



DUDGYS

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

NRC FOIA REQUEST NUMBER(S)	
FOIA - 89-482	
RESPONSE TYPE	
FINAL	<input checked="" type="checkbox"/> PARTIAL
DATE	JAN 30 1990
DOCKET NUMBER(S) (if applicable)	

REQUESTER
Ms. Ophelia Williams

PART I. - AGENCY RECORDS RELEASED OR NOT LOCATED (See checked boxes)

- No agency records subject to the request have been located.
- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments Section.
- Agency records subject to the request that are identified on Appendix(es) _____ are already available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC 20555.
- Agency records subject to the request that are identified on Appendix(es) *E* are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.
- The nonproprietary version of the proposal(s) that you agreed to accept in a telephone conversation with a member of my staff is now being made available for public inspection and copying at the NRC Public Document Room 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.
- Agency records subject to the request that are identified on Appendix(es) _____ may be inspected and copied at the NRC Local Public Document Room identified in the Comments Section.
- Enclosed is information on how you may obtain access to and the charges for copying records placed in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.
- Agency records subject to the request are enclosed *★*
- Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you.
- You will be billed by the NRC for fees totaling \$ _____.
- In view of NRC's response to this request, no further action is being taken on appeal letter dated _____, No. _____.

PART II. A - INFORMATION WITHHELD FROM PUBLIC DISCLOSURE

Certain information in the requested records is being withheld from public disclosure pursuant to the exemptions described in and for the reasons stated in Part II, sections B, C, and D. Any released portions of the documents for which only part of the record is being withheld are being made available for public inspection and copying in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC, in a folder under this FOIA number and requester name.

COMMENTS *★ Copies of the records identified on enclosed Appendix E are enclosed. The releasable portions of the records identified on enclosed Appendix F are also enclosed.*

9002020241 900130
PDR FOIA
WILLIAM89-482 PDR

SIGNATURE, DIRECTOR, DIVISION OF FREEDOM OF INFORMATION AND PUBLICATIONS SERVICES

Normie H. Kinsey

PART II. B - APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) **F+G** are being withheld in their entirety or in part under the Exemptions and for the reasons set forth below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC Regulations.

- 1. The withheld information is properly classified pursuant to Executive Order (EXEMPTION 1)
- 2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (EXEMPTION 2)
- 3. The withheld information is specifically exempted from public disclosure by statute indicated: (EXEMPTION 3)
 - 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)
- 4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated: (EXEMPTION 4)
 - The information is considered to be confidential business (proprietary) information.
 - The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1)
 - The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2)
- 5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (EXEMPTION 5) Applicable Privilege:
 - 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)
- 6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (EXEMPTION 6)
- 7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated: (EXEMPTION 7)
 - Disclosure could reasonably be expected to interfere with an enforcement proceeding because it could reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow them to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (EXEMPTION 7 (A))
 - Disclosure would constitute an unwarranted invasion of personal privacy (EXEMPTION 7 (C))
 - The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources (EXEMPTION 7 (D))
- OTHER

PART II. C - DENYING OFFICIALS

Pursuant to 10 CFR 9.25(b) and/or 9.25 (c) 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 persons responsible for the denial are those officials identified below as denying officials and the Director, Division of Information and Publications Services, Office of Administration and Resources Management, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			SECRETARY	EDO
<i>John C. Hoyle</i>	<i>Asst. Secretary of the Commission</i>	<i>App. F/1+2 and App. G/1-7</i>	<input checked="" type="checkbox"/>	
<i>Eric S. Beckjord</i>	<i>Director, Office of Nuclear Regulatory Research</i>	<i>App. G/8</i>		<input checked="" type="checkbox"/>

PART II. D - APPEAL RIGHTS

The denial by each denying official identified in Part II.C may be appealed to the Appellate Official identified in that section. Any such appeal must be in writing and must be made within 30 days of receipt of this response. Appeals must be addressed as appropriate to the Executive Director for Operations or to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

APPENDIX E
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	8/17/87	Handwritten comments from Dick Ireland to Ray Wharton, (1 pg.).
2.	9/16/87	Memorandum for Jack W. Roe from James G. Partlow, subject: "Comments on Draft Inspection Guidance on Commercial Grade Procurement," with attachment: Detailed Comments on Draft Inspection Guidance on Commercial Grade Procurement, (4 pgs.).

APPENDIX F
DOCUMENTS BEING RELEASED IN PART

NUMBER	DATE	DESCRIPTION
1.	2/10/89	Memo for Victor Stello from Samuel Chilk, subject: SECY-89-10 - Advance Notice of Proposed Rulemaking, "Acceptance of Products Purchased for Use in Nuclear Power Plant Structures, Systems and Components," (1 pg.) - RELEASE - with attachment: Draft Modifications to Proposed Rulemaking, (2 pgs.) - WITHHOLD - EXEMPTION 5.
2.	2/23/89	Memo for Samuel Chilk from David Meyer, subject: "Federal Register Notice," (1 pg.) - RELEASE - with attachment: Draft Federal Register Notice, (22 pgs.) - WITHHOLD - EXEMPTION 5.

APPENDIX G
DOCUMENTS BEING WITHHELD IN THEIR ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	Undated	Draft SECY Paper - Advance Notice of Proposed Rulemaking, "Acceptance of Products Purchased for Use in Nuclear Power Plant Structures, Systems, and Components," (24 pgs.) - EXEMPTION 5.
2.	1/30/89	Commissioner James Curtis' Vote Sheet, (1 pg.) - EXEMPTION 5.
3.	2/2/89	Commissioner James Curtis' Vote Sheet, (1 pg.) - EXEMPTION 5.
4.	2/2/89	Routing Slip to SECY-89-10 with Staff Comments, (1 pg.) - EXEMPTION 5.
5.	2/3/89	Chairman Lando Zech's Vote Sheet on SECY-89-10, (5 pgs.) - EXEMPTION 5.
6.	2/3/89	Commissioner Kenneth Carr's Vote Sheet, (1 pg.) - EXEMPTION 5.
7.	2/6/89	Commissioner Thomas Roberts' Vote Sheet, (1 pg.) - EXEMPTION 5.
8.	3/6/89	RES Recommendations for Advance Notice of Proposed Rulemaking, (3 pgs.) - EXEMPTION 5.

JTR/A ASSOCIATES
Regulatory Information & Support Systems
1407 Marco Drive
Mitchellville, MD 20716
301/249-9672

November 6, 1989
OGW-89-195

Ms. Linda Robinson, Chief
FOIA/LPDR Branch
Division of Freedom of Information
and Publications Services
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555

FREEDOM OF INFORMATION
ACT REQUEST
FOIA-89-482
Rec'd 11-9-89

SUBJECT: RESUBMISSION OF FOIA REQUEST (REFERENCE FOIA # 89-448)

Dear Ms. Robinson:

Pursuant to the Freedom of Information Act (5 USC § 552) and to the Nuclear Regulatory Commission's (NRC) policies and regulations (10 CFR Part 9, Subpart A), I request a copy of all NRC Staff and Commission policy and guidance documents related to procurement and commercial grade dedication in nuclear power plants. In this regard, procurement should be defined to be consistent with, and as envisioned in, the following:

1. the Commission's description of the "procurement process" in its Advance Notice of Proposed Rulemaking, "Acceptance of Products Purchased for Use in Nuclear Power Plant Structures, Systems and Components," 54 FRN 9229, March 6, 1989;
2. Regulatory Guide 1.33, "Quality Assurance Program Requirements (Operation)," and 10 CFR Part 21, as they apply to the activity associated with producing "procurement documents" for commercial grade items;
3. Generic Letter 89-02, "Actions to Improve the Detection of Counterfeit and Fraudulently Marketed Products," which "conditionally" endorses EPRI NP-5652, "Guideline for the Utilization of Commercial Grade Items in Nuclear Safety-Related Applications (NCIG-07)," as it applies to commercial grade items; procurement in this regard means the purchase of commercial grade items consistent with NCIG-07;
4. NRC inspection procedures as documented in NRC Inspection Manual Chapters 38701, 38702, and 38703; and
5. ANSI/ANS-3.2-1988, Section 5.2.13, "Procurement and Materials Control; "procurement in this regard means the activities associated with the purchase of commercially "off the shelf" items (i.e., commercial grade items).

9pp/080062

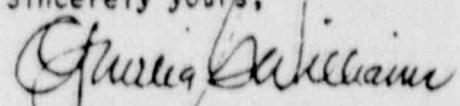
November 6, 1989

Documents in this context are intended to include such things as Commission papers, Temporary Instructions, draft Regulatory Guides, Enforcement Guidance memoranda, internal Staff or Commission memoranda, inspection procedures and guidance, proposed rulemaking, and draft or proposed generic communications.

I would appreciate your prompt response within ten working days of the receipt of this request, as provided by 10 CFR Part 9 and the NRC's policies. If you have any questions regarding this request, please feel free to contact me at 301/249 9672.

Thank you.

Sincerely yours,



Ophelia G. Williams



OFFICE OF THE SECRETARY

Zonia
ACTION - Murley, NRR

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20545
DOCKETED USNRC
REGULATORY PUBLICATIONS BP

Cys: Stello
Taylor
Thompson
Blaha
MClausen, NRR
DBrinkman, NRR
BShelton, IRM
DMeyer, ADM
RScroggins, CON

February 10 1989 FEB 13 A9:19

MEMORANDUM FOR: Victor Stello, Jr., Executive Director
for Operations *2/13 To Mike*
FROM: *U. B. S.* Samuel J. Chilk, Secretary
SUBJECT: SECY-89-010 - ADVANCE NOTICE OF PROPOSED
RULEMAKING, "ACCEPTANCE OF PRODUCTS PURCHASED
FOR USE IN NUCLEAR POWER PLANT STRUCTURES,
SYSTEMS AND COMPONENTS"

This is to advise you that the Commission (with all Commissioners agreeing) has approved the publication of the Advanced Notice of Proposed Rulemaking subject to the attached modifications.

(EDO Suspende: 2/24/89)

Attachment:
As Stated

Copies:
Chairman Zech
Commissioner Roberts
Commissioner Carr
Commissioner Rogers
Commissioner Curtiss
OGC
GPA
ACRS

966/246328 (1p)

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 5
FOIA- 89-482

Rec'd Off. EDO

Date 2-10-89

Time 10 AM

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F/1