



INDIANA UNIVERSITY

DEPARTMENT OF POLITICAL SCIENCE
Woodburn Hall
Bloomington, Indiana 47405

April 16, 1980

John Carr
Freedom of Information Act Officer
U.S. Nuclear Regulatory Commission
Washington, DC 20000

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-80-226

REC'D 4-22-80

Dear Sir:

I would like to request that the attached list of documents dealing with NRC's decision on the mixed oxide fuel rule-making hearing, GESMO, published in the Federal Register, November 12, 1975, be released under the Freedom of Information Act.

I recognize that the Commission has, in the past, refused to release those documents and has been sustained in that refusal by the courts. However, I submit that many of the conditions and circumstances which were the basis of the past refusal have changed. In particular:

1. Many of the key actors giving pre-decisional advice to the Commission and amongst themselves are no longer at NRC. Thus, whatever the chilling effect release might have had in 1975 or 1976, it is no longer as profound.
2. The GESMO rulemaking is no longer a formal part of the Commission's regulatory agenda. Release of the documents at this time, then, cannot affect the outcome of a sensitive and controversial process.
3. The Commission has ruled in the last two years that staff position papers on issues considered by the Commission should be available to the public. While that policy was not made retroactive, it should be noted that many of the documents herein requested would have been available had the policy been in effect in 1975.

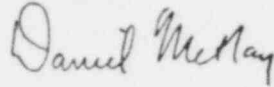
I recognize that, despite these arguments, the Commission does have the legal discretion to reject my FOIA request. I do believe, however, that such a rejection would not be in the public interest. I intend to use any information obtained as part of my research into the decision-making processes used in scientific regulatory agencies. I believe that such research, as well as being important from an academic viewpoint, can serve a significant public purpose. I should note, in this connection, that similar work I did for NRC as part of the Goals Task Force for Radioactive Waste Management, work published as NUREG-0300 and NUREG-0412, had a major impact in advancing a more realistic and publicly responsive conceptualization of the waste management problem. Indeed, many of the Task Force's ideas were incorporated, almost verbatim, in the Report to the President of the Interagency Review Group on Nuclear

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Waste Management (a report which I helped author as a full time consultant to the Office of Science and Technology Policy, Executive Office of the President).

In summary, then, I believe that the Commission should release the documents requested on the attached list. Such a release would be consistent with present NRC policy, not result in the disadvantages cited five years ago at the time of the initial FOIA rejection, and would serve the public interest.

Sincerely,

A handwritten signature in cursive script that reads "Daniel Metlay".

Daniel Metlay
Assistant Professor

Enclosure

DM:mh

DOCUMENTS REQUESTED UNDER
FREEDOM OF INFORMATION ACT

<u>NO.</u>	<u>DATE</u>	<u>TITLE</u>
1.	7/3/75	SECY-75-338 COMMENTS ON COMMISSION'S PROVISIONAL VIEW ON PU RECYCLE FEDERAL REGISTER NOTICE MAY 8, 1975
2.	7/9/75	FOR: Samuel J. Chilk, SECY FROM: Peter L. Strauss, General Counsel SUBJ: SECY-75-338, COMMENTS RECEIVED DURING PLUTONIUM RECYCLE PROCEEDINGS
3.	8/11/75	FOR: Files FROM: Samuel J. Chilk, SECY SUBJ: GESMO COMMENTS
4.	8/14/75	FOR: The Commissioners FROM: R. E. Cunningham SUBJ: PU RECYCLE PROPOSED WORK PLAN FOR REVIEW AND ASSESSMENT OF COMMENTS ON PROVISIONAL VIEWS AND GESMO COMPLETION
5.	8/20/75	FOR: Files FROM: Samuel J. Chilk, SECY SUBJ: MTG WITH ERDA REPS ON THE TOPIC OF PLUTONIUM RECYCLE (9/2/75)
6.	8/22/75	FOR: Commissioners FROM: James E. Hard SUBJ: SCHEDULE FOR COMMENT REVIEW ON PLUTONIUM RECYCLE PROVISIONAL VIEWS
7.	8/29/75	FOR: The Commissioners FROM: Lee V. Gossick SUBJ: SCOPING PAPER GESMO - DECISION ON PROVISIONAL VIEWS
8.	7/10/75	FOR: The Commissioners FROM: K. R. Chapman SUBJ: PU RECYCLE PROVISIONAL VIEW ISSUES AND ALTERNATIVES
9.	9/12/75	FOR: The Commissioners FROM: Ben Huberman SUBJ: PLUTONIUM RECYCLE - GUIDANCE TO THE STAFF
10.	9/12/75	FOR: Tom Rehm SUBJ: PU RECYCLE PROVISIONAL VIEWS - DISCUSSION PAPER ON ISSUES AND ALTERNATIVES
11.	9/17/75	FOR: The Commissioners FROM: Commissioner Mason SUBJ: HUBERMAN'S 9/12 PLUTONIUM RECYCLE MEMO

12. 9/19/75 FOR: The Commissioners
THRU: Lee V. Gossick
SUBJ: STAFF PAPER ON PU RECYCLE - FINAL DECISION PROCEDURES
AND INTERIM LICENSING - Memo
13. 9/23/75 FOR: Ken Chapman
FROM: Commissioner Mason
SUBJ: REVIEW OF WASH-1327
14. 10/7/75 MEMO FOR: Chairman Anders, Commissioner Gilinsky, Commissioner
Kennedy, Commissioner Mason, Commissioner Rowden
FROM: Ben Huberman
SUBJ: PU RECYCLE
15. 10/7/75 FOR: The Commissioners
FROM: K. R. Chapman
SUBJ: PROCEDURES FOR REACHING A FINAL DECISION ON PLUTONIUM
RECYCLE AND INTERIM LICENSING
16. 10/8/75 MEMO TO: Chairman Anders, Commissioner Gilinsky, Commissioner
Kennedy, Commissioner Rowden
FROM: Edward A. Mason, Commissioner
SUBJ: THOUGHTS ON AN AGENDA FOR COMMISSION DISCUSSIONS
PLUTONIUM RECYCLE
17. 10/14/75 FOR: The Commissioners
FROM: Peter L. Strauss, General Counsel
SUBJ: PLUTONIUM RECYCLE
18. 10/15/75 FOR: The Commissioners
FROM: Howard K. Shapar
SUBJ: PROCEDURES FOR REACHING A FINAL DECISION PU RECYCLE
AND INTERIM LICENSING
19. 10/15/75 FOR: The Commissioners
FROM: Norm Haller
SUBJ: PU RECYCLE
20. 10/20/75 FOR: The Commissioners
FROM: H. K. Shapar, Exec Legal Dir
THRU: Exec Director for Operations
SUBJ: DRAFT FEDERAL REGISTER NOTICE - SCOPE AND PROCEDURES
FOR GENERIC PLUTONIUM RECYCLE ENVIRONMENTAL STATEMENT
AND INTERIM LICENSING ACTIONS - DRAFT FRN
21. 10/22/75 FOR: Ben Huberman, Director, OPE
FROM: Leonard S. Spector, Special Counsel to Commissioner
Gilinsky
SUBJ: COMMENTS OF COMMISSIONER GILINSKY ON DRAFT GESMO
FEDERAL REGISTER NOTICE
22. 10/22/75 FOR: Ben Huberman
FROM: Commissioner Mason
SUBJ: COMMENTS ON OCTOBER 20 DRAFT FEDERAL REGISTER NOTICE-
SCOPE AND PROCEDURES

23. 10/22/75 FOR: Ben Huberman
FROM: Commissioner Kennedy
SUBJ: PU RECYCLE FEDERAL REGISTER NOTICE

24. 10/22/75 FOR: The Commissioners
FROM: Peter L. Strauss & Ben Huberman
SUBJ: PU RECYCLE

25. 10/24/75 FOR: Huberman/Strauss
FROM: Commissioner Mason
SUBJ: PU - RECYCLE

26. 10/24/75 FOR: Chairman Anders, Commissioners Kennedy, Mason & Rowsen
FROM: Commissioner Gilinsky
SUBJ: INTERIM LICENSING OF PLUTONIUM RECYCLE FACILITIES

27. 10/28/75 DRAFT U.S. NUCLEAR REGULATORY COMMISSION MIXED OXIDE FUEL -
(PU RECYCLE) In FR's

28. 10/29/75 FOR: The Commissioners
FROM: H. K. Shapar, Exec Legal Director
THRU: Exec Dir for Operations
SUBJ: REVISED DRAFT FEDERAL REGISTER NOTICE - SCOPE AND
PROCEDURES FOR GENERIC PLUTONIUM RECYCLE ENVIRONMENTAL
STATEMENT AND INTERIM LICENSING ACTIONS

29. 10/29/75 FOR: The Commissioners
FROM: Howard K. Shapar
SUBJ: REPLACEMENT PAGE 15 FOR OCTOBER 29 DRAFT FRN

30. 11/3/75 FOR: The Commissioners
FROM: H. K. Shapar, Exec Legal Dir
THRU: Exec Dir for Operations
SUBJ: REVISED DRAFT FEDERAL REGISTER NOTICE- SCOPE AND PRO-
CEDURES FOR GENERIC PLUTONIUM RECYCLE ENVIRONMENTAL
STATEMENT AND INTERIM LICENSING ACTIONS

31. 11/7/75 FOR: The Commissioners
FROM: K. R. Chapman, Director, NMSS
SUBJ: PU RECYCLE PROCEDURES

32. 11/9/75 FOR: The Commissioners
FROM: H. K. Shapar, Exec Legal Dir
SUBJ: FEDERAL REGISTER NOTICE - SCOPE AND PROCEDURES FOR
GENERIC PLUTONIUM RECYCLE ENVIRONMENTAL STATEMENT
AND INTERIM LICENSING ACTIONS

33. 11/10/75 TO: The Commissioners
FROM: Ken Chapman
SUBJ: PROCEDURES FOR REACHING DECISION ON USE OF MIXED OXIDE
FUEL

34. Undated FOR: Chairman Anders, Commissioners Kennedy, Mason & Rowden
FROM: Commissioner Gilinsky

- 34 (Cont'd) SUBJ: USE OF WORDS "CRITERIA," "SAFEGUARDS REGULATIONS,"
 AND "SAFEGUARDS REQUIREMENTS" IN DRAFT PLUTONIUM
 RECYCLE FEDERAL REGISTER NOTICE

- 35. Undated MEMO TO: C. Mason
 FROM: Peter L. Strauss
 SUBJ: YOUR INQUIRY CONCERNING NEPA AND ECONOMIC ANALYSIS

- 36. 9/2/75 FOR: C. H. Builder
 FROM: R. B. Leachman
 SUBJ: POSSIBLE ADDITIONS TO GESMO PROVISIONAL VIEWS SCOPING
 PAPER

- 37. 9/11/75 FOR: L. V. Gossick
 FROM: H. Lowenberg
 SUBJ: DISCUSSION PAPER - PU RECYCLE PROV VIEWS

- 38. 9/15/75 FOR: H. Lowenberg
 FROM: Bill Dircks
 SUBJ: QUESTIONS CONCERNING THE 9/10/75 PU RECYCLE PROVISIONAL
 VIEW ISSUES AND ALTERNATIVES

- 39. 9/15/75 NOTE TO: Chapman
 FROM: Builder
 SUBJ: PROPOSED ACTION SAFEGUARDS PORTION OF GESMO

- 40. 9/18/75 OUTLINE: STAFF PAPER ON PROCEDURES TO BE FOLLOWED TO REACH A
 DECISION ON WIDE-SCALE PU RECYCLE

- 41. 9/18/75 FOR: Ken Chapman
 FROM: Builder
 SUBJ: PROVISION DECISION PAPER NO. 3

- 42. 9/23/75 FOR: C. H. Builder & H. K. Shapar
 THRU: K. R. Chapman
 SUBJ: COMMISSION DECISION PAPER ON PU RECYCLE - FINAL VIEWS
 ON PROCEDURES

- 43. 10/3/75 FOR: Ken Chapman
 FROM: H. Lowenberg
 SUBJ: INTERIM LICENSING ALTERNATIVES

- 44. 11/6/75 FROM: C. H. Builder
 SUBJ: SCHEDULE FOR INTERIM LICENSING AND ISSUANCE OF NEW
 SAFEGUARDS REQUIREMENTS FOR PLUTONIUM OPERATIONS

- 45. Undated OUTLINE: STAFF PAPER ON PU RECYCLE

- 46. Undated OUTLINE: STAFF PAPER ON PU RECYCLE

- 47. Undated LICENSING STATUS OF WESTINGHOUSE MOX FUEL FABRICATION PLANT