

2003-0109

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

RESPONSE TYPE FINAL PARTIAL

REQUESTER

Charles Fitzpatrick

DATE

APR 22 2003

PART I. -- INFORMATION RELEASED

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- APPENDICES A** 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** 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 B** 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

AMOUNT *

\$ 253.71

* See comments for details

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

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)

Records have been referred to the U.S. Department of Energy for their review and direct response to the requester. Record A/7 contains copyrighted information consisting of 86 pages and is therefore not enclosed. Should you wish to view these records, please contact the NRC's Public Document Room (PDR) at 301-415-4737 or 1-800-397-4209, or by e-mail to pdr@nrc.gov.

The actual fees for processing your request are:

4.5 hrs. professional search @ \$42.94 per hr. = \$193.36
 1 hr. clerical search @ \$20.94 per hr. = \$20.94
 50 minutes professional review @ \$42.94 per hr. = \$36.00
 15 minutes clerical review @ \$20.94 per hr. = \$5.25
 Duplication of 226 pages @ \$0.20 per page = \$45.20
 Total = \$300.75 (LESS ADVANCE PAYMENT OF \$554.46 = \$253.71)

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

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

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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
Sandy M. Joosten	Executive Assistant, Office of the Secretary	Appendix C		✓	

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 ALREADY PUBLICLY AVAILABLE

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	Various	Listing of publicly available records

10182/4620#1

ACN: 9409020106
DATE: 930407
DTC: CM/*MEMORANDUMS-CORRESPONDENCE
DTC: MEMO/*INTERNAL OR EXTERNAL MEMORANDUM
EST_PAGES: 13

L1: FORWARDS COMMENTS ON SECY-93-073 RE PROPOSED EPA STDS FOR
L2: TRU & HLW DISPOSAL AT SITES OTHER THAN YUCCA MOUNTAIN
L3: (NEGATIVE CONSENT).STAFF SHOULD BE COMMENDED FOR SUPERB JOB
L4: IN PROMPTLY PREPARING SUCH HIGH QUALITY COMMENTS.

FICHE: 81123:042-81123.099
PFL: COMMS-NRCC-CORRESPONDENCE940629
REF: WM-11/?
AN#1: CURTISS J R
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 940629-9408030066A
OTHER: 9408030066

10182/4392#2

ACN: 9409010183
DATE: 900604
DTC: CM/*MEMORANDUMS-CORRESPONDENCE
DTC: MEMO/*INTERNAL OR EXTERNAL MEMORANDUM
EST_PAGES: 1

L1: APPROVES REG GUIDE & REVISED LSS TOPICAL GUIDELINES PROPOSED
L2: IN SECY-90-187 TO FOCUS ON INFO RELEVANT TO LICENSING HIGH
L3: LEVEL WASTE REPOSITORY AT YUCCA MOUNTAIN.

FICHE: 81122:217-81122:217
PFL: COMMS-NRCC-CORRESPONDENCE940629
REF: WM-11/?
AN#1: CURTISS J R
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 940629-9408030066A
OTHER: 9408030066

10182/4369#3

ACN: 9409010161
DATE: 910110
DTC: CM/*MEMORANDUMS-CORRESPONDENCE
DTC: MEMO/*INTERNAL OR EXTERNAL MEMORANDUM
EST_PAGES: 1

L1: AGREES W-RECOMMENDATIONS IN SECY-90-382 RE LONG-TERM USE OF
L2: WASTE ENCAPSULATION & STORAGE FACILITY SOURCES AT COMMERCIAL
L3: IRRADIATORS.COMMISSION SHOULD BE APPRISED OF NOTED STEPS.
L4: OIG SHOULD REVIEW FILE TO ENSURE LESSONS LEARNED ADDRESSED.

FICHE: 81122:187-81122:216
PFL: COMMS-NRCC-CORRESPONDENCE940629
AN#1: CURTISS J R
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 940629-9408030066A
OTHER: 9408030066

10176/7515#4

ACN: 9401060048
DATE: 920708

DTC: CM/*MEMORANDUMS-CORRESPONDENCE
DTC: MEMO/*INTERNAL OR EXTERNAL MEMORANDUM
EST_PAGES: 4
L1: POSES QUESTIONS RE REGULATORY REQUIREMENTS FOR HIGH LEVEL
L2: WASTE RESPOITORY.
FICHE: 77851:179-77851:182
PFL: COMMS-NRCC-CORRESPONDENCE931116
AN#1: CURTISS J R
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 931116-9401050001A
OTHER: 9401050001
10176/7346#5
ACN: 9401050481
DATE: 901219
DTC: CL/*CORRESPONDENCE-LETTERS
DTC: OUT/*OUTGOING CORRESPONDENCE
EST_PAGES: 3
L1: DISCUSSES REMARKS MADE DURING 901002 HEARING BEFORE
L2: SUBCOMMITTEE ON NUCLEAR REGULATION OF COMMITTEE ON ENVIRON &
L3: PUBLIC WORKS RE HIGH LEVEL NUCLEAR WASTE DISPOSAL PROGRAM.
FICHE: 77850:123-77850:125
PFL: COMMS-NRCC-CORRESPONDENCE931116
AN#1: CURTISS J R
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 931116-9401050001A
OTHER: 9401050001
10176/7285#6
ACN: 9401050417
DATE: 921030
DTC: CM/*MEMORANDUMS-CORRESPONDENCE
DTC: MEMO/*INTERNAL OR EXTERNAL MEMORANDUM
EST_PAGES: 3
L1: RECOMMENDS COMMISSION BE IN POSITION TO INTERACT CLOSELY W-
L2: NAS W-RESPECT TO HOW ISSUES RE ACCEPTABILITY OF HIGH LEVEL
L3: WASTE REPOSITORY ADDRESSED.
FICHE: 77850:068-77850:070
PFL: COMMS-NRCC-CORRESPONDENCE931116
AN#1: CURTISS J R
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 931116-9401050001A
OTHER: 9401050001
10176/6965#7
ACN: 9401050069
DATE: 910807
DTC: CM/*MEMORANDUMS-CORRESPONDENCE
DTC: MEMO/*INTERNAL OR EXTERNAL MEMORANDUM
EST_PAGES: 2
L1: DISCUSSES TECHNICAL & LEGAL IMPLICATIONS OF TECHNOLOGY-BASED
L2: STD FOR NRC HIGH LEVEL WASTE REPOSITORY LICENSING EFFORTS
L3: PER REVIEW OF DRAFT EPA HIGH LEVEL WASTE STDS.
FICHE: 77844:051-77844:062
PFL: COMMS-NRCC-CORRESPONDENCE931116
AN#1: CURTISS J R

REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 931116-9401050001A
OTHER: 9401050001

10176/6928#8

ACN: 9401050026
DATE: 900109
DTC: CM/*MEMORANDUMS-CORRESPONDENCE
DTC: MEMO/*INTERNAL OR EXTERNAL MEMORANDUM
EST_PAGES: 1

L1: REQUESTS THAT ACTION ON SECY-89-319 'IMPLEMENTATION OF EPA
L2: HIGH LEVEL WASTE DISPOSAL STDS ' BE DELAYED UNTIL COMMISSION
L3: HAS HAD OPPORTUNITY TO DISCUSS W-ACNW CONCERNS RAISED & NRC
L4: SUBMITS ANALYSIS OF DOE RECOMMENDATIONS.

FICHE: 77842:215-77842:215
PFL: COMMS-NRCC-CORRESPONDENCE931116
RPT: NACNUCLE
AN#1: CURTISS J R

REFAFFIL: ADVCM-NACNUCLE/@ADVISORY COMMITTEE ON NUCLEAR WASTE
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 931116-9401050001A
OTHER: 9401050001

10138/1256#9

ACN: 9204200251
DATE: 920309
DTC: LB/*LETTER BALLOT, NOMINATION VOTE, COMMISSION VOTING
DTC: VA/*ARCHIVE RECORDS
EST_PAGES: 3

L1: POSITIVE NOTATION VOTE RESPONSE SHEET W-COMMENTS RE
L2: SECY 91-415 'PROPOSED AMENDS TO 10CFR20 & 61 ON LOW-LEVEL
L3: WASTE SHIPMENT MANIFEST INFO & REPORTING.'

FICHE: 61378:031-61378:033
PFL: COMMS-NRCC-CORRESPONDENCE920309
RPT: AD33-1-92
FRN: 57FR14500
AN#1: CURTISS J R

REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 920309-9204200251

10136/3390#10

ACN: 9202120324
DATE: 920108
DTC: LB/*LETTER BALLOT, NOMINATION VOTE, COMMISSION VOTING
DTC: VA/*ARCHIVE RECORDS
EST_PAGES: 8

L1: POSITIVE BALLOT RE SECY-91-394 NOTICE OF PROPOSED RULEMAKING
L2: TO REVISE 10CFR61 'LICENSING REQUIREMENTS FOR LAND DISPOSAL
L3: RADIOACTIVE WASTE.'

FICHE: 60564:333-60564:340
PFL: COMMS-NRCC-CORRESPONDENCE920108
AN#1: CURTISS J R

REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 920108-9202120324

10134/7147#11

ACN: 9111200241
DATE: 911021
DTC: LB/*LETTER BALLOT, NOMINATION VOTE, COMMISSION VOTING
DTC: VA/*ARCHIVE RECORDS
EST_PAGES: 6
L1: NOTATION VOTE APPROVING SECY-91-299 'REVISED COMMENTS ON
L2: WORKING DRAFT 3 OF EPA HIGH LEVEL WASTE STDS.'
FICHE: 59783:120-59783:125
PFL: COMMS-NRCC-CORRESPONDENCE911021
AN#1: CURTISS J R
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 911021-9111200241
10132/6085#12
ACN: 9108020041
DATE: 910725
DTC: TRAN/*TRANSCRIPTS, DEPOSITIONS, NARRATIVE TESTIMONY
DTC: TT/*LEGAL TRANSCRIPTS & ORDERS & PLEADINGS
EST_PAGES: 54
L1: TRANSCRIPT OF 910725 MEETING W-ADVISORY COMMITTEE ON NUCLEAR
L2: WASTE IN ROCKVILLE MD RE STORAGE OF HIGH-LEVEL NUCLEAR
L3: WASTE & SPENT FUEL.
FICHE: 58653:225-58653:281
PFL: 10CFR--PT9.7-910725
RPT: NACNUCLE
REF: 10CFR9.7/?
AN#1: SELIN I
AN#2: ROGERS K C
AN#3: CURTISS J R
REFAFFIL: ADVCM-NACNUCLE/@ADVISORY COMMITTEE ON NUCLEAR WASTE
AA#1: NRCC/@COMMISSIONERS (POST 750119)
AA#2: NRCC/@COMMISSIONERS (POST 750119)
AA#3: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 910725-9108020041
10131/6181#13
ACN: 9106130100
DATE: 910521
DTC: LB/*LETTER BALLOT, NOMINATION VOTE, COMMISSION VOTING
DTC: VA/*ARCHIVE RECORDS
EST_PAGES: 1
L1: NOTATION VOTE RESPONSE SHEET APPROVING W-COMMENTS
L2: SECY-91-115 RE SCOPING STUDY FOR POTENTIAL NEGOTIATED
L3: RULEMAKING FOR HIGH LEVEL WASTE STDS.
FICHE: 58110:305-58110:305
PFL: COMMS-NRCC-CORRESPONDENCE910521
AN#1: CURTISS J R
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 910521-9106130100
10126/2773#14
ACN: 9009170158
DATE: 900720
DTC: LB/*LETTER BALLOT, NOMINATION VOTE, COMMISSION VOTING
DTC: VA/*ARCHIVE RECORDS
EST_PAGES: 11
L1: APPROVED & DISAPPROVED BALLOT IN PART W-COMMENTS RE

L2: SECY-90-162 ON EPA DRAFT HIGH LEVEL WASTE DISPOSAL STDS.
FICHE: 55231:264-55231:274
PFL: COMMS-NRCC-CORRESPONDENCE900720
AN#1: CURTISS J R
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 900720-9009170158
10124/6221#15
ACN: 9006220329
DATE: 900330
DTC: LB/*LETTER BALLOT, NOMINATION VOTE, COMMISSION VOTING
DTC: VA/*ARCHIVE RECORDS
EST_PAGES: 1
L1: APPROVED BALLOT W-COMMENTS RE SECY-90-098 ON 890315 BRIEFING
L2: ON ACCEPTANCE BY DOE OF GREATER THAN CLASS C WASTE.RELIABLE
L3: SYS MUST BE IN PLACE PRIOR TO DOE RECEIPT OF WASTES TO
L4: TRACK ALL WASTES ACCEPTED BY DOE FOR DISPOSAL.
FICHE: 54280:208-54280:208
PFL: COMMS-NRCC-CORRESPONDENCE900330
AN#1: CURTISS J R
REFAFFIL: NRCC/@COMMISSIONERS (POST 750119)
AA#1: NRCC/@COMMISSIONERS (POST 750119)
PACKAGE: 900330-9006220329
D END
15 HITS

**APPENDIX B
RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	9/17/90	Remarks by James Curtiss at the Symposium on Radioactive Waste Repository Licensing National Academy of Sciences National Research Council (10 pages)
2.	9/26/90	Memorandum for J Taylor from J Curtiss, Subject: Draft Testimony for the October 2, 1990 Hearing of the Federal Program for the Disposal of Spent Nuclear Fuel and High-Level Radioactive Waste (3 pages)
3.	9/20/90	Congressional Record (4 pages)
4.	10/18/90	Note to Jim from Janet, Subject: Text of Your Remarks at the NAS Symposium (11 pages)
5.	7/8/92	Memorandum for J Taylor from J Curtiss, Subject: Questions Concerning Regulatory Requirements for High-Level Waste Repository (4 pages)
6.	6/16/93	Remarks by James Curtiss at the Safewaste '93 International Conference Safe Management and Disposal of Nuclear Waste (6 pages)
7.	12/14/92	*Briefing Book, Yucca Mountain Site Tour, James R. Curtiss (188 pages) (101 pages released, 86 pages of newspaper articles)

**APPENDIX C
RECORDS WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	9/26/90	Note to JRC, et al., from Ann (1 page) (outside scope) attaching draft (2 pages) Outside Scope and Ex. 5