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To: [C Cochran](#)
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Subject: Response to Oklo Concerns Regarding Draft NRC Computer Code Reports
Date: Friday, May 17, 2019 5:07:00 PM
Attachments: [Response to Oklo, Inc. Concerns Regarding Information Contained in Draft NRC Reports.pdf](#)

Dear Ms. Cochran:

On April 12, 2019, Oklo, Inc. (Oklo) submitted an e-mail to the U.S. Nuclear Regulatory Commission (NRC), available through the NRC Agencywide Documents Access and Management System (ADAMS), Accession No. ML19122A249. The e-mail contained an attachment listing sections in two NRC draft reports that Oklo believes contain proprietary information and export controlled information (ECI) that should be withheld from public disclosure. The NRC draft reports of concern to Oklo are as follows:

- “NRC Non-Light Water Reactor (Non-LWR) Vision and Strategy, Volume 1—Computer Code Suite for Non-LWR Design Basis Event Analysis,” dated April 1, 2019 (ADAMS Accession No. ML19093B322)
- “NRC Non-Light Water Reactor (Non-LWR) Vision and Strategy Volume 3—Computer Code Development Plans for Severe Accident Progression, Source Term, and Consequence Analysis,” dated April 1, 2019 (ADAMS Accession No. ML19093B404)

The NRC staff has reviewed Oklo's concerns to determine whether the information Oklo identified as proprietary in the subject reports has previously been withheld from public disclosure in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 2.390, “Public Inspections, Exemptions, Requests for Withholding.” A response to each concern is provided in the enclosure to this e-mail. In making its determination, the NRC staff considered whether the following applied to the identified information:

- The information was held in confidence by Oklo
- The information is of a type normally held in confidence
- The information was sent to and received by the NRC in confidence
- The information is not publicly available.
- Public disclosure of the information will likely cause harm to Oklo.

Documents and portions of documents that are claimed to be proprietary must include proper information and page markings, as well as the basis for requesting that the information be withheld in either the document or affidavit. The specific procedures that must be followed by anyone submitting a document to the NRC who seeks to have the document, or a portion of it, withheld from public disclosure because it contains trade secrets, privileged, or confidential commercial or financial information are found in 10 CFR 2.390. Additional guidance is also available in NRC Office Instruction LIC-204, “Handling Requests to Withhold Proprietary Information from Public Disclosure,” dated January 24, 2007 (ADAMS Accession No. ML062200530).

In general, when requesting that a document or portion of a document containing proprietary information be withheld from public disclosure, a public version of the document containing proprietary information should also be submitted to the NRC. However, NRC staff acknowledges that there are instances where a non-proprietary version of a document

would be of no value to the public due to the extent of the proprietary information. In such instances, a non-proprietary version is not required to be submitted to the NRC. Absent such a finding, the submitter should provide a version that could be made available to the public. The task of providing a public version rests on the submitter, not on the NRC staff.

Previously, the NRC staff has agreed to withhold substantial portions of documents containing proprietary and ECI submitted by Oklo, including Oklo's Draft Guide (DG)-1353, "Submittal to Support NRC Submittal and Implementation of DG-1353, A Guidance to Risk-Inform Application Development and Contents Including Event Selection and SSC Classification," issued September 2018 (DG-1353 Pilot Report) (ADAMS Accession No. ML18311A205, non-public). The NRC staff agreed to broadly withhold and protect this information based on the preliminary nature of the information and its use to support pre-application interactions. Withholding information in these circumstances is not an acknowledgement by the NRC staff that all information withheld was proprietary, but only that preparation of more specific redactions within a public version would be of no value to the public due to the extent of the proprietary information. When requesting the withholding of information in future submittals, Oklo should consider the requirements in 10 CFR 2.390 and guidance in LIC-204 when preparing documents.

Statutory and regulatory authorities for ECI provide designation authority to agencies other than NRC, including the U.S. Department of Energy, U.S. Department of Commerce, and U.S. Department of State. The NRC staff also considered whether any information identified by Oklo and contained within the draft reports had been previously withheld from public disclosure as ECI protected under 10 CFR Part 810, "Assistance to Foreign Atomic Energy Activities."

Based on its review, the NRC staff has determined that no proprietary information or ECI was released in the draft NRC reports. However, as the NRC staff develops the final versions of the reports, it will consider Oklo's proposed modifications to the draft NRC reports as requested in the e-mail attachment.

If you have any questions about this matter, please contact either Jan Mazza at (301) 415-0498 or Jan.Mazza@nrc.gov or me at (301) 415-1524 or via e-mail at Steven.Lynch@nrc.gov.

Sincerely,

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