



hndocs

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

FOIA — 93-34

RESPONSE TYPE

☒ FINAL ☐ PARTIAL

DATE JUL 20 1993

DOCKET NUMBER(S) (if applicable)

REQUESTER

Dave Davis

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 in Appendix(es) _____ are already available for public inspection and copying at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

☒ Agency records subject to the request that are identified in Appendix(es) M are 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.

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.

Agency records subject to the request that are identified in 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 located at the NRC Public Document Room, 2120 L Street, N.W., Washington, DC.

☒ Agency records subject to the request are enclosed. [Appendix M, and releasable portions of Appendix N documents

Records subject to the request have been referred to another Federal agency(ies) for review and direct response to you. are enclosed.]

Fees

You will be billed by the NRC for fees totaling \$ _____

You will receive a refund from the NRC in the amount of \$ _____

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, 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.

COMMENTS

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

Carol Ann Harris for

9407140128 930720
PDR FOIA
DAVIS93-34 PDR

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

FOIA NUMBER(S)

FOIA — 93-34

DATE

JUL 20 1993

PART II B — APPLICABLE EXEMPTIONS

Records subject to the request that are described in the enclosed Appendix(es) N are being withheld in their entirety or in part under the Exemption No.(s) and for the reason(s) given below pursuant to 5 U.S.C. 552(b) and 10 CFR 9.17(a) of NRC regulations.

<input type="checkbox"/>	1. The withheld information is properly classified pursuant to Executive Order. (Exemption 1)
<input type="checkbox"/>	2. The withheld information relates solely to the internal personnel rules and procedures of NRC. (Exemption 2)
<input type="checkbox"/>	3. The withheld information is specifically exempted from public disclosure by statute indicated. (Exemption 3)
<input type="checkbox"/>	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).
<input type="checkbox"/>	Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
<input type="checkbox"/>	4. The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated. (Exemption 4)
<input type="checkbox"/>	The information is considered to be confidential business (proprietary) information.
<input type="checkbox"/>	The information is considered to be proprietary information pursuant to 10 CFR 2.790(d)(1).
<input type="checkbox"/>	The information was submitted and received in confidence pursuant to 10 CFR 2.790(d)(2).
<input checked="" type="checkbox"/>	5. The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. (Exemption 5). Applicable Privilege:
<input checked="" type="checkbox"/>	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.
<input type="checkbox"/>	Attorney work product privilege. (Documents prepared by an attorney in contemplation of litigation.)
<input type="checkbox"/>	Attorney-client privilege. (Confidential communications between an attorney and his/her client.)
<input type="checkbox"/>	6. The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy. (Exemption 6)
<input type="checkbox"/>	7. The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated. (Exemption 7)
<input type="checkbox"/>	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 recipients to take action to shield potential wrongdoing or a violation of NRC requirements from investigators. (Exemption 7 (A))
<input type="checkbox"/>	Disclosure would constitute an unwarranted invasion of personal privacy. (Exemption 7 (C))
<input type="checkbox"/>	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))
<input type="checkbox"/>	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, for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECRETARY	IG
Joseph Scinto	Dep. General Counsel for Hearings, Enforcement & Administration	Appendix N		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 there. Any such appeal must be made in writing within 30 days of receipt of this response. Appeals must be addressed, as appropriate, to the Executive Director for Operations, to the Secretary of the Commission, or to the Inspector General, 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-93-34

APPENDIX M
DOCUMENTS BEING PLACED IN THE PDR

NUMBER	DATE	DESCRIPTION
1.	12/18/84	Letter form W. L. Axelson, NRC Region III, to Robert Daniels, University of Cincinnati, regarding attached special safety inspection. (46 pages)
2.	8/27/86	Memo from Peter Crane to Commissioner's Assistants, subject: University of Cincinnati Incident.* (4 pages)
3.	9/26/86	Memo from Acting Chairman Thomas Roberts to Ben Hayes, subject: Staff Requirements - "AEOD Case Study Report on the Rupture of an Iodine-125 Brachytherapy Source at the University of Cincinnati Medical Center."* (1 page)
4.	10/30/86	Memo from Ben Hayes to the Commission, subject: AEOD Case Study Report on the Rupture of an Iodine-125 Brachytherapy Source at the University of Cincinnati Medical Center.* (1 page)
5.	7/17/91	Memo from Peter Crane to Jim Taylor, subject: Katrina Tarpoff.* (2 pages)
6.	7/31/91	Memo from H. Thompson to Peter Crane, subject: SECY-91-079.* (3 pages)
7.	2/3/93	Letter from R. Cunningham to Eugene Saenger. (1 page)

* - INDICATES RECORDS THAT ARE MAINTAINED IN PETER CRANE'S FILES

Re: FOIA-93-34

APPENDIX N
DOCUMENTS BEING WITHHELD IN PART OR IN ENTIRETY

NUMBER	DATE	DESCRIPTION
1.	12/16/76	Memo from Peter Strauss to the Commissioners, subject: SECY-76-574 (Amendment to 10 CFR Part 35: Human Uses of Byproduct Material.), with attachments: 1) 8/5/76 memo from Strauss to Comm., 2) 8/26/76 memo from Comm. Gilinsky to the Commission, and, 3) 4/22/77 memo from Strauss to the Commissioners. (8 pages) Withheld in entirety pursuant to Exemption 5
2.	1/16/80	Excerpts from SECY-80-26, subject: Effective Amendments of 10 CFR Part 35 to Require Reporting of Misadministrations of Byproduct Material. (7 pages) Portions withheld pursuant to Exemption 5
3.	6/4/90	SECY-90-198, Proposed Enforcement Action Against the University of Cincinnati. (15 pages) Withheld in entirety, Exemption 5
4.	1/21/93	Note from Peter Crane, subject: Proposed Letter to Cincinnati Hospital. (1 page) Withheld in entirety, Exemption 5
5.	1/25/93	Note from Peter Crane, subject: Revised Letter to Cincinnati Hospital. (1 page) Withheld in entirety, Exemption 5
6.	1/25/93	Note from Peter, subject: Revised Letter to Cincinnati Hospital - Re. (1 page) Withheld in entirety, Exemption 5

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THE PLAIN DEALER

OHIO'S LARGEST NEWSPAPER
1801 SUPERIOR AVE.
CLEVELAND, OHIO 44114

January 20, 1993

Mr. Donnie Grimsley
Director, FOIA and Publication Services
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
FAX: 301-492-4994

FREEDOM OF INFORMATION
ACT REQUEST

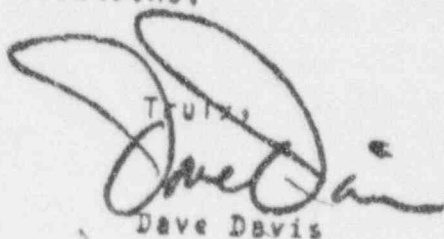
FOIA-93-34
Rec'd 1/21-93

Dear Mr. Grimsley:

Under the provisions of the federal Freedom of Information Act, I request that your office produce all documents kept by the NRC that in any way pertain to Dr. Eugene Saenger, a longtime medical consultant and researcher at the University of Cincinnati. It is my understanding that this request has been made by congressional investigators preparing for upcoming hearings, so I would ask that I be provided all releasable records being given to them.

As a reporter for The Plain Dealer, I ask that you waive any search or copying fees as this information will be used in the public interest.

I greatly appreciate your help in obtaining these records. Please feel free to ring me at 216-344-4808 with questions.

TRU

Dave Davis

9311020219