



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

2003-0184

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RESPONSE TYPE  FINAL  PARTIAL

REQUESTER

Diane R Nielsen

DATE MAR 22 2005

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 F & H 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 F & H 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 records identified on Appendix G are copyrighted; therefore, they are not included in this response. To review the copyrighted records, please contact the NRC Public Document Room at (800) 397-4209 to make arrangements for the review.

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  
**H & I**

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)  
EX. 2 - Disclosure would risk circumvention of a legal requirement

**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
Jack Strosnider	Director, Office of Nuclear Material Safety and Safeguards	Appendices H & I	<input checked="" type="checkbox"/>		

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."

RE: FOIA-2003-0184

APPENDIX F  
RECORDS BEING RELEASED IN ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DOCUMENT DESCRIPTION/PAGE COUNT</u>
1.	08/28/02	E-mail from Mahendra Shah to Roger Kenneally, subject: Draft Q & As for the Spent Fuel storage and Transportation. 18 pages.

APPENDIX G  
COPYRIGHTED RECORDS

<u>NO.</u>	<u>DATE</u>	<u>DOCUMENT DESCRIPTION/PAGE COUNT</u>
1	12/10/01	News article: "Building Research - Simulating Airplane Attacks." 1 page
2.	06/12/02	E-mail from K. Sorenson, transmitting news article: "Plane tough storage," from Nuclear Engineering International, May 2002. 4 pages

**APPENDIX H  
RECORDS BEING WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1.	02/14/02	E-mail from David Tang to addressees re Storage Team Information. 11 pages total, 1 page released. EX. 2
2.	02/13/04	Agenda - SFPO Meeting on Vulnerability Assessments for Dry Spent Fuel Storage Systems. 8 pages EX. 2
3.	06/18/02	Viewgraphs regarding vulnerability assessments of storage and transportation packages. 11 pages EX. 2
4.	8/10/02	Monthly Letter Status Report for July (4) EXEMPTION 2 (HSI)
5.	7/17/02	Status by Task: Task 1 (15) EXEMPTION 2 (HSI)
6.	7/17/02	Pages from July 17 <sup>th</sup> report with written comments (4) EXEMPTION 2
7.	08/21/02	E-mail from J. Guttman to M. Shah and J. Smith regarding Aircraft analyses assumptions. 2 pages EX. 2
8.	8/29/02	List of questions and preliminary answers (1) EXEMPTION 2 (HSI)
9.	9/04/02	Summary of 9-4-2002 Tel-con (2) EXEMPTION 2 (HSI)
10.	9/10/02	Monthly Letter Status Report for July 2002 (5) EXEMPTION 2 (HSI)
11..	10/13/02	Monthly Letter Status Report for September 2002 (23) EXEMPTION 2 (HSI)
12.	11/12/02	Email from Sprung to White, Re: Revised Cask/Threat Matrix (3) EXEMPTION 2 (HSI)
13.	11/13/02	Chart: Example Vulnerability Assessment Matrix - Transportation Casks ((2) EXEMPTION 2 (HSI)
14.	11/13/02	SFPO Vulnerability Assessment - Three team Efforts (2) EX. 2
15.	1/19/02	Need your input (1) EXEMPTION 2 (HSI)
16.	12/02/02	Chart: Analysis Sequences chart (1) EXEMPTION 2 (HSI)

17. 12/13/02 Monthly Letter Status Report for November 2002 (4) EX. 2
18. 12/20/02 Email from Sprung to White Re: RAM Package Vulnerability Study weekly report for week of 12/12/02 (2) EXEMPTION 2 (HSI)
19. 1/13/03 Monthly Letter Status Report for November 2002 (4) EX. 2
20. 01/15/03 E-mail from Ron Parkhill to S. Mahandra re Cask Layout Issues. 2 pages EX. 2
21. 01/25/03 E-mail from J. Sprung to B. White and R. Parkhill re RAM Package Vulnerability Study weekly e-mail report - week ending 1/23/03. 1 page EX. 2
22. 01/28/03 E-mail from M. Shah to J. Smith re schedule for NRC visit and analysis table. 2 pages EX. 2
23. 02/13/03 Weekly e-mail report. 2 pages EX. 2
24. 02/26/03 E-mail from Jesse Arildsen to addressees, subject: Brief meeting summary. 4 pages EX. 2
25. 03/02/03 E-mail from V. Ordaz to addressees, subject: Airborne Security Legislation Meeting. 7 pages EX. 2
26. 11/11/02 Information to be used for the vulnerability studies being conducted at SNL for the NRC. (118 pages) EX. 4

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

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u></b>
1	02/03	Pages 30 and 33 from "A Pilot Probabilistic Risk Assessment of a Dry Cask Storage System (Draft). " 2 pages <b>EX. 5</b>
2.	02/03	Page 30 from "A Pilot Probabilistic Risk Assessment of a Dry Cask Storage System (Draft)," with handwritten annotations. 1 page <b>EX. 5</b>
3.	No date	Viewgraph entitled "Meteorites." 1 page <b>EX. 5</b>
4.	No date	Viewgraph entitled "Accidental Aircraft Crash," with handwritten annotations. 1 page <b>EX. 5</b>
5.	10/17/01	Matrix - Aircraft Crash Accident Analyses for Spent Nuclear Fuel Storage. 3 pages <b>EX. 2</b>
6.	02/25/03	E-mail from Bernard White, attached Small Aircraft Survey. 21 pages <b>EX. 2 &amp; EX. 5</b>
7.	No date	Compact Disk A: containing picture files and movie files of results of vulnerability analyses for spent fuel storage casks. <b>EX. 2</b>
8.	No date	Compact Disk B: containing photos of test airplane. <b>EX. 2</b>