



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

2002-0256

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RESPONSE TYPE FINAL PARTIAL

REQUESTER

Sean Moulton / Cheryl Gregory

DATE

APR 01 2004

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 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 **TT, UU** 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 **TT, UU** 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 *
\$

* See comments for details

- 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.

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)

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
UU, VV

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
Lawrence J. Chandler	Associate General Counsel for Hearings, Enforcement and Administration	UU-8		✓	
Martin J. Virgilio	Director, Office of Nuclear Material Safety and Safeguards	UU-1-9; VV-1	✓		

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 TT
RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	09/26/01	E-mail to Mindy Landau, EDO from Scott Moore, NMSS - Subject: Release of Safeguards Information (1 page)
2.	09/26/01	E-mail to Susan Frant, NMSS from Mindy Landau, EDO - Subject: More on material to be considered for removal from Web site (1 page)
3.	09/26/01	E-mail to Mindy Landau, EDO from David Matthews, NRR - Subject: More on material to be considered for removal from Web site (1 page)
4.	10/09/01	E-mail from Donald Cool to Mindy Landau, EDO - Subject: Suggestions from Carl Paperiello to remove codes from the Web site (1 page)
5.	10/12/01	E-mail from Barry Mendelsohn to Mindy Landau, EDO - Subject: External Web Site (1 page)
6.	10/12/01	E-mail from James Kennedy to Patricia Santiago - Subject: Web sites to be removed, EPAB Branch (2 pages)
7.	10/15/01	E-mail from Dominick Orlando to Mindy Landau, EDO - Subject: Review of ADAMS documents (2 pages)
8.	10/24/01	E-mail from Patricia Rathbun to Mindy Landau, EDO - Subject: One addition to the criteria (1 page)
9.	10/26/01	E-mail to P. Goldberg from B. Hayden Re: Review of Basic References (1 page)
10.	11/16/01	E-Mail from Zan-Shing (Ray) Hsu, NRR to Thomas Smith, CIO, Re: Forwarding Two Pending Reviews by George Shu (1 page)
11.	11/16/01	E-Mail from Zan-Shing (Ray) Hsu, NRR to Thomas Smith, CIO, Re: Two Citations Considered as SGI and Official Use Only (1 page)
12.	11/16/01	E-Mail from Zan-Shing (Ray) Hsu, NRR to Thomas Smith, CIO, Re: Sensitivity of Two NUREGs (1 page)

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APPENDIX TT - continued
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
13.	11/20/01	E-mail C. Poslusny, NMSS, to W. Reckley, NRR, Re: Withholding of sensitive info (1 page)
14.	11/26/01	E-mail C. Poslusny, NMSS, to F. Sturz, NMSS, et al., Re: Sensitive info screening update (1 page)
15.	11/27/01	E-mail M. Landau, EDO, to C. Poslusny, NMSS, et al., Re: Diablo Canyon (DC) conference call on sensitive information (1 page)
16.	11/30/01	E-mail C. Poslusny, NMSS, to M. Landau, EDO, et al., Re: Action Items from meeting with Dep. EDOs (1 page)
17.	12/04/01	E-mail M. Virgilio, NMSS, to C. Reed, CIO, Re: Fwd Freedom of Information Act (1 page)
18.	12/04/01	E-mail to Mindy Landau, EDO from Martin Virgilio, NMSS - Subject: Freedom of Information Act (2 pages)
19.	12/06/01	E-mail C. Grimes, NRR, to C. Poslusny, NMSS, Re: St Lucie renewal application (1 page)
20.	12/10/01	E-mail M. Landau, EDO, to M. Delligatti, NMSS, Re: Upcoming meeting on withholding information (1 page)
21.	12/13/01	E-mail C. Grimes, NRR, to W. Reckley, NRR, Re: Upcoming meeting on withholding information (1 page)
22.	12/19/01	E-mail M. Landau, EDO, to G. Millman, RES, et al., Re: Fwd: protecting sensitive information w/att 12/19/01 e-mail M. Virgilio, NMSS, to M. Landau, EDO (2 pages)
23.	12/19/01	E-mail S. Frant, NMSS, to C. Abrams, NMSS, et al., Re: Possible questions for mtg with CEQ (1 page)
24.	12/19/01	E-mail S. O'Connor, NMSS, to PDR, Re: Review of NUREGs for Sensitive Info. (1 page)

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APPENDIX TT - continued
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
25.	12/20/01	E-Mail from Margie Kotzalas, NRR to Thomas Smith, CIO, Re: Sensitivity Review of Two NUREGs (1 page)
26.	01/03/02	E-mail M. Federline, NMSS, to D. Cool, NMSS, et al., Re: Fwd Maine Yankee License Amendment (1 page)
27.	01/03/02	E-mail M. Delligatti, NMSS, to C. Abrams, NMSS, et al., Re: Fwd DSRM-COMSECY-01-0030-Guidance to staff on release of info to public (1 page)
28.	01/16/02	E-mail R. Broseus, NMSS, to W. Reckley, Re: Rulemakings & Comments on Web site (1 page)
29.	01/16/02	Note from H. Bailey, NSIR, to G. Tracey et al., NSIR, Re: Homeland Security Vertical Information Sharing Initiative withunknow author handwritten notations (1 page)
30.	01/16/02	Note from H. Bailey, NSIR, to G. Tracey et al., NSIR, Re: Homeland Security Vertical Information Sharing Initiative with unknow author handwritten notations (1 page)
31.	01/17/02	E-mail from Richard Rosano to various Addressees on Protection of Information (1 page)
32.	03/04/02	E-mail R. Rosano, NSIR, to F. Sturz, NMSS, et al., Re: Fwd FYI 02/28/2002 Reports w/attached e-mail 02/28/02 P. Rathbun, NMSS, to F. Sturz, NMSS, (2 pages)
33.	03/07/02	E-mail to Mindy Landau from Mark Delligatti, NMSS - Subject: Recommendations "one more comment" (1 page)
34.	3/25/02	E-mail to John Hickey from M. Landau, P. Rathbun Re: Releasing lists of licensees (1 page)
35.	04/09/02	E-Mail from NRR toTeresa Linton, PDR, Re: Request for Review (1 page)
36.	Undated	NMSS Internal/External Web Site Action Request (1 page)

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APPENDIX TT - continued
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
37.	No date	Information paper. Subject: Categories of NMSS/Materials Information, Categories of RES Information (2 pages)
38.	10/12/01	E-mail from Barry Mendelsohn to Mindy Landau, EDO - Subject: Non power reactor document (1 page)

**APPENDIX UU
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	10/12/01	E-mail from Scott Moore to Mindy Landau, EDO - Subject: Due date change for Web Review (1 page) [Ex. 5]
2.	11/13/01	E-mail J. Zwolinski, NRR, to W. Reckley, NRR, Re: Fwd: Guidance for screening NRC documents for sensitive information w/att 11/13/01 e-mail C. Poslusny, NMSS, to J. Moore, OGC, et al., (4 pages withheld in entirety, Ex. 5; 2 pages released)
3.	11/15/01	E-mail C. Poslusny, NMSS, to F. Sturz, NMSS, et al., Re: Sensitive info team w/att Evaluating Info in NRC...(2 pages withheld in entirety, Ex. 5; 1 page released)
4.	11/26/01	E-mail to Mindy Landau, EDO from Chester Poslusny, NMSS - Subject: Sensitive information screening update (2 pages withheld in entirety, Ex. 5; 1 page released)
5.	11/30/01	E-mail to Mindy Landau from Chester Poslusny, NMSS - Subject: Action Items from Meeting with Dep. EDOs (2 pages withheld in entirety, Ex. 5; 1 page released)
6.	01/03/02	E-mail M. Landau, EDO, to G. Millman, RES, et al., Re: Fwd Summary of CEQ Meeting w/att 01/03/02 e-mail T. Essig, NMSS, to C. Miller, NMSS, et al., (4 pages) Ex. 5
7.	10/15/01	E-mail from Chad Glenn to Diane Case - Subject: Removal of web sites (5 pages withheld in entirety Ex. 2 & 5; 3 pages released)
8.	11/19/01	E-mail C. Poslusny, NMSS, to C. Reed, CIO, et al., Re: Summary of meeting on sensitive information (3 pages withheld in entirety Ex. 5; 1 page released)
9.	12/14/01	E-mail to Chester Poslusny, NMSS from Patricia Rathbun, NMSS - Subject: Draft NMSS Box Announcement on Sensitive Criteria (1 page withheld in entirety Ex. 5; 2 pages released in part)

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APPENDIX VV
RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	01/07/02	E-mail to Mindy Landau from Susan Frant, NMSS - Subject: NMSS comments on draft SRM for COMSECY-01-0030 (1 page) [Ex. 5]