

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

2009-0070

6

RESPONSE
TYPE☐

FINAL

☒

PARTIAL

REQUESTER

RICHARD WEBSTER

DATE

JUN 17 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
K, L 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
K, L 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 ML090230123.

Records with a ML Accession Number are publicly available in the NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm.html>. If you need assistance in obtaining these records, please contact the NRC's Public Documents Room (PDR) at 301-415-4737, or 1-800-397-4209, or by E-mail to PDR.Resource@nrc.gov.

SIGNATURE (FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER)

DONNA SEALING

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ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

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**APPENDICES
L, M****PART II.A -- APPLICABLE EXEMPTIONS**

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
SAMUEL J. COLLINS	REGIONAL ADMINISTRATOR, REGION 1	Appendix L. Appendix M, Items 1-9	✓		
ERIC I. LEEDS	DIRECTOR, OFFICE OF NUCLEAR REACTOR REGULATION	Appendix M, Item 10	✓		

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 K
RECORDS BEING RELEASED IN THEIR ENTIRETY**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	11/07/2008	E-mail from R. Conte of USNRC to J. Richmond, D. Tifft and D. Pelton of USNRC, regarding OC PNO-Nove2008 Rev 0 Drywell, OC 2008 Outage Comm Plan Rev 1 (2 pages)
	Undated	Draft Preliminary Notification (2 pages)
	Undated	Communications Plan, Preliminary Results of Oyster Creek Licensee Renewal Commitment Inspection, rev 1 (6 pages)
2.	11/07/2008	E-mail from J. Richmond of USNRC to J. Richmond of USNRC, regarding Oyster Creek Drywell Shell Coating Issue (5 pages)
3.	11/11/2008	E-mail from R. Conte of USNRC to D. Roberts and J. Richmond of USNRC, regarding OC PNO-Nove2008 Rev 0 Drywell, OC 2008 Outage Comm Plan Rev 1 (3 pages) Note: There is a section that is outside of the scope
	Undated	Draft Preliminary Notification (2 pages)
	Undated	Communications Plan, Preliminary Results of Oyster Creek Licensee Renewal Commitment Inspection, rev 1 (9 pages)
4.	11/14/2008	E-mail from M. Dapas of USNRC to D. Roberts of USNRC, regarding New items discovered in sandbed region of OC Drywell – not a drywell integrity concern (2 pages)
5.	11/15/2008	E-mail from J. Richmond of USNRC to D. Roberts and D. Pelton of USNRC, regarding OC New item discovered in sad bed region of OC Drywell – not a drywell integrity concern (3 pages)
6.	11/19/2008	E-mail from J. Richmond of USNRC to M. McLaughlin of USNRC, regarding Results of discussion with NJDEP regarding OC PN and Board Notification (4 pages)
7.	12/04/2008	E-mail from C. Newport of USNRC to J. Richmond of USNRC, regarding Exelon Pre-Brief Br 6 updated (4 pages) / Exemption 5 Note: There is a section that is outside of the scope

**APPENDIX L
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	10/31/2008	E-mail from J. Richmond of USNRC to various, regarding OC LRI Daily Update Oct 31 (2 pages) / Exemption 5
2.	11/02/2008	E-mail from J. Richmond of USNRC to various, regarding OC LRI Daily Update Nov 2 (2 pages) / Exemption 5
3.	11/02/2008	E-mail from T. O'Hara of USNRC to various, regarding OC LRI Daily Update Oct 31 (4 pages) / Exemption 5 and 6
4.	11/03/2008	E-mail from J. Richmond of USNRC to various, regarding OC LRI Daily Update Nov 3 (2 pages) / Exemption 5
5.	11/04/2008	E-mail from J. Richmond of USNRC to various, regarding OC LRI Daily Update Nov 4 (2 pages) / Exemption 5
6.	11/05/2008	E-mail from J. Richmond of USNRC to various, regarding OC LRI Daily Update Nov 5 (2 pages) / Exemption 5
7.	11/06/2008	E-mail from J. Richmond of USNRC to various, regarding OC LRI Daily Update Nov 6 (2 pages) / Exemption 5
8.	11/14/2008	E-mail from M. Modes of USNRC to J. Richmond of USNRC, regarding 23 and 71 foot Transition Plate Tech Eval posted (3 pages) / Exemption 5
9.	11/22/2008	E-mail from J. Richmond of USNRC to various, regarding OC LRI Update Nov 20 (3 pages) / Exemption 2 (High) and 5
10.	11/24/2008	E-mail from D. Roberts of USNRC to R. Conte of USNRC, regarding OC LRI Update Nov 20 (4 pages) / Exemption 2 High and 5 Note: there is a section that is outside of the scope
11.	11/24/2008	E-mail from D. Roberts of USNRC to R. Conte of USNRC, regarding OC LRI Update Nov 20 (4 pages) / Exemption 2 (High) and 5 Note: there is a section that is outside of the scope
12.	11/25/2008	E-mail from R. Conte of USNRC to M. Modes of USNRC, regarding OC LRI Update Nov 20 (5 pages) / Exemption 2 (High) and 5 Note: there is a section that is outside of the scope
13.	12/04/2008	E-mail from J. Richmond of USNRC to R. Conte of USNRC, regarding OC LRI 2008-07 Exit Notes rev 3 (7 pages total / 5 pages released)
	Undated	Oyster Creek License Renewal Commitments Inspection Exit Meeting / Exemption 5

14. 12/04/2008 E-mail from J. Richmond of USNRC to R. Conte of USNRC, regarding OC LRI 2008-07 Exit Notes rev 4 (7 pages total / 5 pages released)
- Undated Oyster Creek License Renewal Commitments Inspection Exit Meeting / Exemption 5
15. 12/15/2008 E-mail from R. Conte of USNRC to R. Bellamy of USNRC, regarding OC Exit Meeting Next Steps and OC LRI 2008-07 Exit Notes rev 6 (1 page) / Exemption 5
- Undated Oyster Creek Commitment Inspection Per IP 71003 – App. C MC 2515, Infrequent Procedures Status and Next Steps (15 pages) / Exemption 5
- Undated Oyster Creek License Renewal Commitments Inspection Exit Meeting (5 pages) / Exemption 5
16. 01/05/2009 E-mail from R. Conte of USNRC various, regarding Oyster Creek 71003 – Learning Documents (37 pages total, 27 pages released) / Exemption 5
- Undated Oyster Creek Commitment Inspection Per IP 71003 – App. C MC 2515, Infrequent Procedures Lessons Learned and Key Questions Developed / Exemption 5
- Undated Issue from State of New Jersey on NRC Exit / Meeting Information / Notes / Exemption 5
- Undated Oyster Creek License Renewal Commitments Inspection Exit Meeting / Exemption 5
- Undated Oyster Creek Commitment Inspection Per IP 71003 – App. C MC 2515, Infrequent Procedures Status and Next Steps
17. 01/16/2009 E-mail from R. Conte of USNRC to J. Richmond and D. Bearde of USNRC, regarding OC 2008-07 LRI rev 11 (3 pages) / Exemption 5 **Note: Sections are outside of the scope**
- Undated Draft of Letter from D. Roberts of USNRC to C. Pardee of Exelon Generation Company, LLC, regarding Oyster Creek Generating Station – NRC License Renewal Follow-up Inspection Report 05000219/2008007, Revision 11 (30 pages) / Exemption 5
18. 01/16/2009 E-mail from J. Richmond of USNRC to various, regarding Revised OC Report 2008-07 (rev 12) (5 pages)
- Undated Draft of Letter from D. Roberts of USNRC to C. Pardee of Exelon Generation Company, LLC, regarding Oyster Creek Generating Station – NRC License Renewal Follow-up Inspection Report 05000219/2008007, Revision 12 (30 pages) / Exemption 5
19. 01/17/2009 E-mail from J. Richmond of USNRSC to various, regarding PNO-I-08-012 – Oyster Creek (2 pages)

11/17/2008 PNO-I-08-012: Results of Implementation of Oyster Creek License
Renewal Commitments Related to the Drywell Primary Containment (3
pages) Publicly Available in ADAMS ML083220240

Undated Communications Plan and Notification Sequence Preliminary Results of
Licensee Renewal Commitment Inspection for Oyster Creek Drywell
Containment Shell (6 pages) / Exemption 5

APPENDIX M
RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)/EXEMPTIONS</u>
1.	11/17/2008	E-mail from J. Richmond of USNRC to R. Bellamy of USNRC, regarding Draft OC Preliminary Notification rev 3 (3 pages) / Exemption 5
2.	12/29/2008	E-mail from M. Baty of USNRC to R. Conte and E. Williamson of USNRC, regarding Discuss Pro/Cons of Various Options to Address NJ Information Gap Concern (4 pages) / Exemption 5
3.	12/29/2008	E-mail from R. Conte of USNRC to E. Williamson of USNRC, regarding Discuss Pro/Cons of Various Options to Address NJ Information Gap Concern (4 pages) / Exemption 5
4.	12/30/2008	E-mail from B. Holian of USNRC to E. Williamson and R. Conte of USNRC, regarding Discuss Pro/Cons of Various Options to Address NJ Information Gap Concern (3 pages) / Exemption 5
5.	01/09/2009	E-mail from N. McNamara of USNRC to R. Conte, K. Farrar and M. Gamberoni of USNRC, regarding Conf. Call w/NJ on Monday (6 pages) / Exemption 5
6.	01/13/2009	E-mail from R. Conte of USNRC to J. Richmond, M. Baty and D. Pelton of USNRC, regarding OC Exit Notes in ADAMS (2 pages) / Exemption 5
7.	Undated	Talking Points Board Notification –Oyster Creek Nuclear Generating Company (2 pages) / Exemption 5
8.	01/05/2009	E-mail from R. Conte, USNRC to various, regarding Prebrief with Marsha w/Attachments. (8 pages) / Exemption 5
9.	Undated	Draft Preliminary Notification of Event of Unusual Occurrence, PNO-1-08-XXX, Facility AmerGen Energy Company, LLC, Oyster Creek, Subject –Results of Implementation of Oyster Creek License Renewal Commitments Related to the Primary Containment (Drywell). (3 pages) / Exemption 5
10.	11/17/2008	E-mail from D. Pelton of USNRC to J. Richmond and M. Baty of USNRC, regarding OC Strippable Coating Commitment (3 pages) / Exemption 5