



Australian Government
Australian Radiation Protection
and Nuclear Safety Agency



31 May 2024

Mr Jake Gerlach
foi+request-11391-ec8ef07b@righttoknow.org.au

Dear Mr Gerlach,

Freedom of Information Request – 20240506

I refer to your request for access to documents made under the *Freedom of Information Act 1982* (Cth) (the FOI Act), received by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) on 6 May 2024 (ACST).

You sought access to the following documents:

Pursuant to the FOI Act 1982 (Cth) requested is all records regarding breaches by ANSTO of their radioactivity licence in relation to technetium.

On 7 May 2024, ARPANSA acknowledged receipt of your FOI request and provided you with some useful links to information regarding licence breaches that could have satisfied your request.

On 10 May 2024, ARPANSA advised that as you had not responded to the abovementioned email, the FOI request would be processed. You were informed that only a small number of ANSTO facilities directly work with technetium and if you were after other specific documents, to refine the scope of your FOI request to include a date range, the relevant source or facility licence (if known) and types of documents (e.g. correspondence between ARPANSA and ANSTO) if possible.

On 11 May 2024, you refined the scope of your FOI request as follows:

I am happy for names and other personal details not being supplied.

Please accept limitation of my request to any breaches that have resulted in communication between ANSTO and ARPANSA and those that relate to Tech 99 only and not Tech m.

As your request was made on 6 May 2024, a decision on your request is due by 5 June 2024.

Decision

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

I have refused your request for documents under section 24A of the FOI Act on the basis that all reasonable steps have been taken to find the documents you have requested and I am satisfied that no documents exist.

Reasons for Decision

Material taken into account

In making my decision, I have had regard to the following:

- your FOI request
- the FOI Act
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act
- searches conducted by relevant ARPANSA staff.

Requests may be refused if documents cannot be found, do not exist or have not been received (section 24A)

Section 24A of the FOI Act provides as follows:

Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

(1) An agency or Minister may refuse a request for access to a document if:

(a) all reasonable steps have been taken to find the document; and

(b) the agency or Minister is satisfied that the document:

(i) is in the agency's or Minister's possession but cannot be found; or

(ii) does not exist.

Pursuant to section 24A of the FOI Act, I have refused your request for access to documents on the basis that all reasonable steps have been taken to find the documents you have requested and no documents exist.

Searches Undertaken

The FOI Act requires that all reasonable steps have been taken to locate documents within the scope of an FOI request. ARPANSA has conducted searches within the Regulatory Services Branch in ARPANSA due to the nature of the request, i.e. documents regarding *'breaches by ANSTO of their radioactivity license in relation to technetium'* that are generally managed by this area.

The Regulatory Services Branch did not locate any documents relevant to your request. I was advised that the branch conducted a thorough search of both ARPANSA's Licence Administration Database and record

management system and have found no records of any breaches directly involving 'Tech 99' (Tc-99). Search terms included 'breach', 'licence', 'ANSTO', 'technetium' and 'Tc-99'.

Having consulted with the relevant branch area and having undertaken a review of the records of the various search and retrieval efforts, I am satisfied that a reasonable search has been undertaken in response to your request and that no relevant documents exist.

Findings

Based on the advice from the Regulatory Services Branch, the terms of your FOI request and the searches undertaken, I am satisfied that all reasonable steps have been taken to find documents that fall within the scope of your request and that the documents do not exist.

I have made the decision to refuse your request for access to documents under section 24A of the FOI Act, on the basis that no documents exist.

Your Review Rights

If you are dissatisfied with the searches we did to locate documents related to your request, you may apply for internal review or Information Commissioner review of the decision. The Information Commissioner is of the view that it is usually better for a person to seek internal review of an agency decision before applying for an Information Commissioner review. Internal review enables an agency to take a fresh look at its original decision and the process can be quicker than external review.

Internal review

Under section 54 of the FOI Act, you may apply in writing to ARPANSA for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

email: foidr@oaic.gov.au

post: GPO Box 5288 Sydney NSW 2001

More information about Information Commissioner reviews is available on the Office of the Australian Information Commissioner website: <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review>.

FOI complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing. Complaints can be lodged in one of the following ways:

online: https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICCA_1

email: foidr@oaic.gov.au

post: GPO Box 5288 Sydney NSW 2001

More information about complaints is available at the Office of the Australian Information Commissioner website: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

If you are not sure whether to lodge an Information Commissioner review or an Information Commissioner complaint, the Office of the Australian Information Commissioner has more information at:

<https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

Questions about this decision

If you would like to discuss this decision, please contact the FOI Team at foi@arpansa.gov.au.

Kind regards,



Laura Antoniazzi
Legal Counsel
Office of the General Counsel
Australian Radiation Protection and Nuclear Safety Agency