

2008-052

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

RESPONSE TYPE



FINAL



PARTIAL

REQUESTER

Linda Friedman

DATE

MAR 18 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 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 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 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 \*

\$ 256.93



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-2008-052 request is in ADAMS at ML073302191.

To process your request required the following:

Search - 9 hours professional @ \$51.49 per hour = \$463.41
SES search 1 hour @ \$1.43 per min = 85.80
Duplicate pages - 957 @ \$0.20 per page = 191.40
Actual cost: \$ 740.61

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Russell A. Nichols

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

2008-0052

MAR 18 2008

**PART II.A – APPLICABLE EXEMPTIONS**

APPENDICES  
**D, E**

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.
  - Low 2 Internal matters of a relatively trivial nature.
  - High 2 Disclosure would risk circumvention of a legal requirement.
- 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 2.390(d)(1).
  - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
  - Disclosure will harm an identifiable private or governmental interest.
- 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
Margaret M. Doane	OIP, Director	Appendix D, E		✓	
James Dyer	NRR, Director	Appendix D, E	✓		

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 D  
RECORDS BEING WITHHELD IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	Undated	DIRS/IOEB Input for G20070521: "Information Related to July 16, 2007, Earthquake Affecting Japanese Nuclear Facility". (1 page) - Exemption 5 - predecisional.
2.	Undated	Main Differences Between Old (Nuclear Safety Commission (NSC) 7/1981) and New (NSC 9/2006) Seismic Guidelines in Japan. (23 pages) - Exemption 4
3.	Undated	A Schematic of unit 6 ceiling crane fracture points. (4 pages) - Exemption 4.
4.	Undated	Diagram Ground Surface. (1 page) - Exemption 4
5.	Undated	Japanese Diagram. (1 page) - Exemption 4
6.	Undated	Diagrams of Unit 6 Radioactive Water Leakage Pass. (2 pages) - Exemption 4
7.	Undated	Slides presentation on Niigata Earthquake July 16, 2007 on Effects of Structures by S. Pujol, EERI. (27 pages) - Exemption 4
8.	Undated	Questions from the NRC with responses in Japanese. (3 pages) - Exemption 4
9.	Undated	Fire at Kashiwazaki-Kariwa Nuclear Power Plant. (2 pages) Exemption 4
10.	Undated	A strong earthquake in Niigata prefecture and its effect on Kashiwazaki-Kariwa Nuclear Power Station. (1 page) - Exemption 4
11.	Undated	Plant Status of Kashiwazaki-Kariwa NPP after the Niigata Earthquake. (6 pages) - Exemption 4
12.	07/16/07	Seismic Measured Data at Kashiwazaki-Kariwa NPS by TEPCO. (1 page) - Exemption 4.
13.	07/24/07	Plant Status of Kashiwazaki-Kariwa Nuclear Power Station after the Niigata-Chuetsu-Oki Earthquake. (4 pages) - Exemption 4

14. 07/24/07 Slides for presentation by M. Ross-Lee, NRR on "Briefing on Effects of Japanese Earthquake", with handwritten notes by J. Dyer, NRR (32 pages) - Exemption 4
15. 07/24/07 Slides for presentation by M. Ross-Lee, NRR on "Briefing on Effects of Japanese Earthquake". (42 pages) - Exemption 4
16. 07/25/07 An Earthquake in Niigata Prefecture and its Effects on Kashiwazaki-Kariwa Nuclear Power Station. (9 pages) - Exemption 4
17. 07/27/07 Slides for presentation on The Earthquake in Niigata Prefecture and its Effects on Kashiwazaki-Kariwa Nuclear Power Station by NISA. (14 pages) - Exemption 4
18. 07/27/07 Status of earthquake-related issue at Kashiwazaki-Kariwa Nuclear Power Station. (1 page) - Exemption 4
19. 07/27/07 Plant Status of Kashiwazaki-Kariwa Nuclear Power Station after the Niigata-Chuetsu-Oki Earthquake. (4 pages) - Exemption 4
20. 08/2007 Slides for presentation on Impact of the Niigata Chuestu-oki Earthquake on the Tokyo Electric Power Company (TEPCO) Kashiwazaki-Kariwa Nuclear Power Station and Countermeasures. (16 pages) - Exemption 4
21. 08/07/07 Email to E. Thomas, NRR and S. Pannier, NRR from M. King, NRR on "Followup from the Bill Kane/ INPO Call - held on Tuesday, 8/7. (2 pages) - Exemption 5
22. 08/07/07 Facsimile on Topic of Interest and Questions for the INPO/JANTI Visit to Kashiwazaki-Kariwa. (3 pages) - Exemption 4
23. 08/07/07 INPO Teleconference Call. (11 pages) - Exemption 4, 5, and out of scope.
24. 08/07/07 Email to J. Wiggins, NRR et al. from G. Bagchi, NRO on "Fwd: Re: Japanese lessons learned". (1 page) - Exemption 5
25. 08/08/07 Email to S. Pannier, NRR from J. Tobin, FSME on "Updated Information on Japan Earthquake". (2 pages) - Exemption 5
26. 08/09/07 Email to A. Ziedonis, R1 et al. from J. Thorp, NRR on "IOEB OpE Screening Summary for Thursday, August 9, 2007". (3 pages) - Exemption 5

27. 08/10/07 Plant Status of Kashiwazaki-Kariwa Nuclear Power Station after the Niigata-Chuetsu-Oki Earthquake. (5 pages) - Exemption 4
28. 08/24/07 Slides on presentation on Briefing of the Chuetsu-Oki Earthquake, Japan Nuclear Technology Institute. (28 pages) - Exemption 4
29. 09/2007 Slides on presentation on The Quake-hit Kashiwazaki-Kariwa Nuclear Power Station & TEPCO's actions by S. Kawamura, TEPCO. (8 pages) - Exemption 4
30. 09/2007 Slides on presentation on The Quake-hit Kashiwazaki-Kariwa Nuclear Power Station & TEPCO's actions by S. Kawamura, TEPCO. with hand written notes. (30 pages) - Exemption 4
31. 09/2007 Slides on presentation on The Quake-hit Kashiwazaki-Kariwa Nuclear Power Station & TEPCO's actions by S. Kawamura, TEPCO. (58 pages) - Exemption 4
32. 09/07/07 Slides for presentation on An Earthquake in Niigata prefecture and its Effects on Kashiwazaki-Kariwa Nuclear Power Station by T. Yamada, NISA. (18 pages) - Exemption 4
33. 09/07/07 Slides for presentation on Societal, Business & governmental Impact N6.6 Niigata-ken Chuetsu-oki Earthquake by L. Johnson, AICP. (24 pages) - Exemption 4
34. 09/20/07 Slides for presentation on Report on the earthquake impact to Kashiwazaki-Kariwa NPP by A. Fukushima, NISA. (30 pages) - Exemption 4
35. 09/26/07 Email to G. Thomas, NRR and K. Manoly, NRR from B. Rini, NRR on Query: Draft User Need Regarding Japanese Earthquake. (7 pages) - Exemption 5
36. 10/04/07 Email to K. Manoly, NRR from B. Rini, NRR on "Action: Draft User Need Regarding Japanese Earthquake". (6 pages) - Exemption 5
37. 10/26/07 Email to B. Rini NRR et al. from J. Thorp, NRR on "Re: Request for quick turn-around concurrence package". (2 pages) - Exemption 5

**APPENDIX E  
RECORDS BEING RELEASED IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1	07/18/07	Email to A. Blamey, R2 et al. From J. Thorp, NRR, "IOEB Record of Decision for Wednesday, July 18, 2007. (3 pages) - Exemption 5
2.	07/30/07	Email to A. Blamey, R2 et al. from J. Thorp, NRR on "IOEB OpE Screening Summary for Friday, July 27, 2007 RESENT to correct one item". (3 pages) - Exemption 5
3.	07/31/07	Email to J. Thorp, NRR from L. Casey, R1 on "Re: IOEB OpE Screening Summary for Friday, July 27, 2007". (3 pages) - Exemption 5
4.	09/04/07	Memo to M. Ross-Lee, NRR from J. Thorp, NRR on "Closure Memorandum: Issue for Resolution 2007-032 - Earthquake near Japanese Nuclear Power Plant Shuts Down Four Reactors" . (11 pages) - Exemption 5