



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 **PP,QQ** 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 **PP,QQ** 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 *
\$

- 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)

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

PART II.A – APPLICABLE EXEMPTIONS

APPENDICES
QQ,RR,SS

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
Patricia G. Norry	Deputy Executive Director for Management Services	QQ-11-13; RR-1-3		✓	
Roy P. Zimmerman	Director, Office of Nuclear Security and Incident Response	QQ-1-11; RR-1: SS-1-3	✓		
Lawrence J. Chandler	Associate General Counsel for Hearings, Enforcement and Administration	QQ-13		✓	
Martin J. Virgilio	Director, Office of Nuclear Material Safety and Safeguards	QQ-6 & QQ-8	✓		

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 PP
RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	09/01/01	Information paper. Resource Impacts of Responding to Requests to Identify and Remove Information from the Web, the ADAMS Public Library, and screen requests for information directed to PDR Reproduction Contractor (4 pages)
2.	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)
3.	10/12/01	E-mail from Barry Mendelsohn, NSIR to Mindy Landau, EDO, subject "Rulemaking Web Page Still Publically Available (2 pages)
4.	10/14/01	E-mail V. Ordaz, NSIR, to V. Tharpe, NRR, Re: Discussion FOIA responses needed (1 page)
5.	10/17/01	E-mail A. Madison, NSIR, to R. Rosano, NSIR, et al., Re: Information release, processing FOIAs (1 page)
6.	10/19/01	E-mail from R. Zimmerman, NSIR, to M. Landau, EDO, Subj: Re: Guidance on Release of Information to the Public (1 page)
7.	11/09/01	E-mail A. Madison, NSIR, to E. Hayden, OPA, et al., Re: Procedure for OK to release information (1 page)
8.	11/12/01	E-mail to Richard Wessman, NSIR from Joseph Holonich, NSIR - Subject: Web site information (2 pages)
9.	11/30/01	E-mail R. Frahm, NRR, to M. Johnson, NRR, et al., Re: Need your agreement on ROP framework (2 pages)
10.	12/10/01	E-mail M. Johnson, NRR, to C. See, NRR, et al., Re: Need your agreement on ROP framework (2 pages)
11.	12/10/01	E-mail A. Madison, NSIR, to E. Baker, OIP, et al., Re: Fwd: Other website...plant locations, etc. (1 page)
12.	12/10/01	E-mail W. Dean, NRR, to M. Johnson, NRR, et al., Re: Need your agreement on ROP framework (2 pages)

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APPENDIX PP - continued
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
13.	12/10/01	E-mail C. See, NRR, to M. Johnson, NRR, Re: Need your agreement on ROP framework (2 pages)
14.	12/11/01	E-mail M. Johnson, NRR, to S. Morris, EDO, et al., Re: Breaking update re: getting the ROP framework up (2 pages)
15.	1/16/02	E-mail to nipic.watch@fbi.gov from NIPC Watch Re: NTWS Advisory Update 16 January 2002 (1 page)
16.	01/17/02	E-mail M. Landau, EDO, to R. Rosano, NSIR, Re: SHSI Briefing (1 page)
17.	02/04/02	E-mail from Mindy Landau to Debra Engel on meeting this Thursday on Release of Information. (1 page)
18.	02/07/02	E-mail M. Landau, EDO, to D. Engel, OGC, et al. Re: Fwd Vertical Info Sharing Meeting w/OHS w/att e-mail 02/07/02 T. Martin, ADM, to M. Springer, ADM (2 pages)
19.	02/12/02	E-mail A. Madison, NSIR, to E. Greher, NRR, Re: Fwd Re-prioritizing ADAMS retrofits (1 page)
20.	02/13/02	E-mail J. Arildsen, NSIR, to W. Reckley, NRR, Re: McGuire/Catawba FSARS (1 page)
21.	02/14/02	E-mail M. Kotzalas, NRR, to J. Arildsen, Z. Hsu, NSIR, Re: McGuire FSAR review (1 page)
22.	02/25/02	E-mail M. Landau, EDO, to P. Rathbun, NMSS, et al., Re: Draft IRO Criteria for evaluating releasability of event reports (2 pages)
23.	02/28/02	Email from G. Tracy, NSIR to C. Haney, M. Weber, NSIR re: Security Fence Photographs (3 pages)
24.	03/15/02	E-mail to A. Blough, RI, et al., from W. Dean, NRR, Re: Hydrogen Storage Location information sensitivity (4 pages)
25.	03/19/02	E-mail M. Landau, EDO, to G. Tracy, NSIR, et al., Re: Fwd Withholding sensitive homeland security info (1 page)

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APPENDIX PP - continued
RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
26.	03/19/02	E-mail R. Rosano, NSIR, to M. Landau, EDO, et al., Re: Fwd Withholding sensitive homeland security info (1 page)
27.	04/01/02	E-mail from Richard Wessman to John Fenzel on OHS PCC on Information Intelligence Initiative (1 page)
28.	04/04/02	E-mail Z. Hsu, NSIR, to W. Reckley, NRR, Re: Review NUREG/CR-6763 (1 page)
29.	Undated	Information paper. Subject: Categories of NMSS/Materials Information, Categories of RES Information (2 pages)
30.	Undated	Information paper located by Mindy Landau, EDO (2 pages)

APPENDIX QQ
RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	10/11/01	Information paper. Subject: Afternoon ET Update (2 pages) [Ex. 2 & 6]
2.	10/24/01	Handwritten comments of R. Wessman, NSIR, on 10/23/01 M. Landau, EDO, E-mail, Subj: Re-send of Draft Criteria for public release of information (1 page released; [2 pages withheld Ex. 5]
3.	11/19/01	E-mail R. Rosano, NSIR, to W. Reckley, NRR, Re: Previous study of availability of info on nuclear plants (1 page) [Ex. 2]
4.	01/25/02	Information paper from Mindy Landau, EDO - Subject: Staff Requirements - COMSECY-01-0030 - Guidance to the Staff on Release of Information to the Public as of 01/25/02 (2 pages) [Ex. 2 & 5]
5.	02/04/02	Email from R. Rosano to F. Sturz, M. Landau, W. Burnside re: "OHS v. SRM" (1 page released; [5 pages withheld Ex. 5]
6.	02/04/02	Email from F. Sturz, NMSS to R. Rosano, NRR and W. Burnside, SEC re: Control of Info (1 page partial release; 1 page withheld in entirety Ex. 5]
7.	02/04/02	Email from W. Burnside, ADM to R. Rosano, NSIR re: Strawman comments (1 page released; 6 pages withheld Ex. 5]
8.	02/28/02	Email from B. Mendelsohn, NMSS to P. Rathbun, NMSS re: 02/28/02 Reports (3 paages released; 3 pages withheld, Ex. 2 5 & 6]
9.	03/18/02	E-mail V. Ordaz, NSIR, to A. Madison, NSIR, et al., Re: Hydrogen storage (1 page) [Ex. 5]
10.	03/21/02	Note D. Gordon, NSIR, to V. Ordaz, NSIR, Re: Staff Review of Draft Response to Staff Requirements Memorandum Concerning Withholding Sensitive Homeland Security Information from the Public with notations by unknown author (9 pages) [Ex. 2 & 5]

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APPENDIX QQ - continued
RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
11.	04/01/02	E-mail from Henry Bailey to Mindy Landau and Tim McGinty on Wording for OHS meeting (1 page) [Ex. 2, 5 & 6]
12.	04/01/02	E-mail from A.Lynn Silvius to Henry Bailey, Mindy Landau and Tim McGinty on Wording for OHS meeting. (1 page) [Ex. 2, 5 & 6]
13.	04/01/02	E-mail to Mindy Landau from Debra Engel, OGC - Subject: Wording for OHS Meeting (2 pages) [Ex. 2, 5 & 6]

APPENDIX RR
RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	02/04/02	Email from M. Landau, EDO to F. Sturz, NMSS, R. Rosano, NSIR and W. Burnside, ADM re: Control of Info (1 page) [Ex. 5]
2.	Undated	Handwritten comments by Office of Public Affairs on draft network announcement and draft criteria regarding release of information to the public (2 pages) [Ex. 5]
3.	Undated	Draft Memo to the Commissioners from W.D. Travers, EDO Subj: Update on Staff Actions Regarding Release of Information to the Public (4 pages) [Ex. 5]

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	01/04/02	E-mail from T. McGinty, NSIR, to M. Landau, EDO, Subj: Re: Fwd: DSRM - COMSECY-01-0030 - Guidance to Staff on Release of Info to Public (3 pages) [Ex. 5]
2.	No date	Information paper from Mindy Landau - Subject: Comments on draft memo on Release of Information (1 page) [Ex. 5]
3.	No date	Information paper. Subject: Decisions for the HSC Deputies. Guidance to be developed for Sensitive Homeland Security Information (2 pages) [Ex. 5]