



### RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2017-0047

1

RESPONSE TYPE

INTERIM

FINAL

**REQUESTER:**

Julian Tarver

**DATE:**

03/27/2017

**DESCRIPTION OF REQUESTED RECORDS:**

SECY 10-0005, SECY 10-0027, SECY 10-0063.

#### PART I. - INFORMATION RELEASED

You have the right to seek assistance from the NRC's FOIA Public Liaison. Contact information for the NRC's FOIA Public Liaison is available at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>

- Agency records subject to the request are already available on the Public NRC Website, in Public ADAMS or on microfiche in the NRC Public Document Room.
- 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

#### NO FEES

AMOUNT\*

\*See Comments for details

- You will be billed by NRC for the amount listed.
- You will receive a refund for the amount listed.
- Fees waived.

- Minimum fee threshold not met.
- Due to our delayed response, you will not be charged fees.

#### PART I.B - INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
  - We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
  - Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 90 calendar days of the date of this response by sending a letter or e-mail to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or [FOIA.Resource@nrc.gov](mailto:FOIA.Resource@nrc.gov). Please be sure to include on your letter or email that it is a "FOIA Appeal." You have the right to seek dispute resolution services from the NRC's Public Liaison, or the Office of Government Information Services (OGIS). Contact information for OGIS is available at <https://ogis.archives.gov/about-ogis/contact-information.htm>

#### PART I.C COMMENTS ( Use attached Comments continuation page if required)

SECY 10-0027 is being released in full. Secy 10-0005 is being released in part. Secy 10-0063 is being withheld in full.

Signature - Freedom of Information Act Officer or Designee



**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST**

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

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by the 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. 4702(b), which prohibits the disclosure of contractor proposals, 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 confidential commercial or financial information that is being withheld for the reason(s) indicated.
  - 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 is considered to be another type or confidential business (proprietary) information.
  - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
  - Deliberative process privilege.
  - Attorney work product privilege.
  - Attorney-client privilege.
- Exemption 6: The withheld information from a personnel, medical, or similar file, 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 open enforcement proceeding.
  - (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
  - (D) The information consists of names 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

**PART II.B -- DENYING OFFICIALS**

In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			EDO	SECY
Rochelle Baval	Executive Asst. to Sec. of Commission	Adjudicatory record, Classified record	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

**Appeals must be made in writing within 90 calendar days of the date of this response by sending a letter or email to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or FOIA.Resource@nrc.gov. Please be sure to include on your letter or email that it is a "FOIA Appeal."**

## ADJUDICATORY ISSUE AFFIRMATION

January 19, 2010

SECY-10-0005

**FOR:** The Commissioners

**FROM:** Brooke D. Poole, Director /RA/  
Office of Commission Appellate Adjudication

**SUBJECT:** U.S. Department of Energy (High Level Waste Repository)  
Appeal of William D. Peterson

**PURPOSE:**

**BACKGROUND:**

This matter involves a [redacted] intervention petition the *Yucca Mountain* proceeding. Mr. Peterson is the [redacted] petitioner, [redacted]

[redacted] He is not new to NRC adjudicatory proceedings; he tried unsuccessfully to gain a license for his proposed facility by intervening in the *Private Fuel Storage* proceeding, and by filing an unsuccessful application of his own.<sup>2</sup> Mr. Peterson has now raised the same

<sup>1</sup> U.S. Department of Energy (High Level Waste Repository), Order (Denying Intervention Petition) (Oct. 28, 2009) (unpublished) (October 28 Order).

<sup>2</sup> See *Private Fuel Storage, LLC* (Independent Spent Fuel Storage Installation), CLI-00-21, 52 NRC 261 (2000) (affirming the Board's rulings denying Mr. Peterson's late-filed intervention petitions); *Private Fuel Storage, LLC* (Independent Spent Fuel Storage Installation), CLI-04-7, 59 NRC 111 (2004) (affirming the Board's decision to dismiss Mr. Peterson's "Petition to (continued. . .)

---

Contact: Susan Spicer  
415-3520

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objections in the *Yucca Mountain* proceeding.

In September 2009, Mr. Peterson submitted a "motion" before the Board describing his proposal for an alternative plan to reprocess the fuel.<sup>3</sup> After the NRC Staff pointed out that Mr. Peterson could not file such a motion because he was not a party to the proceeding,<sup>4</sup> Mr. Peterson filed a petition to intervene on October 5, 2009.<sup>5</sup> [REDACTED]

[REDACTED]

CAB-04 denied Mr. Peterson's petition for intervention as untimely without good cause, and also found that Mr. Peterson had failed to show standing or offer an admissible contention. After that ruling, Mr. Peterson filed a supplementary pleading, which CAB-04 treated as a motion for reconsideration, and [REDACTED] denied.<sup>6</sup>

Mr. Peterson filed a [REDACTED] "Notice of Appeal/Motion for Waiver" with the Commission on November 12. Shortly thereafter, he filed an additional pleading entitled "Motion for a Plan and Schedule." The Staff opposed this motion; this is the only responsive filing by any party with respect to Mr. Peterson's filings before the Commission. [REDACTED]

[REDACTED]

During the pendency of his appeal, on December 23, 2009, Mr. Peterson filed yet another motion before the Board,<sup>7</sup> which was subsequently denied.<sup>8</sup> It appears that Mr. Peterson has

(...continued)

License Pigeon Spur Interim Spent Nuclear Fuel Storage Facility").

<sup>3</sup> *Motion* (Sept. 22, 2009).

<sup>4</sup> NRC Staff Answer to "Motion" of William Peterson (Sept. 29, 2009).

<sup>5</sup> Petition for Admission (Oct. 5, 2009).

<sup>6</sup> See *Supplement to Petition to Enter* (Nov. 5, 2009); Order (Denying Motion for Reconsideration).

<sup>7</sup> Motion for a Three (3) Year Economy Recovery Plan, Plan for SNF Disposal and Fuel Independence, and Plan for CO2 Reduction for Slowing Global Climate Change (Dec. 23, (continued...))

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filed a notice of appeal of that ruling to the U.S. Court of Appeals for the D.C. Circuit, [REDACTED]  
[REDACTED]

**DISCUSSION:**

[REDACTED]

[REDACTED]

(. . .continued)

2009).

<sup>8</sup> On December 30, 2009, the CAB-04 denied the motion, stating that "[Mr. Peterson] fails to understand, or refuses to accept the fact, that his failure to be admitted as a party to the High Level Waste Repository Proceeding precludes him from participating in any manner in the formal ongoing proceeding." Order (Denying William D. Peterson Motion) (Dec. 30, 2009) (unpublished).

<sup>9</sup> *Notice of Appeal* (Jan. 4, 2010), [REDACTED]  
[REDACTED]  
[REDACTED]

<sup>10</sup> [REDACTED]  
[REDACTED]

<sup>11</sup> [REDACTED]

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**RECOMMENDATION:**

Attachment: Draft Memorandum and Order

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

Gregory B. Jaczko, Chairman  
Dale E. Klein  
Kristine L. Svinicki

In the Matter of

U.S. DEPARTMENT OF ENERGY

(High Level Waste Repository)

Docket No. 63-001-HLW

SECRET

**MEMORANDUM AND ORDER**

[Redacted]

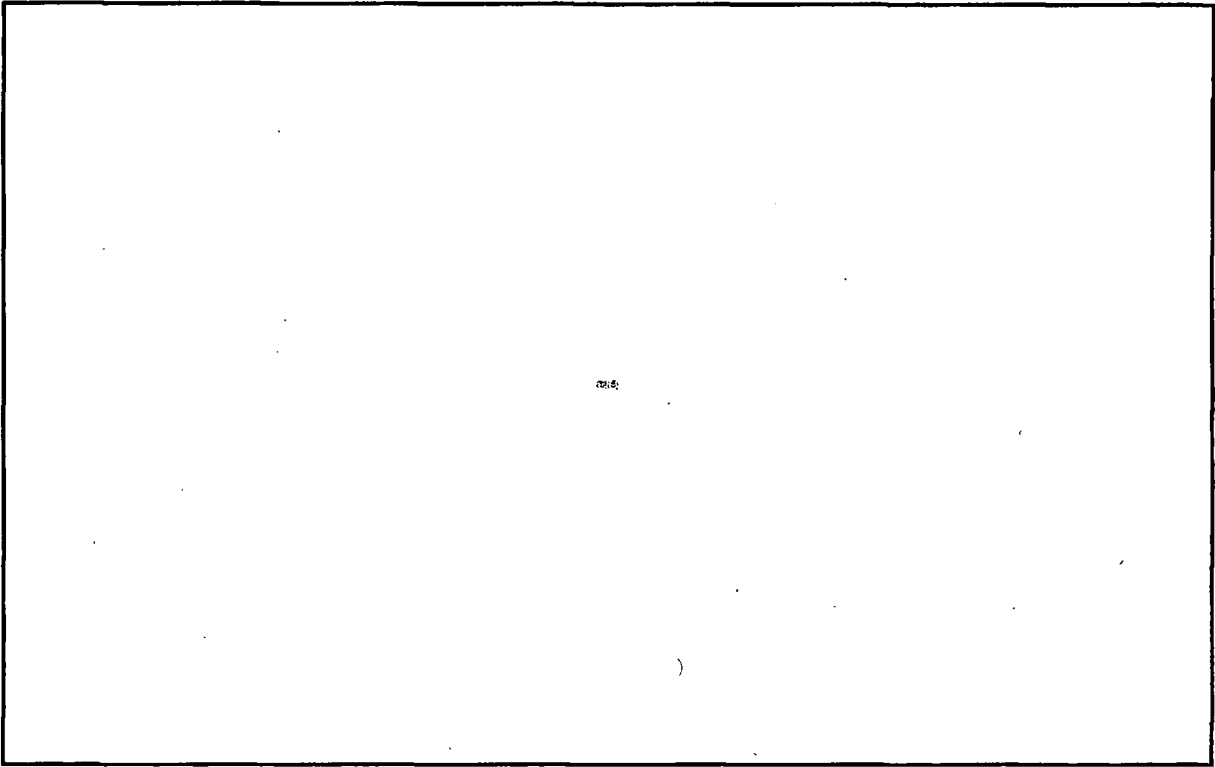
SECRET

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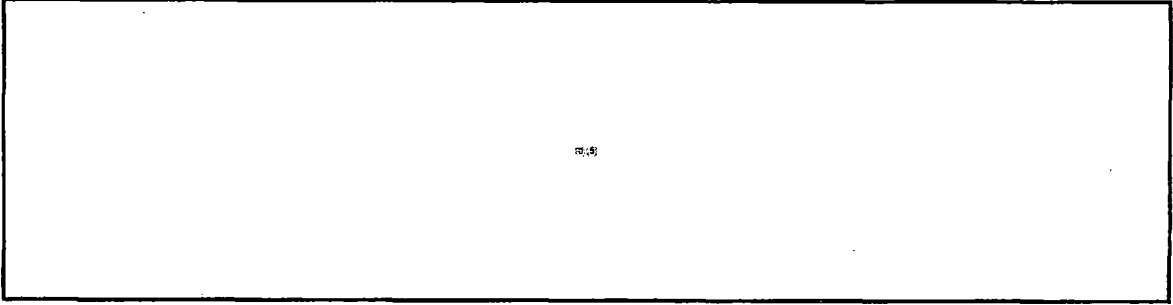
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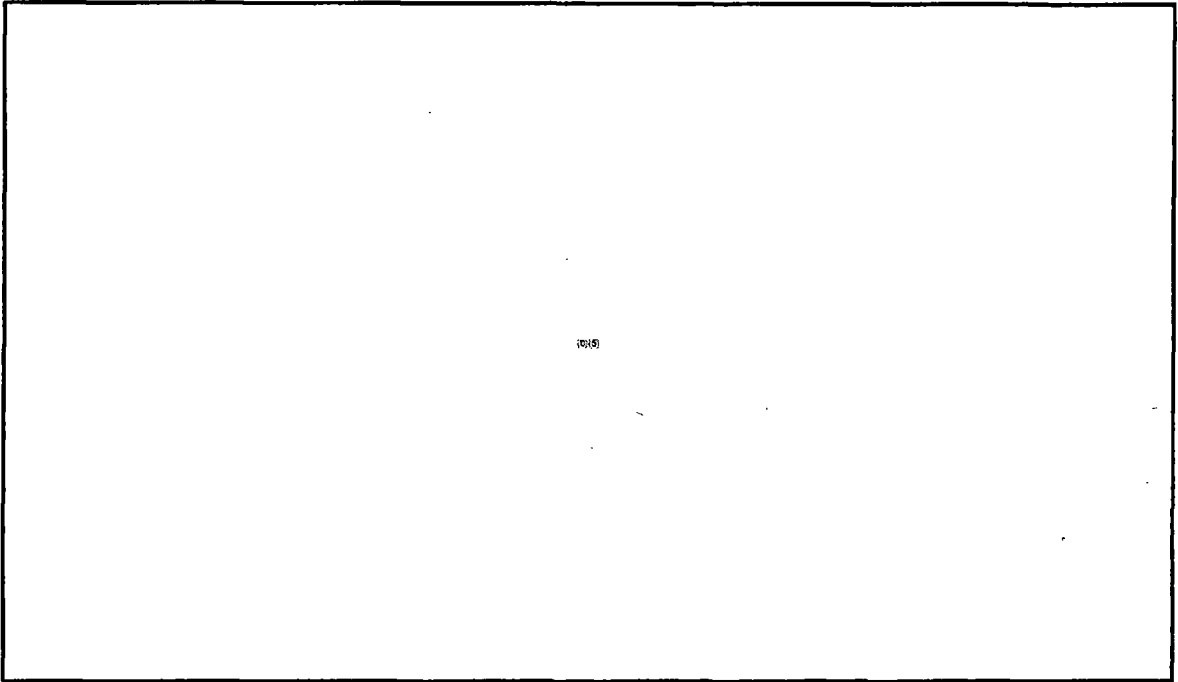




(b)(7)



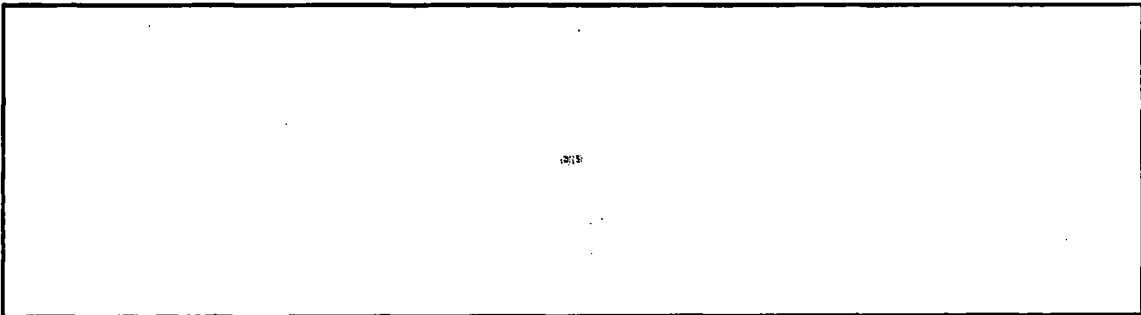
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(b)(7)

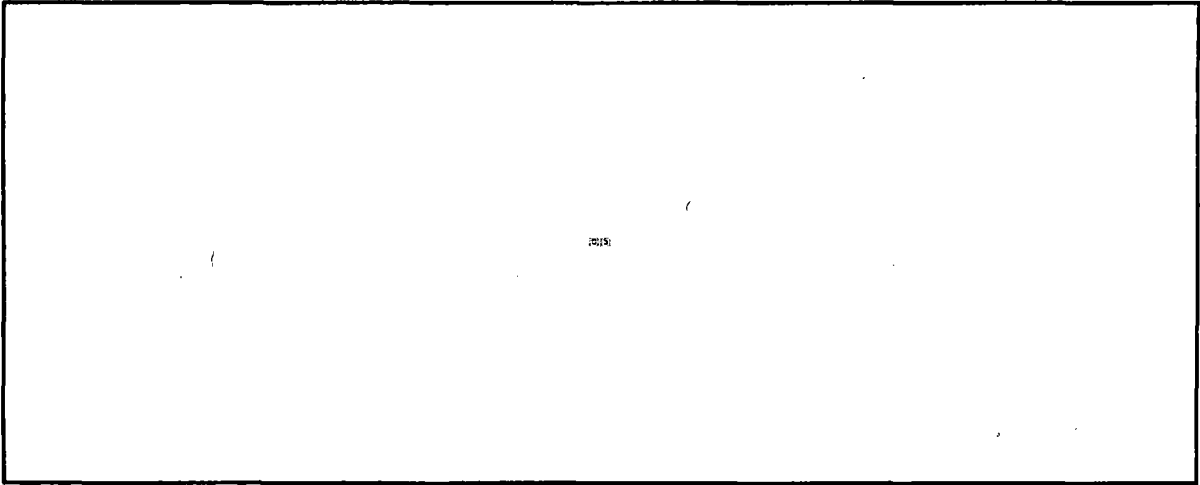


Figure 1

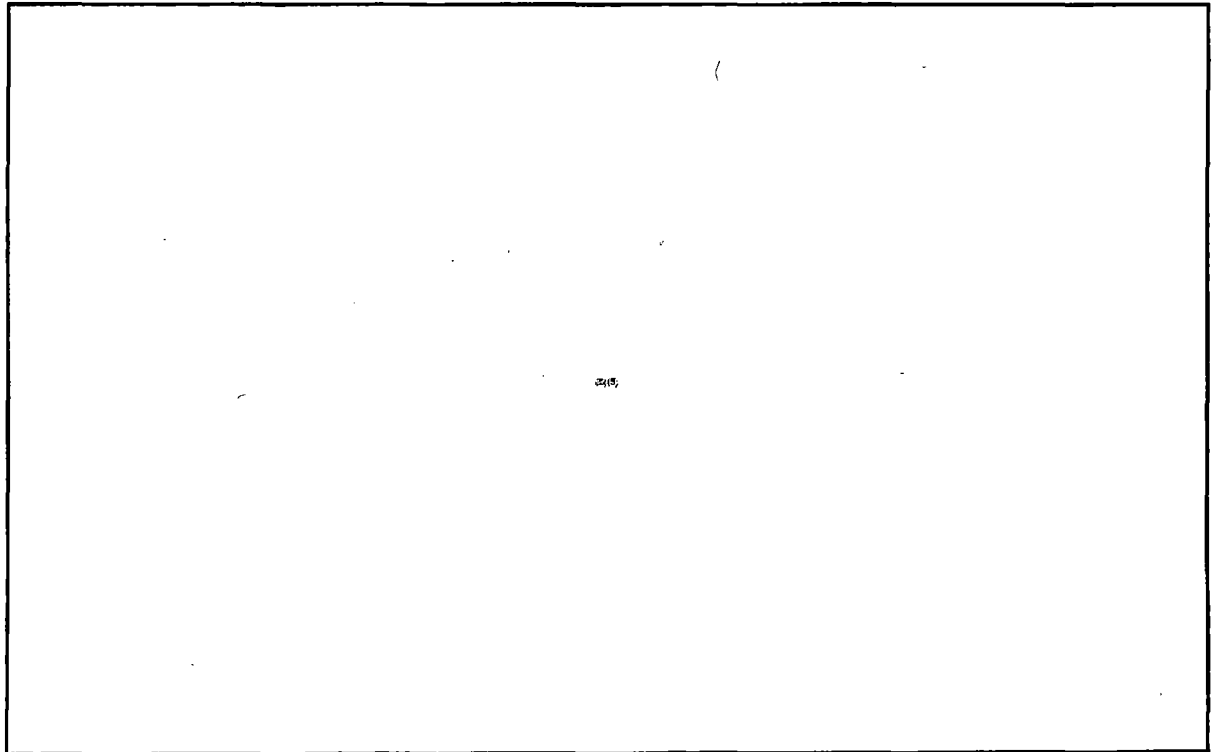
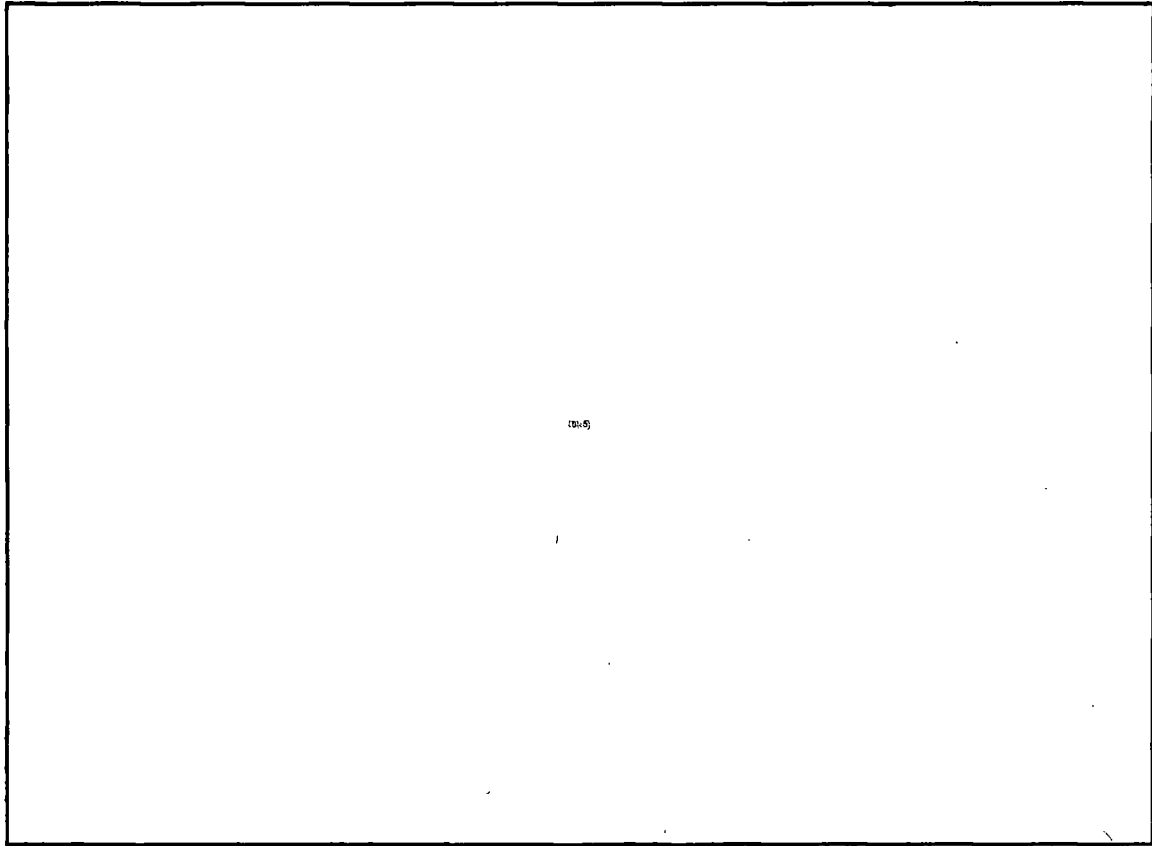


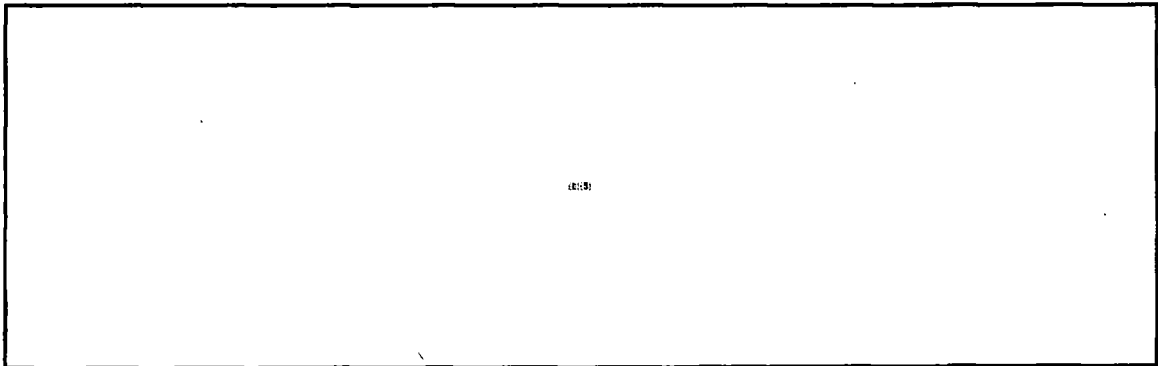
Figure 2

Figure 3

Figure 4



[Redacted]



[Redacted]

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

IT IS SO ORDERED.

For the Commission:

\_\_\_\_\_  
Annette L. Vietti-Cook  
Secretary of the Commission

Dated at Rockville, Maryland  
This \_\_\_ day of [REDACTED] 2010.

[REDACTED]

[REDACTED]

[REDACTED]

## POLICY ISSUE INFORMATION

March 11, 2010

SECY-10-0027

FOR: The Commissioners

FROM: R. W. Borchardt  
Executive Director for Operations

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION GOALS AND  
OBJECTIVES FOR PARTICIPATING IN THE CONVENTION ON  
NUCLEAR SAFETY FIFTH PEER REVIEW MEETING

PURPOSE:

The purpose of this paper is to provide the staff's goals and objectives for the Convention on Nuclear Safety (CNS) fifth peer review meeting. This paper does not address any new commitments.

BACKGROUND:

The CNS commits contracting parties to maintain a high level of safety in nuclear power plants by setting international benchmarks. The Articles of the Convention cover the legislative framework; the regulatory framework; the regulatory body; and the technical safety guides related to nuclear power plant siting, design, construction, operation, financial and human resources, assessment and verification of safety, quality assurance, and emergency preparedness. The CNS obligates the contracting parties to submit, for peer review, triennial national reports detailing implementation of these Articles. The impetus for negotiating the CNS was the need for countries to openly and regularly exchange safety information in the wake of the Three Mile Island and Chernobyl accidents.

CONTACT: Veronica M. Rodriguez, NRR/DPR  
301-415-3703

The Commissioners

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The review meetings have provided a forum for this exchange, keeping the focus on national responsibility for the safe operation of nuclear programs. The fifth CNS review meeting is scheduled to take place in Vienna, Austria, from April 4 - 16, 2011. The United States (U.S.) will submit its national report to the CNS Secretariat by September 1, 2010.

DISCUSSION:

The CNS is dedicated to enhancing the safety of land-based nuclear power reactors. To achieve the maximum international safety benefit, improve international relations, and demonstrate U.S. nuclear safety leadership, the U.S. Nuclear Regulatory Commission (NRC) has developed the goals and objectives given below for the fifth CNS review meeting. These goals and objectives are essentially the same as those developed for the fourth CNS review meeting in SECY-07-0142, "Goals and Objectives for the Convention on Nuclear Safety Fourth Review Meeting," dated August 23, 2007 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML072290029). This paper also provides the strategies for accomplishing the goals and objectives, and key messages for participating in the CNS.

**GOALS, OBJECTIVES AND STRATEGIES**

**Goal 1: Demonstrate emphasis on safety**

Objectives:

- a. Emphasize the safety of the current operating reactors in U.S.
- b. Highlight the roles of the regulator, the industry, and the public.
- c. Emphasize the importance of regulatory effectiveness and independence.
- d. Highlight the NRC's openness and transparency in its regulatory process.

Strategies:

- a. Discuss the value of operating experience lessons learned.
- b. Promote the importance of addressing emerging regulatory challenges.
- c. Promote investment in human capital.
- d. Promote the benefit of managing the safety-security interface.
- e. Discuss the safety benefit of emergency planning and preparedness.
- f. Promote the importance of enforcement programs enhancing safety.
- g. Discuss special programs and opportunities to make information accessible to the public and to promote public involvement in the regulatory process (e.g., rulemaking, petitions for rulemaking, and public meetings).
- h. Promote the benefit of industry striving to exceed regulatory requirements to achieve operational excellence.

**Goal 2: Promote preparation for the future**

Objectives:

- a. Emphasize infrastructure effectiveness and licensing progress.
- b. Highlight preparation for new reactor construction and operation.

Strategies:

- a. Discuss NRC strategies for addressing staffing issues and knowledge management.
- b. Promote the importance of oversight for vendors and contractors.

The Commissioners

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- c. Share knowledge and experience associated with new construction, digital instrumentation and control systems, seismic safety and construction lessons learned from international sources.

**Goal 3: Improve the CNS peer review meeting**

Objectives:

- a. Emphasize preparations for the 2011 CNS review meeting.
- b. Highlight potential improvements and efficiencies in conducting the review meeting.

Strategies:

- a. Promote the implementation of previous lessons learned to improve the review meeting.
- b. Encourage contracting parties to focus their presentations on program changes, emerging issues, and meeting themes.
- c. Accommodate new contracting parties with full program presentations and discussion of meeting themes.
- d. Encourage increasing the number of Country Groups to improve efficiency in the review meeting.

**Goal 4: Promote the Convention**

Objective:

- a. Promote the benefits of joining the CNS to non-member countries seeking assistance from the NRC.

Strategies:

- a. Encourage Convention contracting parties to reach out to neighbors who are not members.
- b. Ensure the alignment of the U.S. Department of State and the U.S. Department of Energy with promotion of the Convention.

**KEY MESSAGES:**

1. The CNS Review Meeting provides a forum for the exchange of safety information, maintaining the focus on national responsibility for the safe operation of nuclear programs.
2. The CNS is an important part of the evolving global nuclear safety regime.
3. The CNS encourages countries to discuss their regulatory programs and steps taken towards nuclear safety in a worldwide forum. It emphasizes a foundation of basic safety practices, with regular peer reviews that allow participants to encourage continuous improvement in contracting parties' nuclear safety programs and to learn from others' experiences and best practices. This is especially important for emerging countries that are considering developing a nuclear program. U.S. participation in the CNS has helped to demonstrate the importance of having a rigorous safety program, which builds on the foundation of safety practices. The U.S. has also been exposed to alternative means of achieving safety benefits.

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4. Placing a high value on the CNS process commensurate with other major nuclear countries like France, China, Japan, the Russian Federation, Canada, and the United Kingdom, demonstrates the U.S. commitment to worldwide nuclear safety. A strong U.S. presence at the CNS Review Meeting further reinforces the message that the U.S. is keenly interested in nuclear safety.
5. The CNS leverages resources by providing a multinational context for the exchange of safety information that is applicable over a wide range of national nuclear programs. The CNS provides the U.S. Government improved access to the safety programs of other countries with which it previously had little or no direct contact. In addition, the NRC can follow up with individual countries on information discussed during the CNS, making the agency's bilateral cooperation and assistance program more efficient and effective.

RESOURCES:

The staff resources for supporting and participating in the CNS fifth review meeting are included in the fiscal year (FY) 2010 budget and FY 2011 budget request as follows:

FY 2010: 1.4 full-time equivalents (FTE) for the Office of Nuclear Reactor Regulation (NRR) and 0.1 FTE and \$10,000 for the Office of International Programs (OIP) are included in the FY 2010 budget.

FY 2011: 1.6 FTE and \$46,000 for NRR and 0.2 FTE and \$10,000 for OIP are included in the FY 2011 budget.

The FTE resources are estimated based on workload hours to prepare and review reports and staff participation in meetings supporting the CNS.

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection. OIP has reviewed this paper and concurs. The Office of the Chief Financial Officer has reviewed this paper and concurs.

It is requested that this paper not be made publicly available because it discusses pre-decisional agency information.

/RA/

R. W. Borchardt  
Executive Director  
for Operations



The Commissioners

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/RA/

R. W. Borchardt  
Executive Director  
for Operations

EDATS: NRR-2010-0045

ADAMS Accession No.: ML100541296

\* via email

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