

2005-0270

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

RESPONSE TYPE FINAL PARTIAL

REQUESTER

Sandra Calvert Nathans

DATE

JAN 31 2008

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 A 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 B & C 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, 11555 Rockville Pike, Rockville, MD 20852-2738.
- APPENDICES B & C 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 *
\$ 216.97

- 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)

Some records subject to the request were originated by or are of interest to the Environmental Protection Agency. We have referred the records to that agency for review and direct response to you.

The actual fees for processing the request are as follows:

Search: \$101.03
 Review: 400.07
 Duplication: 107.60
TOTAL \$608.70

Advance fees were paid in the amount of \$391.73, therefore, \$216.97 in additional fees are owed. You will be billed by the NRC in this amount.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Russell A. Nichols

PART IIA -- APPLICABLE EXEMPTIONS

APPENDICES
C

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 253b, 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
Jack Strosnider	Director, Office of Nuclear Material Safety and Safeguards	Appendix C	✓		

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 A
RECORDS ALREADY IN THE PDR**

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTION</u>
1.	11/30/1988	9404050283	Attorney Work Product, Radiation Survey of Factory Building Final Report / 33
2.	05/12/1992	9205260117	Memo to J. Austin, NRC Office of Nuclear Material Safety and Safeguards (NMSS), from F. Combs, NMSS, Subject: List of Licensee Files to be Retained Permanently / 2 /
3.	01/29/1993	9307200329	Memo to Engelhard Corporation (Engelhard) from J. Parrott, NMSS, Subject: Trip Report - Meeting at Engelhard Concerning Radiological Contamination Related to Atomic Energy Commission (AEC) Licensed Activities / 6
4.	02/16/1993	9307200335	Letter to J. Parrott, NMSS, from D. Chabot, Engelhard, re: Phase II Report, with attached 8/19/57 letter from D.E. Makepeace Co. to State of Massachusetts (MA) / 3
5.	02/16/1993	9308300286	Note to T. Johnson, NMSS, from J. Parrott, NMSS, Subject: Engelhard Corp./D.E. Makepeace Co. RCRA Site Containing AEC Regulated Waste / 11
6.	03/11/1993	9303260038	Letter to J. Parrott, NMSS, from D. Chabot, Engelhard, re: Additional time needed for submitting draft plans for decontamination / 1/
7.	04/21/1993	9304260204	Decontamination Plan for Interior of Plainville, MA Plant of Engelhard Corp. / 53 /
8.	04/21/1993	9304260203	Letter to J. Austin, NMSS, from D. Chabot, Engelhard, Subject: Decontamination Plan for the Interior of the Plainville, MA, Plant of Engelhard / 1
9.	04/30/1993	9305050013	Letter to J. Austin, NMSS, from D. Chabot, Engelhard, Subject: Radiological Characterization Survey Program for the Plainville, MA, Site of Engelhard / 1
10.	04/00/1993	9305050015	Radiological Characterization Survey Program for Plainville MA Site / 93

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<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTION</u>
11.	05/17/1993	9305270211	Letter to D. Chabot, Engelhard, from J. Parrott, NMSS, calling attention to revisions in 10 CFR Part 20 / 1
12.	08/10/1993	9308230018	Letter to D. Chabot, Engelhard, from M. Cacciapaglia, Citizen, re: Concern expressed re cleanup by Engelhard / 2
13.	09/10/1993	9309230231	Letter to D. Chabot, Engelhard, from J. Parrott, NMSS, re: Comments on Decontamination Plan for Interior / 5
14.	10/06/1993	9310120383	Note to file from J. Parrott, NMSS, re: Telephone Interview with J. Allen, GAO, re: Site Decommissioning Management Plan Site / 3
15.	11/08/1993	9311180084	Letter to J. Parrott, NMSS, from D. Chabot, Engelhard, re: Response to comments in letter of September 10, 1993 / 13
16.	12/06/1993	9312140340	Letter to D. Chabot, Engelhard, from J. Austin, NMSS, re: Responses to NRC comments adequate for decontamination plan / 3
17.	12/13/1993	9312210072	Letter to J. Parrott, NMSS, from D. Chabot, Engelhard, Enclosing copies of groundwater table and topographic maps of site / 3/
18.	08/ /1994	9502280162	Draft Radiological Health and Safety Plan for Radiological Exterior Characterization Survey at the Engelhard Corporation Site at Plainville, MA / 124 /
19.	08/ /1994	9502280302	Radiological Characterization Survey of Interior / 121
20.	08/15/1994	909150401	Letter to Residents from D. Chabot, Englehard, re: EPA and MADEP response to public comments / 1
21.	08/24/1994	9409150404	Letter to Residents from D. Chabot, Englehard, to Inform them that the revised Stabilization Plan was submitted to EPA /1
22.	09/09/1994	9502280152	Letter to R. Turtill, NRC, from D. Chabot, Engelhard, Subject: Docket No. 070-00139; Plainville Site Decommissioning Program / 3
23.	09/14/1994	9410180202	Letter to Resident from D. Chabot, Engelhard, to

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTION</u>
			inform that the revised RCRA facility investigation proposal was submitted to EPA for public review 1
24.	11/30/1994	9504190363	Final Addendum to the Radiological Health & Safety Plan for the Radiological Exterior Characterization Survey at Engelhard / 9
25.	01/00/1995	9504190365	Addendum to the Radiological Health & Safety Plan for the Building Interior Decontamination at Engelhard / 10
26.	02/21/1995	9502280078	Letter to A. Kopas, Engelhard, from W. Shell, NMSS, re: Decontamination Plan Review / 4
27.	02/22/1995	9502280156	Letter to R. Turtill, NMSS, from D. Chabot, Engelhard, Subject: Release of Attorney Work Product-Privileged and Confidential Claim / 1
28.	03/02/1995	9503170041	Letter to D. Chabot, Engelhard from R. Turtill, NMSS, re: Radiological Health and Safety Plan for Radiological Exterior Characterization Survey / 10
29.	04/13/1995	9504190362	Letter to R. Turtill, NMSS, from D. Chabot, Engelhard, re: Separate Radiological Health and Safety Plans for Exterior Characterization Survey & Bldg. Interior Decontamination / 10
30.	07/25/1995	9508170045	Memo to Engelhard from R. Turtill, NMSS, Subject: Review And Request for Additional Information From Engelhard Concerning Radiological Health and Safety Plans For Characterization And Decontamination / 4
31.	10/04/1996	9610150082	NRC Inspection Report No. 070-00139/96-002 re: Engelhard Corp. / 8
32.	10/07/1996	9610150079	Letter to D. Chabot, Engelhard, from R. Bellamy, NRC Region I, transmitting re: aforementioned NRC inspection report / 3
33..	12/20/1996	9612300061	Letter to D. Chabot, Engelhard, from R. Bellamy, NRC Region I, re: NRC Inspection Report No. 070-00139/96-003 / 3
34.	11/08/1995	9512110213	Letter to R. Turtill, NMSS, from D. Chabot, Engelhard, Subject: Engelhard Corporation, Plainville, MA Facility, re: Response to conference calls on July 21 and October 23, 1995, Concerning the Radiological Health

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTION</u>
			and Safety Plan / 18
35.	01/02/1996	9602080107	Letter to R. Turtill, NMSS, from D. Chabot, Engelhard, re: Response to telephone request: approach for using beta gamma measurements equivalent to alpha measurements/ 6
36.	04/22/1996	9604290110	Letter to D. Chabot, Engelhard, from R. Turtill, NMSS, re: submittal of information in support of Interior Radiological Health & Safety Plan / 5
37.	06/06/1996	9606240191	Inspection Report / 4
38.	06/17/1996	9606280088	Letter to R. Turtill, NMSS, from D. Chabot, Engelhard, re: Final Status Survey Plan / 16 /
39.	08/21/1996	9608290070	Letter to D. Chabot, Engelhard, from R. Turtill, NMSS, re: Final Status Survey Plan / 4
40.	08/21/1996	9608290070	NRC Comments on final survey plan / 4
41.	09/19/1996	9609300140	Letter to R. Turtill, NMSS, from D. Chabot, Engelhard, re: response to NRC Comments on Final Status Survey Plan for building interior decontamination / 17
42.	09/30/1996	9610310024	Letter to D. Chabot, Engelhard, from B. Olson, EPA re: Approval of Stabilization Performance Standards / 1
43.	11/15/1996	9701100168	Letter to R. Turtill, NMSS, from R. Berlin to submit additional clarification in reference to use of beta-gamma surface measurement probes in Final Status Survey / 1
44.	12/04/1996	9612170299	Letter to D. Chabot, Engelhard, from R. Turtill, NMSS, re: Engelhard's most recent response to NRC's comments on the Final Status Survey Plan / 4
45.	12/06/1996	9701100174	Letter to R. Turtill, NMSS, from E. Abelquist, Oak Ridge Institute for Science and Education (ORISE) Subject: Document Review - Final Status Survey Report, Survey Units 1 and 2 in Interior of Plainville, Massachusetts Plant of Engelhard Corporation / 4
46.	12/11/1996	9701100035	Letter to R. Turtill, NMSS, from E. Abelquist, ORISE, Subject: Proposed Confirmatory Survey Plan for Survey Units 1 and 2 in Interior of Building 2 / 1

47.	12/11/1996	9701100042	Proposed Confirmatory Survey Plan for Survey Units 1 and 2 Interior of Building 2 / 11
48.	12/20/1996	9701080201	Letter to D. Chabot, Engelhard, from R. Turtill, NMSS, re: Comments on Final Status Survey Report, Survey Units 1 & 2 in Interior / 5
49.	12/30/1996	9701100050	Letter to R. Turtill, NMSS, from E. Abelquist, ORISE, Subject: Confirmatory Survey Plan for Survey Units 1 and 2 in Interior of Building 2 / 1
50.	12/30/1996	9701100054	Confirmatory Survey Plan for Survey Units 1 and 2 Interior of Building 2 / 11
51.	02/04/1997	9702140208	Letter to R. Turtill, NMSS, from E. Abelquist, ORISE, Subject: Letter Report - Confirmatory Survey for Survey Units 1 and 2 Interior of Building. 2 / 1
52.	02/04/1997	9702140212	Letter Report Confirmatory Survey for Survey Units 1 and 2 Interior of Building. 2 / 14
53..	03/06/1997	9703120422	Letter to D. Chabot, Engelhard, from J. Hickey, NMSS, re: NRC review of remediation activities / 5
54.	10/01/1997	9710060296	Memo to C. Seelig, NMSS, from J. Hickey, NMSS, Subject: Data for Future Budgets / 3
55.	11/23/92	9212030054	Letter from John Austin to Donald Chabot regarding EPA Order requiring Engelhard Corp. evaluation of releases. 2 pages
56.	12/20/96	9612300063	Inspection Report 70-129/96-03 on 11/06/96. No violation noted. Major areas inspected: project management, RP, remediation of interior areas, instrumentation and radiation surveys. 7 pages

**APPENDIX B
RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTION</u>
1.	01/17/1992	Handwritten Notes / 5
2.	05/19/1993	Letter to D. Chabot, Engelhard, from J. Parrott, NMSS, re: New 10 CFR Part 20 changes and their applicability to operation / 11
3.	11/ /1996	Final Status Survey Report Survey Units 1 and 2 in Interior of Plainville, MA Plant of Engelhard Corporation / 270
4.	12/20/1996	Letter to D. Chabot, Engelhard, from R. Turtill, NMSS, re: Teleconference of 12/16/96 re: Comments concerning "Final Status Survey Report, Survey Units 1 and 2 in Interior / 4
5.	No Date	Draft memo for Engelhard Corp. Files from J. Parrott, NMSS, re: Trip Report - Meeting at Engelhard Corp. Site, Concerning Radiological Contamination Related to AEC Licensed Activities / 2
6.	No Date	Memo for Engelhard Corp. Files from J. Parrott, NMSS, re: Trip Report - Meeting at Engelhard Corp. Site, Concerning Radiological Contamination Related to AEC Licensed Activities / 2
7.	No Date	Note to T. Johnson, NMSS, from J. Parrott, NMSS, re: Engelhard Corp. / D.E. Makepeace Co. RCRA Site Containing AEC Regulated Waste / 4

**APPENDIX C
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTION</u>
1.	09/30/1992	Memo to J. Austin, NMSS, from J. Parrott, NMSS, Subject: Engelhard Corporation Site Joint Public Involvement Plan, plan attached / 22 / Exemption 6
2.	04/ /1993	Report, Radiological Characterization Survey Program, Plainville, MA, Site, Engelhard / 92 / Exemption 6
3.	08/ /1994	Draft Radiological Health and Safety Plan for Radiological Exterior Characterization Survey at the Engelhard Corporation / 126 / Exemption 6