



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

2002-0337

8

RESPONSE TYPE FINAL PARTIAL

REQUESTER

James P. Riccio

DATE

APR 16 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 R 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 S, T 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 S, T 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 *Mary Ann Reed*

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PART II.A – APPLICABLE EXEMPTIONS

APPENDICES
T, U

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	I-2, 5; U-1		✓	
Ashok C. Thadani	Director, Office of Nuclear Regulatory Research	I-1, 3-4; U-1	✓		
Dr. Andrew L. Bates	Advisory Committee Management Officer	I-2		✓	

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 R
RECORDS ALREADY PUBLICLY AVAILABLE

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	06/04/01	ML011840070	Slides - Department of Energy Near-Term Deployment Working Group, Presentation at the ACRS Workshop - Regulatory Challenges in the Licensing of Generation 3+ and Generation 4 Reactor (7 pages)
2.	06/04-05/01	ML011840033	Slides - ACRS Workshop, Regulatory Challenges for Future Nuclear Power Plants, Gas Turbine - Modular Helium Reactor (24 pages)

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	11/05/01	E-mail C. Robb, CIO, to R. Tripathi, RES, Re: IAEA Graphite Database (1 page)
2.	12/03/01	Slide Presentation by General Atomics on Gas Turbine-Modular Helium Reactor (64 pages)
3.	04/22/02	E-mail from Thomas Bergman, RES, to Jacqueline Raines, OEDO, Subj: Fwd: Re: Draft Advanced Reactor Research Plan (1 page) Attach: 04/22/02 - E-mail from Stephen Koenick, NRR, to Thomas Bergman, RES, Subj: Fwd: Re: Draft Advanced Reactor Research Plan (1 page) Attach: 03/18/02 - E-mail from Mel Fields, NRR, to David Skeen, NRR, et al., Subj: Fwd: Re: Draft Advanced Reactor Research Plan (1 page) Attach: 03/2002 - DRAFT Advanced Reactor Research Plan 121 ¹²⁵ pages)
4.	05/01/02	E-mail from Amy Cabbage, NRR, to T. Bergman, RES, et al., Subj: Fwd: Revised Annex to DOE-NRC MOU (1 page) Attach: 05/01/02 E-mail from Alice Caponiti, DOE, to F. Eltawila and S.D. Rubin, RES, Subj: Revised Annex to DOE-NRC MOU (13 pages)
5.	05/09/02	E-mail from Leslie Fields, NRR, to T. Bergman, RES, Subj: Fwd: Re: GA letter (1 page) Attach: 05/09/02 E-mail from Ron Lloyd, RES, to Leslie Fields, NRR, Subj: Re: GA letter (10 pages)
6.	06/26/02	E-mail from Stephen Koenick, NRR, to Bill Bateman, NRR, et al., Subj: RESEND with room location: ACRS subcommittee brief on Advanced Reactor Research (3 pages) Attach: Undated Draft Commission Paper, "Cooperatiave Research To Support Key Regulatory Decisions on Advanced Reactors (31 pages) Attach: 06/2002 Draft Advanced Reactor Research Plan, Revision 1 (125 pages) [ML021760135 already public and identified at B-9 resp 1]

APPENDIX S - continued
RECORDS BEING RELEASED IN THEIR ENTIRETY
(If copyrighted identify with *)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
7.	06/26/02	E-mail from Stephen Koenick, NRR, to Adel El-Bassioni, Clifford Munson, NRR, et al., Subj: Request for comment on draft Commission Memo of Reactor Research Plan (1 page) Attach: 06/25/02 E-mail from Donald Carlson, RES, to Stephen Koenick, NRR, Subj: SECY (1 page) Attach: Draft SECY paper on "Cooperative Research to Support Key Regulatory Decisions on Advanced Reactors (31 pages)

**APPENDIX T
RECORDS BEING WITHHELD IN PART
(* Indicates copyrighted information)**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	07/26/01	Memo A. Thadani, RES, to W. Travers, EDO, Re: Trip Report for France, Spain, Austria (18 pages outside scope; (1 page partially release [Ex. 4])
2.	01/29/02	Note to Commissioner Assistants from John W. Craig, AO/OEDO, Subj: Two Reports on Pebble Bed Modular Reactor Design (1 page partially released [Ex. 5]) Attach: 01/04/02 Memo from Sher Bahadur, ACRS, to ACRS Members, transmitting trip report of ACRS member Dana Powers to ACRS workshop (1 page released; 14 pages withheld Ex. 5) ML020380040 Attach: 11/12/01 Letter from Thomas E. Murley, DSARE, providing comments on the HTGCR Safety & Research Issues Workshop held by NRC on 10/10-12/01 (3 pages already public)
3.	06/26/02	E-mail from Thomas Bergman, RES, to Joseph Colaccino, NRR, Subj: draft RES paper (1 page) Attach: 06/21/02 E-mail from Amy Cubbage, NRR, to Kathy Gibson, NRR, et al., Subj: ACTION: SECY Paper for NRR Concurrence (1 page) Attach: Undated Draft SECY Paper, Subj: Plan for Resolving Policy Issues Resulting From Technical Considerations Related to Non-Light Water Reactor Licensing (30 pages withheld Ex. 5)
4.	06/26/02	E-mail from Amy Cubbage, NRR, to Tom King, RES, Subj: SECY edits (edits for Draft SECY Paper Plan for Resolving Policy Issues Resulting From Technical Considerations Related to Non-Light Water Reactor Licensing Designs) (1 page) Attach: Line-in-line-out editis to Draft SECY paper, Plan for Resolving Policy Issues Resulting From Technical Considerations Related to Non-Light Water Reactor Licensing Designs (26 pages withheld Ex. 5)
5.	Undated	SECY Handwritten notes by unknown author in Commissioner McGaffigan's office on 03/22/01 Letter to NRC from W. A. Simon, General Atomics re Gas Turbine - Modular Helium Reactor (GT-MHR) Review (2 pages [Ex. 5])

APPENDIX U
RECORDS BEING WITHHELD IN ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	03/14/01	RES/SECY Memo to William Travers, EDO, from Ashok Thadani, RES, Report on Trip to South Africa for Discussions on the Pebble Bed Modular Reactor (PBMR) (9 pgs) [Ex. 5]