it can be included in the package that is to be made publically available. To dispose of pertinent records once a request is received is against the law. We will however protect the identity of those requesting confidentiality. Before I respond, any information that could lead to a confidential source will be withheld.

I appreciate your help and am awaiting copies of relevant documents from you.

Dennis M. Crutchfield
Dennis M. Crutchfield
Waterford Team Leader

Enclosure:
As stated

cc w/enclosure:
J. Collins, IV
J. Felton, FOIA Branch
D. Grimsley, FOIA Branch
E. Shomaker, OELD
T. Ippolito, Comanche Peak Team Leader
J. Gagliardo

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

ANNOUNCEMENT NO. 12

DATE: February 8, 1984

TO: ALL NRC EMPLOYEES

SUBJECT: OBLIGATIONS UNDER THE FREEDOM OF INFORMATION ACT
(FOIA)

The Commission has recently had occasion to examine the NRC's FOIA process. The Commission believes that, in light of this recent experience and a study coordinated by the General Counsel in conjunction with OELD and the Division of Rules and Records (DRR), the NRC's FOIA process is generally adequate to accomplish its important task. Uniformity of FOIA policy, consistency of implementation, and timeliness in processing should be the hallmarks of NRC's FOIA process. There are some areas, however, where improvement is warranted, and DRR and the legal staff have been instructed to implement changes to NRC rules and guidelines. I want to take this opportunity to remind you of your own duties under the FOIA. Each office or employee is expected to be promptly responsive to the agency's duty to provide non-exempt information to the public under the Act.

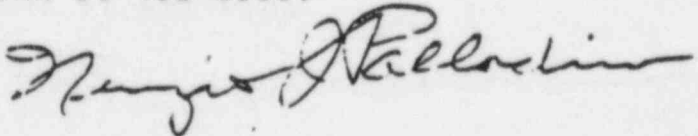
1. Each of you may be directed, at some time, to search your files in response to an FOIA request. The scope of the request will be generally described by DRR in a memorandum to your office. This request will be referred, in turn, to your office FOIA Coordinator and to a senior staff member familiar generally with the work of the office and designated to assist in processing the request. If you believe the scope is too narrowly or too broadly cast by DRR, you should immediately tell the office FOIA Coordinator or the senior staff member who will resolve the matter in conjunction with DRR. When a search is undertaken, you should seek to identify to DRR all agency records in your files or those of your office which are responsive to the request, whether the records were generated in your office, another office, or outside the NRC.

Records of a clearly personal nature are not included. Your office will normally provide copies of its own documents to DRR; where a document generated outside of your office is expressly needed by DRR, your office will also provide that document. Exempt records originated or received in a Commissioner's Office, which are not circulated outside of the office, should be identified but not provided to DRR.

2. The FOIA encompasses only "agency records", that is, all documents (including drafts) relating to agency affairs that are (a) created or obtained during the course of agency business, and (b) still subject to the agency's control. Personal records are those documents, such as uncirculated handwritten notes, which, though relating to agency affairs, are made and retained or disposed of by personal choice and are not subject to agency control. They are not "agency records". Some documents generated outside the agency (e.g., by the Congress or the Office of the President) also may not be agency records, depending upon the restrictions attached to the document by the originator and the use of the document by the agency. If there is any question about this subject with reference to a particular document, please contact DRR directly.
3. Except for documents which NRC is required by law to retain for specific periods, all other documents, including drafts, background materials, notes, and extra copies of office-filed documents may be retained or destroyed according to office policy or by personal choice. Offices may have policies which restrict the amount, or type, of documents retained in office or Branch files to those which management believes adequately support or explain particular actions. You may, as a practical matter, maintain documents that would be useful in the review of your work by superiors for some time after the work is finalized. The FOIA, however, reaches both office files and your files. As a legal matter, you may not destroy, remove, or fail to identify any documents once an FOIA request for them is received. If you are contemplating destroying records and you have questions or concerns, DRR, the Division of Technical Information and Document Control (TIDC), or the legal staff should be consulted. For your information, the NRC's list of documents to be retained is in NUREG-0910, "NRC Comprehensive Records Disposition Schedule" (July 1982) and Revision 1 (May 1983).

4. Your office director is responsible for recommending whether to release or withhold, in whole or in part, each agency record identified in your office. For each withheld document, NRC is obliged to determine whether some portion may be segregated (that is, separated out from the rest - by sentence, or group of sentences, or paragraph in such a way that the passage would make sense) and released. See 10 CFR § 9.5(b), NRC Manual Chapter 0211, Appendix, Part I, A.5. Under NRC regulations, you should also attempt to determine whether a document could be released upon removal of names and other details which would identify individuals whose privacy or confidentiality warrant protection. 10 CFR §9.6. If so, you should identify and advise DRR to excise those names and features such as job title, organization, or similar details that would lead to the person whose privacy should be protected. For documents to be withheld, DRR requires the date, author, recipient, and subject; a one-sentence description; and a practical reason to withhold. DRR and the legal staff will subsequently make the legal determination regarding the NRC's ability to withhold.

You are expected to give your full attention to these matters and are requested to bring any questions or concerns directly to the attention of Joe Felton, Director, DRR at 492-7211 or Don Grimsley, Acting Chief, FOI/PA Branch, DRR at 492-8133.



Nunzio J. Palladino
Chairman