



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

2002-0256

14

RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

Sean Moulton / Cheryl Gregory

DATE

APR 02 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 **WW, XX** 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 **WW, XX** 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)**

The record identified at Appendix WW-25 is copyrighted and therefore is not enclosed. Arrangements to view copyrighted records can be accomplished by contacting the NRC's Public Document Room (PDR) at 301-415-4737 or 1-800-397-4209, or by e-mail to pdr@nrc.gov.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

**PART II.A – APPLICABLE EXEMPTIONS**

APPENDICES  
**XX, YY**

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
William M. Beecher	Director, Office of Public Affairs	XX-1-2, 12		✓	
Martin J. Virgilio	Director, Office of Nuclear Material Safety and Safeguards	XX-7	✓		
Ellis W. Merschoff	Chief Information Officer	XX-3-6, 8-11, 13; YY-1-25	✓		

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 WW  
RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	10/10/01	Response to Inquiries (1 page)
2.	10/10/01	Questions Posed to Two Federal Agencies Concerning Publicly-Available Documents (1 page)
3.	10/31/01	E-Mail from Teresa Linton, CIO to Thomas Smith, CIO, Re: A NUREG (2 pages)
4.	11/06/01	E-Mail from Thomas Smith, CIO to Margaret Kim Basile, CIO, Subj: Fwd: NUREGs (1 page)
5.	11/13/01	E-Mail from PDR to Elizabeth Shelburne, Margaret Kim Basile and Wayne Davis, CIO, Re: Document Removed from PDR (1 page)
6.	11/13/01	E-Mail from Zan-Shing (Ray) Hsu to Kathleen Ruhlman and Thomas Smith, CIO, Re: IPE Reports (1 page)
7.	11/14/01	E-Mail from Mindy Landau, EDO to Thomas Smith, CIO, Re: DERs being Given to NIRS for Duke Energy LR Proceeding (1 page)
8.	11/20/01	E-Mail from Gladys Myatt, Dept. of Treasury to Thomas Smith, CIO, Re: Request for Documents (1 page)
9.	11/29/01	E-Mail from Theresa Sutter, Scientech to Thomas Smith, CIO, Re: Data that Used to be on the Website
10.	12/18/01	E-Mail from Kathleen Ruhlman, CIO to Keith Shaw, Lynn Scattolini, Mary Ann Neel, Thomas Smith and Wayne Davis Re: RTS Costs Already Incurred (2 pages)
11.	12/21/01	E-Mail from Kathleen Ruhlman, CIO to Elizabeth Shelburne, CIO et al. Re: Documents Removed from PDR Collection (1 page)
12.	12/26/01	E-Mail from Carl Konzman, CIO to Francine Goldberg, CIO and Michael Case, NRR, Re: NUREGs (2 pages)
13.	12/27/01	E-Mail from NRR to PDR, Re: Review of NUREG/CR-6728 (1 page)

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**APPENDIX WW - continued**  
**RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
14.	01/14/02	Documents That Have Been Cleared by NRC (5 pages)
15.	01/19/02	Presentation to American Library Association Federal Documents Task Force (3 pages)
16.	01/24/02	E-Mail from Francine Goldberg, CIO to Susan Frant and Dennis Rathbun, Re: Withdrawn Report Found on External Web (3 pages)
17.	01/24/02	E-Mail from NRR to PDR, Re: BRS Printout on Aircraft Crash (1 page)
18.	01/30/02	E-Mail from PDR to Linda Kilgore, Teresa Linton, Donale McColloch, Kathleen Ruhlman and Marsha Ward, Re: A NUREG-1672 (1 page)
19.	02/15/02	E-Mail from Ernest Baldwin, GPO to Thomas Smith, CIO, Re: NRC's NUDOC Collection (5 pages)
20.	02/19/02	E-Mail from Mindy Landau, EDO to Thomas Smith, CIO, Subj: Re: Fwd: NUDOCS Fiche (1 page)
21.	02/22/02	E-Mail from Rosetta Virgilio, OPA to Cahners- NYC and Norman Oder, Library Journal Re: Question from Library Journal re NUDOC Controversy (4 pages)
22.	02/26/02	E-Mail from Rosetta Virgilio, OPA to Thomas Smith, CIO, Subj: Fwd: RE: Question from Library Journal re NUDOC Controversy (2 pages)
23.	04/23/02	Presentation to GPO Depository Council Meeting, Mobile, AL (3 pages)
24.	05/06/02	E-Mail from Wayne Davis, CIO to Thomas Smith, CIO, Re: A NUREG-1485 (1 page)
25.	05/13/02	*Library Journal article dated 03/15/2002, entitled "Nuclear Plant Info Is Questioned" reported by Norman Oder [ <a href="http://libraryjournal.reviewsnews.com">http://libraryjournal.reviewsnews.com</a> ] (2 pages)

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**APPENDIX XX  
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	09/21/01	Email from R. Virgilio to P. O'Hara Re: Safeguards Information (1 page) [Ex. 6]
2.	10/15/01	Email from R. Virgilio Re: found possible security risk (1 page) [Ex. 6]
3.	10/22/01	E-Mail from John Craig, EDO to Thomas Smith, CIO, Re: Request Rejection (1 page) [Ex. 6]
4.	11/06/01	E-Mail from Marsha Ward, CIO to Thomas Smith, CIO, Re: Letter 4385 (1 page) [Ex. 6]
5.	11/07/01	E-Mail from Margaret Kim Basile, CIO to Thomas Smith, CIO, Re: 11/07/01 Report (1 page) [Ex. 2]
6.	11/20/01	Public Access to Sensitive NRC Documents (2 pages) [Ex. 5]
7.	12/21/01	E-Mail from Chester Poslusny, NMSS to Thomas Smith, CIO, Re: Requests for PFS DEIS (1 page) [Ex. 2 & 5]
8.	12/27/01	E-Mail from Teresa Linton, CIO to Margie Kotzalas Re: PDR Document Lists with Attachment (5 pages withheld, Ex. 2; 6 pages released)
9.	02/14/02	E-Mail from Thomas Smith, CIO to Lynn Scattolini, CIO, Re: Request for Oyster Creek Documents (3 pages) [Ex. 6]
10.	02/19/02	E-Mail from Mindy Landau, EDO, to Lynn Scattolini, CIO, Re: Request for Oyster Creek Documents (1 page) [Ex. 5 & 6]
11.	02/21/02	E-Mail from Lynn Scattolini, CIO to Mindy Landau, EDO, Re: Request for Oyster Creek Documents (1 page) [Ex. 5 & 6]
12.	03/26/02	E-mail M. Landau, EDO, to C. Hodge, NRR, Re: Fwd data access w/att (1) e-mail 03/26/02 V. Dricks, OPA to G. Tracy, NSIR (2) e-mail 03/25/02 J. Pritchard, Public to V. Dricks, OPA (3 pages) [Ex. 6]

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APPENDIX XX - continued  
RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
13.	05/08/02	E-Mail from Ernest G. Baldwin, GPO to Alan Zoellner, College of William and Mary, Re: Request for Clarification of LPDR Collection Status (3 pages) [Ex. 6]

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	09/27/01	Log of OCIO Response to Requests from Agency Staff (39 pages) [Ex. 2 & 5]
2.	10/15/01	E-Mail from Wayne Davis, CIO to Thomas Smith, CIO, Re: Release of Safeguards Information thru BRS (3 pages) [Ex. 2]
3.	10/16/01	E-Mail from Randolph J. Kranepuhl, USAIC to thomas Smith, CIO Re: RFI (1 page) [Ex. 2 & 5]
4.	11/06/01	E-Mail from Thomas Smith, CIO to Margaret Kim Basile, CIO, Subj: Fwd: NUREGs (2 page) [Ex. 2 & 5]
5.	11/08/01	E-Mail from Lynn Scattolini, CIO to Jacqueline Silber and Stuart Reiter, CIO Re: Removal of Restrict of NRC Documents from External Entities and ET Summary Table with Attachment (14 pages) [Ex. 2 & 5]
6.	11/20/01	E-Mail from PDR to Elizabeth Shelburne, CIO et al. Re: Document Removed from PDR (1 page) [Ex. 2]
7.	11/27/01	E-Mail from PDR to Thomas Smith, CIO, Re: Fwd: Action/Confirmation- Remove from ADAMS (3 pages) [Ex. 2]
8.	12/14/01	Letter from Stuart Reiter, CIO to Francis J. Buckley, Jr., GPO, Re: Sensitive Documents with Enclosure (5 pages) [Ex. 2 & 5]
9.	12/14/01	Letter from Stuart Reiter, CIO to Francis J. Buckley, Jr., GPO, Re: Sensitive Documents with Enclosure (5 pages) [Ex. 2 & 5]
10.	12/14/01	Letter from Stuart Reiter, CIO to Ronald E. Lawson, NTIS, Re: Sensitive Documents with Enclosure (5 pages) [Ex. 2 & 5]
11.	12/26/01	E-Mail from Karen Rosenstiel, CIO to E. William Brach, SFPO, Re: PFS DEIS (1 page) [Ex. 2]
12.	12/26/01	E-mail from PDR to Thomas Smith, CIO, Subj: Inquiry re review status of specific NUREGs (5 pages) [Ex. 2 & 5]

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**APPENDIX YY - continued**  
**RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
13.	01/07/02	E-Mail from Lynn Scattolini, CIO to Mindy Landau, EDO, Re: Comments on Draft SRM (3 pages) [Ex. 5]
14.	01/14/02	Documents Removed From The PDR Collection (5 pages) [Ex. 2]
15.	01/17/02	Log of OCIO Response to Requests from Agency Staff (42 pages) [Ex. 2 & 5]
16.	01/24/02	E-Mail from Francine Goldberg, CIO to Lynn Scattolini, CIO and Thomas Smith, CIO Re: Revised Version of Memo to Offices (3 pages) [Ex. 5]
17.	04/26/02	E-Mail from NRCWEB to Joan Hoffman, CIO, Linda Kilgore, CIO et al. Re: NUREG Public Release (1 page) [Ex. 5]
18.	05/07/02	E-Mail from Wally Finch, NTIS to Thomas Smith, CIO, Re: NUREG Documents (1 page) [Ex. 5]
19.	Various	Meeting Notes (15 pages) [Ex. 5]
20.	Undated	Draft Letter from Stuart Reiter, CIO to the Superintendent of Documents about the GPO Sales Program Re: Sensitive Documents (4 pages) [Ex. 2 & 5]
21.	Undated	Draft Letter to the Superintendent of Documents, U.S. Government Printing Office Re: Sensitive Documents with Attachment (3 pages) [Ex. 2 & 5]
22.	Undated	Draft Letter to the National Technical Information Service (NTIS) Sales Program Re: Sensitive Documents (2 pages) [Ex. 2 & 5]
23.	Undated	Prefatory Material Supporting the Attached Letters (1 page) [Ex. 5]
24.	Undated	Draft Letter to Former LPDRs from Stuart Reiter, CIO Re: Sensitive Documents with Attachment (4 pages) [Ex. 2 & 5]

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APPENDIX YY - continued  
RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
25.	Undated	WordPerfect Document re: Library Type, Holdings, Ownership, Proposed Action(s) and Justification (6 pages) [Ex. 5]