



PART II B - APPLICABLE EXEMPTIONS

Records subject to the request that are described on the enclosed Appendix(es) D 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 Freedom 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
Thomas T. Martin	Regional Administrator, Reg. I	D/1		X

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."

Re: FOIA-90-269

APPENDIX B  
DOCUMENTS ALREADY AVAILABLE IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	8/21/89	Letter from Steven Varga to Lawrence Burkhardt, subject: NRC Inspection To Review Material Procured From NSSS, Incorporated (50-410/88-201). PDR Accession No. 8908250275

APPENDIX C  
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	4/12/89	Memo from Robert Capra to Bruce Boger, subject: Comparison of the 1986 NMP-1 I&C Technician Allegations With Results of 1989 NMP 1/2 Special Team Inspection Findings. (21 pages)
2.	8/10/89	Letter from E. William Brach to W. L. Strickland, regarding Notice of Nonconformance and Inspection Report 999001117/88-01. (8 pages)

APPENDIX D  
DOCUMENTS BEING RELEASED IN PART

NUMBER	DATE	DESCRIPTION
1.	1/20/87	Memo from Thomas E. Murley to J. Taylor, subject: Proposed Enforcement Action - Nine Mile Point, Unit 2, attaching draft letter and Notice of Violation. (7 pages) The attachments, and portions of the cover memo are being withheld pursuant to Exemption 5.