

FOIA - FOIA Request

From: "Scott Amey" <scott@pogo.org>
To: <FOIA@nrc.gov>
Date: 10/15/2007 12:09 PM
Subject: FOIA Request

FOI/PA REQUEST
Case No.: 2008-0018
Date Rec'd: 10-15-07
Specimens: 5 requests
Related Case: _____

October 15, 2007

U.S. Nuclear Regulatory Commission
 Freedom of Information Act and Privacy Act (FOIA/PA) Officer
 Mail Stop T5-F11
 Washington, DC 20555-0001

RE: FOIA REQUEST

Dear FOIA/PA Officer:

I am making this request under the Freedom Of Information Act ("FOIA"), 5 U.S.C. § 552. Please provide all records and information pertaining to:

- 1) The NRC's investigation into security guards falling asleep at the Peach Bottom Nuclear Power Plant. This problem was described in a signed registered letter from a former Wackenhut employee to an NRC Resident Inspector in March on 2007. The response should include any internal and external documents, including, but not limited to any notices, reports, letters, memorandums, emails, faxes, phone conversation notes, investigative files, transcripts, or other written or electronic records within the NRC and Region 1, and to and from any employee or agent of the NRC, Exelon, Wackenhut, and any other related party.
- 2) The NRC's investigation into the source of the complaint, any other person known to report that guards were falling asleep, and any security guard or person accused of sleeping on duty at the Peach Bottom Nuclear Power Plant.
- 3) Any previous tips, complaints, hotline allegations, studies, and reports made to the NRC or Region 1 about guards falling asleep at the Peach Bottom Nuclear Power Plant, including the subsequent reports, results, findings, remedial measures, or other outcomes.

I request a waiver of all costs associated with fulfilling this submission pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). Disclosure of the requested records will further the "public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest" of POGO. Specifically, POGO intends to use the requested records to highlight the NRC's efforts to provide security at and protect nuclear power plants. POGO will use the records to contribute to the public's understanding of government operations and activities. I have included a FOIA Fee Waiver Supplement to provide a detailed account of POGO's planned use of the requested information and to fully respond to NRC's fee waiver criteria governed by 10 C.F.R. § 9.41(b). SEE BELOW.

POGO investigates, exposes, and seeks to remedy systemic abuses of power, mismanagement, and subservience by the federal government to powerful special interests. Founded in 1981, POGO is a politically-independent, nonprofit watchdog that promotes a government that is accountable to the citizenry. POGO disseminates information about its

activities to thousands of concerned citizens, policymakers, and the media via email, direct mail, and its web site <http://www.pogo.org>, which receives over 500,000 hits monthly. The information provided by the agency will be used for the following activities: publication by email and on our website; publication in reports and newsletters issued by POGO; publication in the newsletters of affiliated nonprofit organizations; efforts to educate Congress, the Executive Branch, and other policymakers in Washington, DC; or investigational projects conducted in conjunction with the news media.

If this request is denied in full or in part, please cite the exemptions pursuant to 5 U.S.C. § 552(b) that justify the denial. If an exemption applies, however, please consider exercising the agency's discretionary release powers to disclose the records. Additionally, please release all reasonably segregable portions of the records that do not meet an exemption.

I look forward to your response within 20 days of the receipt of this request, unless, in the case of "unusual circumstances," the time limitation is "extended by written notice." I am aware that I have a right to appeal if this request is wholly or partially denied or if the agency fails to respond within 20 days, and that, if successful, a federal district court may assess "reasonable attorney fees and other litigation costs." 5 U.S.C. § 552(a)(4)(E).

Please contact me if this request requires further clarification. Thank you for your prompt attention to this matter.

Sincerely,

Scott H. Amey
General Counsel
scott@pogo.org

October 15, 2007

U.S. Nuclear Regulatory Commission
Freedom of Information Act and Privacy Act (FOIA/PA) Officer
Mail Stop T5-F11
Washington, DC 20555-0001

RE: FEE WAIVER SUPPLEMENT

To whom it may concern:

I have included this FOIA Fee Waiver Supplement to provide a detailed account of POGO's planned use of the requested information and to fully respond to NRC's fee waiver criteria governed by 10 C.F.R. § 9.41(b).

(1) Describe the purpose for which the requester intends to use the requested information.

POGO intends to use the requested records to highlight the measures and policies that the NRC has implemented to provide security at and protect nuclear power plants. We have conducted numerous investigations into security at both nuclear power plants and nuclear weapons sites. Those investigations have resulted in improved security and greater public awareness of homeland security programs. POGO hopes that the requested records will show NRC's activities to protect the public.

(2) Explain the extent to which the requester will extract and analyze the substantive content of the agency record.

Previous FOIA responses have led to four POGO reports on security issues:

- A. U.S. Nuclear Weapons Complex: Y-12 and Oak Ridge National Laboratory at High Risk, October 16, 2006. POGO analysis concludes that Y-12, the U.S. stockpile of highly-enriched uranium, will not meet the government's security standards for the next seven years, and Oak Ridge National Lab is also at high risk.
- B. U.S. Nuclear Weapons Complex: Homeland Security Opportunities. As internal tests and analyses have shown, the Department of Energy cannot adequately protect America's voluminous stockpile of weapons grade nuclear material, which is housed at 13 locations throughout the country. In the post-9/11 era, we know that suicidal terrorists are capable of massive attacks – the worst possible scenario would be terrorists penetrating a nuclear facility and building an improvised nuclear bomb, which could have a similar force of the Hiroshima blast. In this report, POGO makes recommendations that will reduce the number of sites containing these nuclear materials from 13 down to seven. May 19, 2005.
- C. Nuclear Power Plant Security: Voices from Inside the Fences. POGO interviewed more than 20 security guards protecting over 20% of the nuclear reactors across the country. Of those interviewed, security guards at only one of four nuclear plants are confident their security force could currently defeat a terrorist attack. September 12, 2002.
- D. U.S. Nuclear Weapons Complex: Security At Risk. Our investigation revealed that the Department of Energy (DOE) is failing to adequately protect the American public from the possibility of a terrorist attack on one of its nuclear weapons facilities. Guards at the facilities are poorly equipped, spread thin, and lack training needed to defend against a real terrorist attack. The DOE stores tons of weapons-grade plutonium and uranium that could be stolen or used to create and detonate an improvised nuclear device. October, 2001.

POGO hopes that the requested records will highlight the NRC's procedures and policies to protect nuclear materials and facilities. POGO will review the documents to determine effectiveness of the NRC's policies and investigations to determine if any additional recommendations are needed to improve the system.

(3) Describe the nature of the specific activity or research in which the agency records will be used and the specific qualifications the requester possesses to utilize information for the intended use in such a way that it will contribute to public understanding.

As stated above, POGO has investigated security issues for many years. The system is are often confused and misinterpreted by federal employees and the public. The requested records will help POGO expose how the system works and government attempts to protect nuclear facilities and the public.

(4) Describe the likely impact on the public's understanding of the subject as compared to the level of public understanding of the subject before disclosure.

POGO's investigation into sleeping guards will look at the big picture issue of sleeping, but also at the underlying issues of why the incident occurred. For example, the amount of time the guards are on the job, the number of days each guard works, the number of guards, etc. that information hasn't been presented to the public and therefore we feel that our investigation will provide a unique contribution to the public's knowledge about nuclear power plant security.

(5) Describe the size and nature of the public to whose understanding a contribution will be made.

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(6) Describe the intended means of dissemination to the general public.

The records provided by the NRC will be used for the following activities: publication by email, on our website, in reports, and newsletters issued by POGO and disseminated to POGO supporters, the public, the media, nonprofit organizations, Congress, Executive Branch officials, and other policymakers.

(7) Indicate if public access to information will be provided free of charge or provided for an access fee or publication fee.

POGO does not charge for access to its web site, reports, newsletters, or other publications. Additionally, POGO does not have a financial or commercial interest in the records sought in the attached FOIA request.

(8) Describe any commercial or private interest the requester or any other party has in the agency records sought.

POGO has no financial interest in the requested records.

Please contact me if this request requires further clarification. Thank you for your prompt attention to this matter.

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