



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC-2018-000318

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RESPONSE TYPE

INTERIM

FINAL

REQUESTER:

David Lochbaum, Union of Concerned Scientists

DATE:

04/02/2018

DESCRIPTION OF REQUESTED RECORDS:

"Digital copies of the 'Study of Reprisal and Chilling Effect for Raising Mission-Related Concerns and Differing Views at the NRC' (M17352A430), transmittal memo (ML1735A411), and all of documents in ADAMS package ML17352A434."

PART I. -- INFORMATION RELEASED

You have the right to seek assistance from the NRC's FOIA Public Liaison. Contact information for the NRC's FOIA Public Liaison is available at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>

- Agency records subject to the request are already available on the Public NRC Website, in Public ADAMS or on microfiche in the NRC Public Document Room.
- Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

PART I.A -- FEES

NO FEES

AMOUNT*

*See Comments for details

- You will be billed by NRC for the amount listed.
- You will receive a refund for the amount listed.
- Fees waived.

- Minimum fee threshold not met.
- Due to our delayed response, you will not be charged fees.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
 - We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
 - Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 90 calendar days of the date of this response by sending a letter or e-mail to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal." You have the right to seek dispute resolution services from the NRC's Public Liaison, or the Office of Government Information Services (OGIS). Contact information for OGIS is available at <https://ogis.archives.gov/about-ogis/contact-information.htm>

PART I.C COMMENTS (Use attached Comments continuation page if required)

Please note that ADAMS package ML17352A434 consists only of the two records (ML17352A430 and ML1735A411) you specifically requested.

Signature - Freedom of Information Act Officer or Designee

Stephanie A. Blaney

Digitally signed by Stephanie A. Blaney

Date: 2018.04.02 09:29:50 -04'00'



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PART II.A -- APPLICABLE EXEMPTIONS

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by the statute indicated.
 - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
 - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
 - 41 U.S.C. 4702(b), which prohibits the disclosure of contractor proposals, except when incorporated into the contract between the agency and the submitter of the proposal.
- Exemption 4: The withheld information is a trade secret or confidential commercial or financial information that is being withheld for the reason(s) indicated.
 - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.390(d)(1).
 - The information is considered to be another type of confidential business (proprietary) information.
 - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
 - Deliberative process privilege.
 - Attorney work product privilege.
 - Attorney-client privilege.
- Exemption 6: The withheld information from a personnel, medical, or similar file, is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
 - (A) Disclosure could reasonably be expected to interfere with an open enforcement proceeding.
 - (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
 - (D) The information consists of names and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
 - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
 - (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- Other

PART II.B -- DENYING OFFICIALS

In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.

| DENYING OFFICIAL | TITLE/OFFICE | RECORDS DENIED | APPELLATE OFFICIAL | |
|---------------------|--------------|--|-------------------------------------|--------------------------|
| | | | EDO | SECY |
| Stephanie A. Blaney | FOIA Officer | transmittal memo (in part) & study (in full) | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> |

Appeals must be made in writing within 90 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."

January 12, 2018

MEMORANDUM TO: Anne T. Boland, Director
Office of Enforcement

FROM: Renée M. Pedersen */RA/*
Sr. Differing Professional Views Program Manager
Office of Enforcement

SUBJECT: STUDY OF REPRISAL AND CHILLING EFFECT FOR RAISING
MISSION-RELATED CONCERNS AND DIFFERING VIEWS AT
THE NUCLEAR REGULATORY COMMISSION

This memorandum transmits the results of a study conducted by the Office of Enforcement (OE) in response to the tasking identified in the third action item in the June 9, 2016, Agency Action Plan. The focus of the study is on developing and enhancing activities that address concerns of reprisal and chilling effect for raising mission-related concerns and differing views (i.e., protected activity/protected disclosure). The study does not assess the agency's existing differing views processes or any other agency processes. The goal was to gain a better understanding of the issues and maximize potential strategies for improvements to support employee engagement and ultimately, the U.S. Nuclear Regulatory Commission (NRC) mission.

(b)(5)



CONTACT: Renée Pedersen, OE
(301) 287-9426

(b)(5)



As next steps, the considerations identified above will be evaluated in concert with offices with programmatic and legal responsibilities. A proposal will be made to the Executive Director for Operations on recommended options to be pursued in support of closure of the Agency Action Plan tasking and for sharing the report with other offices, the OIG and NTEU.

Enclosure:
As stated

cc: Victor M. McCree, EDO
Daniel H. Dorman, EDO
Michael R. Johnson, EDO

SUBJECT: STUDY OF REPRISAL AND CHILLING EFFECT FOR RAISING MISSION-RELATED CONCERNS AND DIFFERING VIEWS AT THE NUCLEAR REGULATORY COMMISSION Date: January 12, 2018

ADAMS Package: ML17352A434
MEMO: ML17352A411
Enclosure: ML17352A430

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|---------------|------------|------------|------------|
| OFFICE | OE: DVPM | NMSS | OE: D |
| NAME | RPedersen | PHolahan | ABoland |
| DATE | 12/18/2017 | 01/10/2018 | 01/11/2018 |

OFFICIAL RECORD COPY