



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2018-000545/546

1

RESPONSE TYPE

INTERIM

FINAL

REQUESTER:

David Lochbaum

DATE:

06/14/2018

DESCRIPTION OF REQUESTED RECORDS:

ML14063A088, ML18059A091 and ML18059A237

PART I. -- INFORMATION RELEASED

- The NRC has made some, or all, of the requested records publicly available through one or more of the following means: (1) <https://www.nrc.gov>; (2) public ADAMS, <https://www.nrc.gov/reading-rm/adams.html>; (3) microfiche available in the NRC Public Document Room; or FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>.
- 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 Part I.D -- Comments) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Part I.D -- Comments.

PART I.A -- FEES

AMOUNT

- You will be billed by NRC for the amount indicated.
- You will receive a refund for the amount indicated.
- Fees waived.
- Since the minimum fee threshold was not met, you will not be charged fees.
- 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"). See 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. If you submit an appeal by mail, address it to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Mail Stop T-2 F43, Washington, D.C. 20555-0001. You may submit an appeal by e-mail to FOIA.resource@nrc.gov. You may fax an appeal to (301) 415-5130. Or you may submit an appeal through FOIA Online, <https://foiaonline.regulations.gov/foia/action/public/home>. Please be sure to include on your submission that it is a "FOIA Appeal."

PART I.C -- REFERENCES AND POINTS OF CONTACT

You have the right to seek assistance from the NRC's FOIA Public Liaison by submitting your inquiry at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>, or by calling the FOIA Public Liaison at (301) 415-1276.

If we have denied your request, you have the right to seek dispute resolution services from the NRC's Public Liaison or the Office of Government Information Services (OGIS). To seek dispute resolution services from OGIS, you may e-mail OGIS at ogis@nara.gov, send a fax to (202) 741-5789, or send a letter to: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. For additional information about OGIS, please visit the OGIS website at <https://www.archives.gov/ogis>.



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PART I.D -- COMMENTS

Please note that, since the date of your requests, these three records have been removed from ADAMS. However, because the NRC was able to locate the records by their accession numbers when your requests were received, we have processed the records in the following manner.

The record you identified as ML18059A091 is an annotated copy of the Executive Director for Operations [EDO]'s appeal decision in DPO-2017-004. The records you identified as ML14063A088 and ML18059A237 are memoranda apparently prepared by the DPO submitter after issuance of, and in response to, the EDO's appeal decisions in DPO-2014-001 and DPO-2017-004. As you are aware, Management Directive 10.159 establishes the Differing Professional Opinion [DPO] program and sets forth the policies underlying, and the roles and responsibilities of NRC staff, in the DPO process. The DPO process includes the right of the DPO submitter to request that the DPO file be made publicly available. The records that comprise the official DPO files for DPO-2014-001 and DPO-2017-004, which do not include these three records, are already publicly available, at <https://www.nrc.gov/docs/M1527/ML15273A079>, and <https://www.nrc.gov/docs/ML1807/ML18078A786.pdf>, respectively. Identical copies of these records were not located in the DPO program's files. These records are strictly the author's personal responses to what transpired with respect to the DPO's he had submitted, and do not reflect any NRC position. They are not agency records. Accordingly, as personal records, they are not subject to the FOIA.

Signature - Freedom of Information Act Officer or Designee

Stephanie A. Blaney

Digitally signed by Stephanie A. Blaney

Date: 2018.06.14 07:52:57 -04'00'