

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

2010-0039

6

RESPONSE  
TYPE☐

FINAL

☒

PARTIAL

REQUESTER

Maria Webb

DATE

MAY - 6 2010

**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**  
**K, L** 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**  
**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 \*

\$

☐

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 request in in ADAMS at ML093140450.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Donna L. Sealing

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

2010-0039

MAY - 6 2010

## APPENDICES

**L****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
Charles L. Miller	Director, Office of Federal and State Materials and Environmental Management Programs	Appendix L	<input checked="" 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 K**  
**RECORDS BEING RELEASED IN THEIR ENTIRETY**  
**(If copyrighted identify with \*)**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	03/04/09	E-mail from T. Taylor, FSME to G. Purdy, NSIR; Subject: Question 19 on Staff Assessment. (1 page)
2.	Undated	Draft Article for NRC Reporter with Track Changes. (2 pages)
3.	03/06/09	E-mail from T. Taylor, FSME to G. Purdy, NSIR; Subject: FW: Response to NRC Comments, regarding NJ response to NRC's questions on NJ application, w/ Attachments. (151 pages)

**APPENDIX L  
RECORDS BEING WITHHELD IN PART**

<b><u>NO.</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION/ (PAGE COUNT)</u></b>
1.	09/25/07	Email to J Bruce Carrico, et al, NRC from Jennifer Tobin re: October 3 New Jersey (NJ) call. (2 pages) / <b>EX 2 High</b>
2.	11/07/07	Email to J Bruce Carrico, et al, NRC from Jennifer Tobin, NRC re: Draft NJ letter. (15 pages) / <b>EX 2 High</b>
3.	12/05/07	Email to Patricia Gardner, State of NJ et al from Jennifer Tobin, NRC re: NJ Legislation call. (1 page) / <b>EX 2 High</b>
4.	4/16/09	NARM Waiver Issues. (2 pages) / <b>EX 5</b>
5.	06/24/08	Email to Patricia Gardner, State of NJ, et al from Duncan White, NRC re: Stepan Chemical. (1 page) / <b>EX 5</b>
6.	02/25/09	Email to Bruce Watson, NRC, et al from Torre Taylor, NRC re: Documents and Information for 2/26/09 meeting. (6 pages) / <b>EX 2 High and 6</b>
7.	02/26/09	Email to Joan Olmstead, Dennis Sollenberger, NRC from Torre Taylor, NRC re: OGC Portion of Staff Assessment. (5 pages) / <b>EX 5 and 6</b>
8.	03/13/09	Email to Dennis Sollenberger, et al, NRC from Torre Taylor, NRC re: call with NJ 3/12/09, team comments. (4 pages) / <b>EX 5</b>
9.	03/23/09	Papers Before the Commission. (12 pages total, 4 pages released) / <b>Portions Outside of Scope</b>
10.	03/26/09	Working Schedule for NJ Agreement Application. (4 pages) / <b>EX 6</b>
11.	03/30/09	DEDMRT Periodics with the Commission. (5 pages total, 1 page released) / <b>Portions Outside of Scope</b>
12.	04/03/09	Concurrence Summary re: NJ SECY. (1 page) / <b>EX 5</b>
13.	04/06/09	DEDMRT Periodics with the Commission. (5 pages total, 3 pages released) / <b>Portions Outside of Scope</b>
14.	04/24/09	Email to Patricia Gardner, State of NJ et al from Torre Taylor, NRC re: NJ agreement information needed in a letter. (1 page) / <b>EX 5</b>
15.	04/28/09	Email to Joan Olmstead, et al, NRC from Torre Taylor, NRC re: naturally-occurring and accelerator-produced radioactive material (NARM) Waiver Expiration information. (4 pages) / <b>EX 5</b>
16.	04/30/09	Email to Dennis Sollenberger, Donna Janda, NRC from Torre Taylor, NRC re: NARM Waiver Expiration information. (4 pages) / <b>EX 5</b>

17. 04/30/09 Email to Patricia Gardner, State of NJ et al from Torre Taylor, NRC re: Docket ID for NJ Agreement Federal Register Notice (FRN). (1 page) / **EX 6**
18. 04/30/09 Email to Patricia Gardner, State of NJ, Dennis Sollenberger, NRC from Torre Taylor, NRC re: signature level of letter. (1 page) / **EX 6**
19. 06/09/09 Working Schedule for NJ Agreement Application. (4 pages) / **EX 6**
20. 06/10/09 Email to Torre Taylor, NRC from Dennis Sollenberger, NRC re: NJ Agreement. (2 pages) / **EX 6**
21. 06/15/09 Working Schedule for NJ Agreement Application. (4 pages) / **EX 6**
22. 06/26/09 Email to Joan Olmstead, Dennis Sollenberger, NRC from Torre Taylor, NRC re: Shieldalloy Metallurgical Corporation (SMC) Questions. (4 pages) / **EX 5**
23. 07/08/09 Email to Joan Olmstead, Dennis Sollenberger, NRC from Torre Taylor, NRC re: SMC Comment response. (9 pages) / **EX 5**
24. 07/15/09 Email to Donna Janda, NRC from Torre Taylor, NRC re: Office of the Secretary (SECY) package, NJ Agreement. (2 pages) / **EX 6**
25. 07/15/09 Email to Russell Allwein, Dennis Sollenberger, NRC from Torre Taylor, NRC re: Note for office concurrence. (2 pages) / **EX 6**
26. 07/28/09 Email to Dennis Sollenberger, NRC from Torre Taylor, NRC re: enclosure public comment analysis NJ Agreement. (14 pages) / **EX 5, 6**
27. 07/28/09 Email to Dennis Sollenberger, NRC from Torre Taylor, NRC re: rev 2 SECY paper for final agreement. (9 pages) / **EX 5**
28. 07/28/09 Email to Joan Olmstead, et al, NRC from Torre Taylor, NRC re: SECY Paper and staff analysis of public comments. (20 pages) / **EX 5**
29. 07/28/09 Email to Joan Olmstead, et al, NRC from Torre Taylor, NRC re: SECY public comment analysis; 22 pages / **EX 5**
30. 07/29/09 Email to David McIntyre, Dennis Sollenberger, NRC from Torre Taylor, NRC re: revision to press release. (1 page) / **EX 6**
31. 07/29/09 Email to Joan Olmstead, et al, NRC from Torre Taylor, NRC re: Paper and staff analysis of public comments. (17 pages) / **EX 5**
32. 07/30/09 Email to Duncan White, et al, NRC from Torre Taylor, NRC re: enclosure, final staff assessment. (24 pages) / **EX 5**
33. 08/03/09 Email to Torre Taylor, NRC from Dennis Sollenberger, NRC re: New Jersey – Shieldalloy Metallurgical Corporation (NJSMC) issue public comment. (2 pages) / **EX 5**

34. 03/13/09 E-mail to D. Sollenberger, FSME, et al from T. Taylor, FSME; Subject: Call with NL Marcj 12, 2009 Team Comments on Supplemental Info. Doc. ( 4 pages) / **EX 5**
35. 05/14/09 E-mail to Alison Rivera, FSME, et al from T. Taylor, FSME; Subject: Re: Draft SRM –SECY-09-0065 –Proposed Agreement between the State of New Jersey and the Commission Pursuant to Section 274. (1 page) / **Portions Outside of Scope**
36. Undated Draft Bullets for C. Miller Visit. (3 pages total, 2 pages releases) / **Portions Outside of Scope**
37. Undated Comments on Section 4.4, Inspection Program Elements, NJDEP Formal Application, w/Handwritten Notes. (6 pages) / **EX 5**
38. Undated Potential Processing Schedule for New Jersey. (2 pages) / **EX 6**
39. Undated Briefing Bullets for C. Miller Visit. (30 pages total, 21 pages released) / **Portions Outside of Scope, EX 5**