



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

2008-072

2

RESPONSE TYPE



FINAL



PARTIAL

REQUESTER

Krystina LaFontant

DATE

FEB - 8 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.
- |            |
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| APPENDICES |
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 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.
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| APPENDICES |
|------------|

 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.
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|------------|
| APPENDICES |
|------------|

 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 incoming FOIA/PA-2008-072 request is in ADAMS at ML0730600660.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Russell A. Nichols

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

2008-072

**PART II.A -- APPLICABLE EXEMPTIONS**

APPENDICES  
**B, 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 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
Edward Baker	Director, OIS	B,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 B  
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.	7/03/2007	Update of MD 3.4 with revisions from 10/22/04 (113 pgs)
2.	7/25/2007	Email from D. Sealing 200600468 Extension Request (2 pgs)
3.	8/17/2007	Email from D. Sealing 3.4 Guideline (Update) (2 pgs)
4.	8/29/2007	Email from W. Davis Revised Part IV of MD 3.4 (13 pgs)
5.	9/18/2007	Email from D. Sealing Help related to the Document Checklist (2 pgs)
6.	9/19/2007	Email W. Davis 200600468 Extension Request (2 pgs)
7.	9/20/2007	Email S. Johnson MD 3.4 Extension (2 pgs)
8.	9/20/2007	Email J. Morris Response to a question about training (1 pg)
9.	9/25/2007	Email S. Johnson Fwd: Draft email to PMDAs and DRMAs (1 pg)
10.	10/01/2007	Email J. Linehan Revision of Management Directive 3.4 (2 pgs)
11.	10/04/2007	Email S. Reiter 07-323 (CIO) MD 3.4 "Release of Information to the Public" (1 pg)
12.	10/04/2007	Email J. Golder Update--Revision of Management Directive 3.4 (1 pg)
13.	10/10/2007	Email T. Hristopoulos E-Distribution: MD 3.4 and Associated Documents (114 pgs)
14.	10/11/2007	Email M. Gold Review and Update of MD 3.4 (1 pg)
15.	10/15/2007	Email D. Sealing Changes to MD 3.4 (1 pg)
16.	10/25/2007	Email J. Pellet Region IV MD 3.4 Draft Comments (2 pgs)
17.	10/25/2007	Email D. Armentrout Fwd: Review of MD 3.4 (1 pg)

18. 10/26/2007 R. Doornbos Region III MD 3.4 Draft Comments (2 pgs)
19. 10/26/2007 Email J. Coleman Region II Comments on MD 3.4 (1 pg)
20. 10/29/2007 Email L. Manning Region I Concurrence on Consolidated Comments (1 pg)
21. 10/29/2007 Email T. Hristopoulos E-Distribution: MD 3.4 and Associated Documents (1 pg)
22. 10/29/2007 Email B. Stall Comments on Draft MD 3.4.doc (2 pgs)
23. 10/29/2007 Email C. Carpenter Re: E-Distribution: MD 3.4 (1 pg)
24. 10/30/2007 Email M. Rodgers NMSS Response to MD 3.4 (63 pgs)
25. 10/30/2007 Email M. Rodgers Re: NMSS Response to MD 3.4 (2 pgs)
26. 0/30/2007 Email B. Serepca the OIG did not get MD 3.4 to review (1 pg)
27. 11/01/2007 Email J. Storch Follow-up on Audit Report OIG-07-A-16 (1 pg)
28. 11/01/2007 Email B. Serepca Re: Fwd: E-Distribution: MD 3.4 and Associated Documents (1 pg)
29. 11/01/2007 Email J. Storch Re: Follow-up on Audit Report OIG-07-A-16 (2 pgs)
30. 11/07/2007 Email B. Serepca Re: Fwd: E-Distribution: MD 3.4 and Associated Documents (1 pg)
31. 11/06/2007 Email M. Grodin M.D. 3.4 Comments (1 pg)
32. 11/15/2007 Email V. Voytko M.D. 3.4 changes (1 pg)
33. 11/21/2007 Email R. Nichols Draft of M.D. 3.4, Release of Information (1 pg)
34. 11/26/2007 Email R. Nichols Re: Draft of M.D. 3.4 (2 pgs)
35. 11/27/2007 Email W. Burnside Re: Draft of M.D. 3.4 (2 pgs)
36. 11/27/2007 Email S. Johnson Urgent -- question from Trip on 3.4 (1 pg)

37. 11/27/2007 Email S. Johnson Fwd: Re: Urgent – question from Trip on 3.4 (3 pgs)
38. 11/28/2007 Email S. Joosten Re: Fwd: MD 3.4 (1 pg)
39. 11/28/2007 Email C. Erlanger Re: Urgent – document for review (1 pg)
40. 11/28/2007 Email RidsNsirMailCenter Fwd: Re: Urgent – document for review (2 pgs)
41. 12/11/2007 Email T. Rothchild Revised M.D. 3.4 (1 pg)
42. 12/17/2007 Email B. Fichs Re: Fwd: E-Distribution: M.D. 3.4 and Associated Documents (1 pg)
43. 12/18/2007 Email B. Gusack Re: Question (1 pg)
44. 12/20/2007 Email S. Johnson FW: Request for Extension for MD 3.4 (2 pg)
45. 12/20/2007 Email W. Rechley NRO Comments on M.D. 3.4 (1 pg)
46. 12/20/2007 Email A. Howe M.D. 3.4 (1 pg)
47. 12/20/2007 Email A. Howe Re: M.D.3.4 and Other Document (1 pg)
48. 12/20/2007 Email T. Gorham NRR Comments on MD 3.4 (3 pgs)
49. 12/21/2007 Email D. Lipkey FSME Comments on M.D.3.4 (2 pgs)
50. 12/21/2007 Email D. Martin M.D. 3.4 Revised Text (2 pgs)

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	10/22/2004	Draft of a Revised Version of M.D.3.4 "Release of Information to the Public." (103 pp)
2.	Unknown	Memo on the OIG Audit of NRC's Process for Placing Documents in the ADAMS Public and Non-Public Libraries. (8 pp)
3.	Unknown	Comments on the Draft MD 3.4 from the Office of Information Services, Information Services Branch. (109 pp)
4.	6/09/2005	Memo E. Baker Proposed Revisions to MD 3.4 (7 pp)
5.	6/20/2005	Email Re: NMSS 200500201 – MD 3.4 (2 pp)
6.	6/27/2005	Email Update: HLWRS response to ticket 200500201 (2 pp)
7.	6/29/2005	Memo from H. Bell to E. Baker Draft M.D. and Handbook 3.4 (2 pp)
8.	7/13/2005	Memo from P. Easson to D. Grimsley NMSS's Comments on the Proposed revision to M.D. 3.4. (5 pp)
9.	8/14/2006	Email from R. Nichols to M. Janney Fwd: Attached is what the EDO sent to the OIG (11 pp)
10.	8/28/2006	Email R. Nichols to D. Sealing Fwd: MD 3.4, "Release of Information to the Public. (1 p)
11.	9/1/2006	Email R. Nichols to T. Rothchild FOIA (a)(2)
12.	9/28/2006	Email E. Baker Fwd: Emailing: IG Audit Resp. (a) (2) 9-28 draft.wpd (6 pp)
13.	7/13/2006	Email C. Moore Changes to MDs 3.4, 3.15, and 5.5 (1 p)
14.	10/12/2006	Email R. Nichols to D. Sealing Fwd: Chairman's Edits to CORR (7pp)
15.	10/12/2006	Email E. Mulley to D. Sealing Re:01-252 Fwd: MD 3.4 Extension
16.	10/19/2006	Email J. Golder to R. Nichols Fwd: FYI: COOR-06-0133 (8 pp)
17.	10/23/2006	Email R. Nichols to D. Sealing Fwd: Sensitive Draft SRM - COMSECY-06-0050 – Releasing Commission Decision Documents (8 pp)
18.	12/18/2006	Email C. Moore to D. Sealing Re: Update of MD 3.4 (1 p)
19.	12/18/2006	Email D. Sealing to C. Turner Re: Review of MD 3.4
20.	2/28/2007	Email J. Linehan to M. Janney Re: Fwd: Query: Status of Revision to MD 3.4 (11 pp)

21. 2/26/2007 Email J. Gordon to D. Sealing RE: Additional Information regarding MD 3.4 (7 pp)
22. 2/23/2007 E mail D. Sealing to M. Janney Re: OIS Ticket 06-476 (3 pp)
23. 2/16/2007 Email J. Storch to D. Sealing RE: OIG Interview request
24. 3/12/2007 Email W. Davis to D. Sealing ISB Comments on MD 3.4 (3 pp)
25. 5/23/2007 J. Linehan to W. Davis Fwd: Action: Review Draft Audit Report re: ADAMS Profiling of Documents (30 pp)
26. 6/19/2007 Email EDO Extension Request to M. Culpepper (6 pp)
27. 9/20/2007 Edited copy of MD 3.4 from ADM (65 pp)
28. 10/1/2007 Email from J. Linehan to J. Pellet Re: Revision of MD 3.4 (4 pp)
29. Undated Summary of Comments to Draft MD 3.4 (29 pp)
30. 11/13/2007 Briefing on MD 3.4 (8 pp)
31. 12/20/07 Edited copy of draft MD 3.4 from OGC and SECY (48 pp)