

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

2008-0314

4

RESPONSE
TYPE☐

FINAL

☒

PARTIAL

REQUESTER

Elizabeth Marvin

DATE

JAN 22 2009

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
G & 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, 11555 Rockville Pike, Rockville, MD 20852-2738.
- ☒ APPENDICES
G & 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 *

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You will be billed by NRC for the amount listed.

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None. Minimum fee threshold not met.

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You will receive a refund for the amount listed.

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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 request is in ADAMS at accession number ML082460452.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Donna Sealing

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

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

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
Charles L. Miller	Director, FSME	Appendix H	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input 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."

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	1/30/59	Feasibility Report DEM-5 for Engelhard Industries 23 pages)
2.	3/2/59	Feasibility Report DEM-6 for Engelhard Industries (12 pages)
3.	Rev. 9/4/59	Feasibility Report DEM-5, Revision A, for Engelhard Industries (25 pages)
4.	Rev. 9/4/59	Feasibility Report DEM-6, Revision A, for Engelhard Industries (14 pages)
5.	10/8/59	Review of Criticality Policies and Procedures Summary of Manufacturing Operations - Engelhard Industries (10 pages)
6.	12/23/60	Feasibility Report DEM-11 for Engelhard Industries (10 pages)
7.	04/22/57	Memo from Walker Campbell to Lyall Johnson regarding Baker & Co., Inc., License Application. 1 page
8.	11/23/59	Letter from N. Weiss, Engelhard Industries, to USAEC regarding employee overexposure. 6 pages
9.	07/26/61	Memo from R. Cunningham to L. Dubinski regarding Engelhard Industries. 1 page

**APPENDIX H
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	2/18/57	Letter to L. Johnson, U.S. Atomic Energy Commission, from C.R. Bergherm, Baker & Co., Inc., Subject: Application for License - Cold Enriched Uranium Scrap Processing (7 pages total, 6 pages released) (EX 4) (EX 6)
2.	3/21/57	Letter to L. Johnson, U.S. Atomic Energy Commission, from Guaranty Trust Company of New York, Subject: Certificate of Insurance for Baker & Co. (2 pages) (EX 4)
3.	3/25/57	Letter to L. Johnson, U.S. Atomic Energy Commission, from C. R. Bergherm, Baker & Co., Subject: Application for Special Nuclear Material License (2 pages) (EX 4)
4.	4/22/57	Memorandum to L. Johnson, Licensing Branch, from C.R. Bergherm, Baker & Company, Subject: Baker & Co., Inc., License Application (6 pages total, 5 pages released) (EX 4)
5.	6/25/57	Memorandum to Files from J.C. Delaney, Chief, Materials Section, Subject: Baker & Co., Inc., Application for SNM License (1 page) (EX 4)
6.	12/27/57	Letter to L. Johnson, U.S. Atomic Energy Commission, from C. R. Bergherm, Engelhard Industries, Subject: Change in Name for Docket 70-90 (4 pages) (EX 6)
7.	1/14/58	Letter to L. Johnson, U.S. Atomic Energy Commission, from L. Burman, Engelhard Industries, Subject: Spectrographic Standards Requirements for Docket 70-90 (2 pages) (EX 4)
8.	2/7/58	Memorandum to Files thru J.C. Delaney, Chief, Materials Section, from P.G. Sullivan, Subject: Change in Corporate Designation and Application for Amendment of License SNM-98, as Amended (2 pages) (EX 4)
9.	5/9/58	Letter to L. Johnson, U.S. Atomic Energy Commission, from L. Burman, Engelhard Industries, Subject: Application for Increase in Maximum Quantity for License SNM-98 (2 pages) (EX 4)
10.	5/28/58	Letter to L. Johnson, U.S. Atomic Energy Commission, from C. R. Bergherm, Engelhard Industries, Subject: Amendment of License SNM-98 Spectrographic Standards Requirements (1 page) (EX 4)
11.	7/8/58	Letter to L. Johnson, U.S. Atomic Energy Commission, from L. Burman, Engelhard Industries, Subject: Response to June 17, 1958 Letter with Comments About Proposed Dissolver Additions (1 page) (EX 4)

**APPENDIX
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
12.	7/15/58	Letter to J. Delaney, Chief, Materials Section, U.S. Atomic Commission, from E.F. Rosenblatt, Engelhard Industries, Subject: Application to Amend License No. SNM 98 for Immediate Shipping of U ₃ O ₈ (1 page) (EX 4)
13.	8/27/58	Letter to J. Delaney, Licensing Branch, from E. F. Rosenblatt, Engelhard Industries, Subject: Additional Information on Procedures to Avoid Accidental Criticality (2 pages) (EX 4)
14.	9/12/58	Letter to J. Delaney, Chief, Materials Section, Atomic Energy Commission, from E. F. Rosenblatt, Engelhard, Industries, Subject: Submittal of Additional Information Concerning Quantity and Materials for Shipping in Proposed Containers (2 pages—page 2 is illegible) (EX 4)
15.	12/5/58	Letter to L. Johnson, Atomic Energy Commission, from E. F. Rosenblatt, Engelhard Industries, Subject: Submittal of Emergency Procedures for Uranium Refinery (3 pages total, 1 page released) (EX 4)
16.	2/9/59	Letter to J. Delaney, Atomic Energy Commission, from E. F. Rosenblatt, Engelhard Industries, Subject: Reply to Request for Additional Information on Shipping Containers (1 page) (EX 4)
17.	3/25/59	Letter to J. Delaney, Atomic Energy Commission, from E. F. Rosenblatt, Engelhard Industries, Subject: Detailed Description of Monitoring Instrumentation and Procedures (3 pages total, 2 pages released) (EX 4)
18.	4/3/59	Memorandum to H. Price, Director, Division of Licensing and Regulation, from R. Kirkman, Director, Inspection Division, NYOO, Subject: Transmittal of License Compliance Inspection Report - 10 CFR 30, 40, 70 (19 pages) (EX 4)
19.	5/1/59	Memo to Lyall Johnson, Licensing Branch, from Cliff Beck, Hazards Evaluation Branch, subject: Engelhard Industries (2 pages) (EX. 4)
20.	5/14/59	Route Slip w/handwritten notes (4 pages) (EX. 4)
21.	5/15/59	Letter to E.F. Rosenblatt, Engelhard Industries, from J.C. Delaney, Division of Licensing and Regulation, subject: Special Nuclear Material License SNM-98 (2 pages) (EX. 4)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
22.	12/1/59	Letter to T. Klevin, Atomic Energy Commission, NY Operations Office, from Nucleonic Corporation of America, Subject: Engelhard Industries Dosimeter Film (8 pages—some pages are illegible) (EX 6)
23.	5/26/60	Letter to L. Johnson, Atomic Energy Commission, from E.E. Thomas, Engelhard Industries, Subject: Information on New Company, a Delaware Corporation (2 pages) (EX 6)
24.	7/14/60	Memo to Lyall Johnson, Division of Licensing and Regulation from Walker Campbell, Assistant Controller, subject: Financial Analysis of Engelhard Industries (2 pages) (EX 4)
25.	7/15/60	Letter to J.F. Thompson, Engelhard Industries from J.C. Delaney, Licensing & Regulation, subject: transfer of part of Engelhard Industries (2 pages) (EX 4)
26.	8/5/60	Report of Apparent Radiation Overexposure During Period 6/13/60 - 6/25/60 at Engelhard Industries (22 pages total, 17 pages released) (EX 6) (EX 4)
27.	8/22/60	Letter to W.F. Mittendorf, Engelhard Industries, from Lyall Johnson, Division of Licensing and Regulation, Subject: Inspection conducted on 11/19/59 (2 pages) EX. 4
28.	10/17/60	Memorandum to L. R. Rogers, Assistant Director for Nuclear Materials Safety, from E. Outten, Acting Assistant Director for Materials, Atomic Energy Commission, Subject: Engelhard Industries, Attleboro MA; License C-4941 and SNM-185 - Overexposures (24 pages total, 16 pages released. Some pages are illegible) (EX 6) (EX 2, High)
29.	12/22/60	Letter to Director, Div of Civilian Application, Atomic Energy Commission, from M. Weiss, Engelhard Industries, Subject: Submittal of Report Pertaining to Investigation of Radiation Exposure (3 pages) (EX 6)
30.	1/5/61	Letter to L. Johnson, Atomic Energy Commission, from L. Burman, Engelhard Industries, Subject: Amendment to SNM-98 - Application for Additional Spectrographic Standards (1 page) (EX 4)
31.	1/5/61	Letter to L. Johnson, Atomic Energy Commission, from L. Burman, Engelhard Industries, Subject: Amendment to SNM-98 - Authorization for Receipt of Plutonium (20. pages) (EX 6)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
32.	1/12/61	Letter to L. Burman, Engelhard Industries, from J. Delaney, Atomic Energy Commission, Subject: Amendment to Sections 7 and 8 of License SNM-98 (1 page) (EX 4)
33.	3/8/61	Letter to J. Delaney, Atomic Energy Commission, from J. Becker, Engelhard Industries, Subject: Application to Receive and Purchase Order of Special Nuclear Material, w/enclosure (2 pages) (EX 4)
34.	3/23/61	Memorandum to L. R. Rogers, Assistant Director for Nuclear Materials Safety, from D. Warner, Acting Assistant Director for Materials, Subject: February 17, 1961 Inspection Report for Engelhard Industries (3 pages) (EX 6)
35.	5/4/61	Letter to D. Warner, Assistant Director for Materials, Div of Compliance, Atomic Energy Commission, from R. Kirkman, Director, Compliance Division, NYOO, Subject: Engelhard Industries - Report of Overexposures (12 pages) (EX 6)
36.	5/31/61	Letter to J.W. Becker, Engelhard Industries, from Lyall Johnson, Division of Licensing and Regulation, Subject: Licensing No. SNM-98 as amended (2 pages) EX. 4
37.	8/4/61	Letter to W.F. Mittendorf, Engelhard Industries from E. Price, Division of Licensing and Regulation, Atomic Energy Commission, Subject: Inspection Conducted on December 12 and 13, 1960, Under AEC Byproduct Material License 20-5216-1, C-5161 and SNM-185 (2 pages) (EX 6)
38.	10/18/61	Letter to D. Nussbaumer, Div of Licensing and Regulation, Atomic Energy Commission, from A. J. Lincoln, Engelhard Industries, Subject: Authorization to Use Enriched Uranium Isotopic Standards at Newark, NJ Site (3 pages) (EX 4)
39.	1/8/62	Memo Route Slip to Dr. C. Luke from R. E. Cunningham, Subject: Inspection Report for Engelhard Industries on July 12, 1961 (15 pages) (EX 4) and (EX. 6)
40.	5/28/62	Memorandum to E. Price, Div of Licensing and Regulation, from L. Dubinski, Division of Compliance, Subject: Engelhard Industries - Reported Exposures (2 pages) (EX 6)
41.	9/30/92	Note To: J. Austin, NRC, from J. Parrott, Subject: Draft Engelhard Site Joint Public Involvement Plan (20 pages) (EX 6)
42.	4/21/93	Letter to J. Austin, DWM/NMSS, NRC, from D. Chabot, Engelhard Corporation, Subject: Decontamination Plan for Interior of Plainville, MA Plant (53 pages) (EX. 4 & EX 6)
43.	4/93	Radiological Characterization Survey Program, Plainville, MA Site, Engelhard Corporation (92 pages total, 91 released) (EX 6)