



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

RESPONSE TYPE FINAL PARTIAL

REQUESTER

Marvin Resnikoff

DATE

DEC 03 2002

PART I. -- INFORMATION RELEASED (See checked boxes)

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- APPENDICES **D** Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- APPENDICES **A & B*** Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- APPENDICES **A** 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.
- This completes NRC's action on your request.

PART I.A -- FEES

- Fees
- AMOUNT * You will be billed by NRC for the amount listed. None. Minimum fee threshold not met.
- \$ You will receive a refund for the amount listed. Fees waived.

* See comments for details

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

- No agency records subject to the request have been located.
- Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

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

*The record identified on enclosed Appendix B is copyrighted and therefore, is not included in this response. If you wish to review the record, please contact the NRC Public Document Room on 1-800-397-4209.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

FOIA/PA 2002-0385

DEC 03 2002

PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES
C

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- Exemption 2: The withheld information relates solely to the internal personnel rules and procedures of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by 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., Section 253(b), subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), 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 commercial or financial information that is being withheld for the reason(s) indicated.
 - The information is considered to be confidential business (proprietary) information.
 - 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 2.790(d)(1)
 - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.790(d)(2).
- Exemption 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
 - Deliberative process: Disclosure of predecisional information would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Where records are withheld in their entirety, the facts are inextricably intertwined with the predecisional information. There also are no reasonably segregable factual portions because the release of the facts would permit an indirect inquiry into the predecisional process of the agency.
 - Attorney work-product privilege (Documents prepared by an attorney in contemplation of litigation)
 - Attorney-client privilege. (Confidential communications between an attorney and his/her client)
- Exemption 6. The withheld information 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 enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators).
 - (C) Disclosure would constitute an unwarranted invasion of personal privacy.
 - (D) The information consists of names of individuals 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 (Specify)

PART II.B -- DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) of the U.S. Nuclear Regulatory Commission regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Martin J. Virgilio	Director, NMSS	Appendix C	XX		

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

APPENDIX A
 RECORDS BEING RELEASED IN THEIR ENTIRETY
 (If copyrighted identify with *)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	10/22/01	Slide -- An Analysis Of A Spent Fuel Transportation Cask Under Rail Tunnel Fire Conditions/13 pages
2.	01/11/02	E-mail from R. Broseus, NRC, to C. Bajwa, NRC, Baltimore Tunnel/1 page
3.	01/14/02	E-mail from J. Solis, NRC, to C. Bajwa, NRC, Baltimore Fire heat output/1 page
4.	01/16/02	E-mail from James Quintiere to Christopher Bajwa regarding Tunnel Fire Analysis. (1 page)
5.	01/23/02	E-mail from J. Solis, NRC, to C. Bajwa, NRC, heat output/1 page
6.	02/08/02	Letter from John Linehan to S. Rinehart, NIST, Re: Request for proposal/8 pages
7.	02/21/02	Slides -- Response to Baltimore Tunnel Fire/2 pages
8.	03/07/02	Letter from John Linehan to S. Rinehart, NIST, Re: Interagency Agreement/8 pages
9.	03/14/02	Acceptance notification of interagency agreement/9 pages
10.	04/01/02	E-mail from D. Ammerman, Sandia, to W. Brach, NRC, re: National Geographic Article/2 pages
11.	04/08/02	E-mail R. Lewis, NRC, to C. Bajwa, NRC, Re: Fire Test Info/1 page
12.	04/10/02	Slide -- Status Briefing on Staff Response to the Baltimore Tunnel Fire Accident/11 pages
13.	04/10/02	Slide -- Status Briefing on Staff Response to the Baltimore Tunnel Fire Accident/7 pages
14.	04/10/02	E-mail from J. Guttman to J. Strang, NTSB, Re: meeting with Commissioner Merrifield/1 page
15.	05/13/02	E-mail from K. McGrattan to C. Bajwa, re: More info on Howard St. Tunnel Fire/1 page

APPENDIX A Continued
RECORDS BEING RELEASED IN THEIR ENTIRETY
(If copyrighted identify with *)

16. 05/21/02 E-mail from Mark Delligatti to Deborah DeMarco, Karen Long, Mysore Nataraja, Re: Fwd: Analysis of Relationship Between the proposed Center Effort Analysis of Railroad Car/1 page
17. 05/23/02 Slides -- An Analysis Of A Spent Fuel Transportation Cask Under Severe Accident Conditions/16 pages
18. 06/05/02 E-mail from M. W. Hodges to Internet:bearhalstead, NIST Meeting/1 page
19. 06/13/02 E-mail from J. Guttman, NRC, to Bajwa, Hodges, Solis, all NRC, Re: Preliminary Calc/1 page
20. 06/13/02 E-mail from C. Bajwa, to KIVOWIJ@ntsb.gov, Re: Calcs, on the Baltimore Tunnel/1 page
21. 08/05/02 Slide -- An Analysis Of A Spent Fuel Transportation Cask Under Severe Fire Accident Conditions/17 pages
22. 08/13/02 E-mail from M. W. Hodges to Miller, Brach, Guttman, Federline, Virgilio attaching revised BTF summary/1 page
23. 08/13/02 E-mail from C. Bajwa to W. Hodges, subject: Revised BTF summary. (1 page)
24. 2002 Slide -- An Analysis of a Spent Fuel Transportation Cask Under Severe Accident Conditions/15 pages
25. Undated An Analysis of a Spent Fuel Transportation Cask Under Rail Tunnel Fire Conditions/1 page
26. Undated Response to Resnikoff Report/2 pages
27. Undated Slides - Countering the Fear Campaign - Transportation Specifics, a report by Eileen Supko, Energy Resources International, Inc., 23 pages
28. Undated Notes re: question from W. Hodges about how much heat tripropylene puts out. (1 page)

**APPENDIX B
COPYRIGHTED RECORD**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	04/02/02	E-mail from R. Lewis, NRC, to Pstrak, Brach, Guttman, Monninger, Gruss, Delligatti, Tokar, Osgood, NRC, Re: National Geographic Article, with attached article. (5 pages)

**APPENDIX C
RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	04/11/02	Preliminary Report by PNNL re: thermal analysis/20 pages/ EXEMPTION 5
2.	05/03/02	Questions from and draft answers to Congressman Markey (12 pages) EXEMPTION 5
3.	07/15/02	Memo from D. DeMarco to B. Meehan, NRC, re: Request for the Center to Prepare an Operations Plan for SFPO for the New Charter Effort Entitled "Technical Support from the Center for the Analysis of Railroad Car Materials and Coatings Exposed to Tunnel Fire Environment." (6 pages) EXEMPTION 5
4.	Undated	Memo to B. Brach, NRC, from J. Guttman, NRC, re: proposal to conduct an analysis of the Baltimore tunnel fire. (1 page) EXEMPTION 5
5.	Undated	Memo from J. Guttman, NRC, to M. Virgilio, NRC, re: update and proposed schedule for Baltimore tunnel fire analysis. (2 pages) EXEMPTION 5
6.	Undated	Draft undated memo from J. Guttman to M. Virgilio, subject: Update and Proposed Schedule for Baltimore Tunnel Fire Analysis. (2 pages) EXEMPTION 5
7.	Undated	Baltimore Tunnel Fire Accident Analysis. (2 pages) EXEMPTION 5
8.	Undated	Rev 5, Chg 2 - 3.9 Analysis of Railroad Car Materials and Coatings Exposed to a Tunnel Fire Environment. (3 pages) EX. 5
9.	Undated	Comments on NIST report on Howard Street Tunnel. (2 pages) EX. 5

**APPENDIX D
RECORD ALREADY AVAILABLE IN THE PDR**

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	09/13/01	ML012560109	Memorandum from A. Vietti-Cook to W. Travers, subject: Staff Requirements - COMJSM-01-0002- Transportation of Spent Fuel. (1 page)