



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

Diane Curran, Esquire  
William S. Jordan, III, Esquire  
Weiss & Jordan  
2001 S Street, NW  
Suite 430  
Washington, DC 20009

In Response Refer  
To FOIA-84-A-66  
(FOIA-84-175)

Dear Ms. Curran and Mr. Jordan:

This is in further response to your letter dated August 6, 1984, in which you appealed Mr. J. M. Felton's denial-in-part of Mr. Steven Sholly's Freedom of Information Act request for documents concerning General Electric Company's (GE) Probabilistic Risk Assessment (PRA) for the GESSAR-II standardized plant design. You specifically appealed the denial of four documents in Mr. Felton's June 25, 1984, letter and the NRC's failure to completely respond to Mr. Sholly's request.

In phone conversations on September 5 and 6, 1984 and my letter dated September 13, 1984, you were informed that a meeting between GE and NRC was being arranged to resolve the issue of GE's proprietary claim. As a result of several of these meetings GE withdrew its request that the NRC withhold some of the material. This material included two full documents and hundreds of pages of the forty remaining documents. Because of the large volume of the requested material and your desire to get an NRC determination as quickly as possible, you agreed to have the NRC initially limit its review to the PRA and the major supplements to the PRA. The NRC staff evaluated the claimed portions of the seven primary documents on a line-by-line basis. The present review and response is limited to those documents. Based on this review, your appeal is partially granted and partially denied.

A probabilistic risk assessment is a comprehensive and detailed analysis of how nuclear power plants respond to various problems such as operating transients or accidents. It involves a multitude of engineering and scientific disciplines along with the modeling and application of extremely plant specific design details and the utilization of various computer codes. As the first completed in depth risk assessment of a boiling water reactor BWR/6 model plant, the GESSAR-II PRA provides the framework and considerable assistance in producing such a study for other BWR/6 plants. The types of assistance would include indications of the more applicable approaches and confirmation of the results. Large portions of the GESSAR-II PRA could even be transferred directly to another BWR/6 PRA. The documents would also be of assistance in performing risk or reliability assessments for those features of plants built using earlier designs of boiling water reactors ("BWRs") which are similar to the BWR/6 design used in the GESSAR-II. Therefore, the body of the work presented in the GE documents would certainly assist a competitor, of which there are several, in that it would reduce the economic and manpower expenditures necessary to prepare a related PRA.

Your August 6th appeal is primarily based on the contention that the PRA is not confidential because a significant portion of it is already available to the public. You stated that the July 27, 1983 Brookhaven National Laboratory report, which was denied in Mr. Felton's June 25th letter, was released to Ms. Susan Hiatt in response to her Freedom of Information Act request designated as FOIA-83-460. You contend that the release of the assumptions and methodologies contained in the response would allow a competitor to determine the figures in the withheld tables. I have determined that a major portion of the report, but not the entire report, was released to Ms. Hiatt. Accordingly, as part of my December 3, 1984 partial response letter to you, I released the portions of the report which were previously released to Ms. Hiatt and the portions of the other documents which contain the same information as the released portions of the July 27, 1983 report. However, we have determined that a competitor would not be able to determine the figures in the withheld tables without significant expenditure of resources. Accordingly, we have determined that the tables are properly withheld as proprietary.

You also stated that GE has discussed the GESSAR-II PRA in detail in an open meeting of the Advisory Committee on Reactor Safeguards (ACRS) on April 22, 1983. We reviewed the transcripts of that meeting and determined that the discussion of the PRA did not divulge the material GE is now claiming to be proprietary in any significant detail. Specifically, GE revealed the bottom line numbers for initiating event core damage probabilities and risks, but not the supporting analysis or data which is necessary to make the bottom-line numbers useful to a competitor. The released information, therefore, does not undermine GE's assertion of confidentiality in the withheld material.

We also reviewed other public discussion of the PRA to determine whether any of the material GE claims to be proprietary is no longer confidential. Specifically, we reviewed the transcripts of the October 18 and 19, 1984 meetings of the ACRS, the Safety Evaluation Report on GESSAR-II, the released portions of the July 27, 1983 Brookhaven National Laboratory Report, and the material previously released to you pursuant to the instant FOIA request. We have not identified any portions of the material within GE's present claim which has been previously disclosed.

You next stated that much of the withheld material is available in NRC publications, developed at government expense, or widely known in the industry. You cited the MARCH, CORRAL, and CRAC codes. You also cited government generated PRA methodologies which we interpret to refer primarily to the WASH-1400 methodologies. Portions of the PRA do in fact describe the codes and WASH-1400, and indicate where GE used them in its analysis. We agree that this information is of such minimal competitive value that it should not be withheld. GE has withdrawn its proprietary claim to some of this material as a result of discussions with the NRC. This material

will be released shortly. As to the remainder of the material which we do not find has sufficient competitive value, we have informed GE of our intention to release the material absent court intervention.

However, we have upheld GE's proprietary claim to the portions of the PRA which describe the method GE used to apply the codes to the GESSAR-II reactor. Some of the codes were developed to analyze conditions in pressurized water reactors which have distinctly different systems from boiling water reactors like the GESSAR-II. GE developed the method of applying the codes to the BWR/6 design. The disclosure of these methods could aid a competitor in producing a similar PRA. GE has submitted affidavits stating that the methods of applying the codes to BWR were developed solely at its own expense without government support. The company also stated that it has only released this material under appropriate protective agreements. The NRC has no indication that these affidavits are incorrect. GE's method of applying the codes to the GESSAR-II is, therefore, proprietary, not government sponsored, and not publicly available. Accordingly, we have withheld information related to the codes where release would disclose GE's application of the codes to the GESSAR-II.

Finally, in your August 6th letter you stated that Mr. Sholly received only one letter from NRC responding to his initial request dated March 13, 1984, and his first appeal letter dated April 5, 1984. In addition to the June 25, 1984 response you cited, our records show that the NRC responded to Mr. Sholly on April 11, April 17, May 24, June 1, and July 10, 1984, copies of which are in the NRC Public Document Room. These responses included release of 61 documents. The responses also identified 26 documents which were undergoing a review of GE's proprietary claims.

Apart from the points raised in your appeal letter of August 6, 1984, our extensive review has indicated that additional portions of the documents within the scope of the request contain nonexempt factual material. I have determined that these additional portions should be released.

The remaining portions of the documents listed on Appendix A are composed of material which is of commercial value to GE and has been kept in confidence by GE and the NRC. This material was developed by GE, and GE is actively attempting to market it. Release of this material could make it possible for a competitor to obtain the benefits of GE's efforts without compensating GE. Therefore, I have determined that this information is exempt from public disclosure pursuant to Exemption (4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and 10 CFR 9.5(a)(4) of the Commission's regulations as confidential and commercially valuable information.

This is a final agency action as to the seven documents listed on Appendix A. As set forth in the Freedom of Information Act (5 U.S.C. 552(a)(4)(B)), judicial review of this decision is available in a district court of the United States in the district in which your client resides or has his principal place of business or in the District of Columbia.

Sincerely,

William J. Dircks  
Executive Director for  
Operations

Enclosure:  
Appendix A

## APPENDIX A

1. Undated GESSAR-II Appendix 15D.3, BWR/6  
Probabilistic Risk Assessment (790 pages)
2. Undated GESSAR-II Appendix C Event Trees (156 pages)
3. Undated GESSAR-II Appendix D Fault Trees (309 pages)
4. 9/21/83 Letter to D. G. Eisenhut from J. F. Quirk re:  
GESSAR-II Seismic Event Analysis (152 pages)
5. 11/7/83 Letter to D. G. Eisenhut from J. F. Quirk re:  
GESSAR-II Fire and Flood External Event  
Analysis (81 pages)
6. 11/17/83 Letter to D. G. Eisenhut from J. F. Quirk re:  
GESSAR-II Internal Event PRA Uncertainty  
Analysis (64 pages)
7. 12/29/83 Letter to D. G. Eisenhut from J. F. Quirk re:  
GESSAR-II Seismic Event Uncertainty Analysis  
(66 pages)



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

JUN 25 1984

Mr. Steven Sholly  
Technical Research Associate  
Union of Concerned Scientists  
1346 Connecticut Avenue, NW  
Washington, DC 20036

IN RESPONSE REFER  
TO FOIA-84-175

Dear Mr. Sholly:

This is in further response to your letter dated March 13, 1984, and your April 5, 1984 appeal, requesting documents relating to GESSAR-II.

The four documents listed on Appendix A are being withheld in their entirety as release of this information could cause substantial harm to the competitive position of the General Electric Company in that GE maintains:

1. The GESSAR-II PRA is the only Level 3 PRA which has been performed by an NSSS vendor at its own cost. The GESSAR-II PRA will be the first Level 3 PRA approved for a Standard Nuclear Island Design. As such, its market value far exceeds the total cost. GE intends to utilize the information and analyses in the PRA as the major portion of plant-specific analyses for BWR/6 plants which are currently operating, are under construction, and for future plant sales. Total resources expended by GE in performing the PRA, preparing the required submittals, and supporting the PRA review amount to millions of dollars;
2. The performance of probabilistic risk assessments is a highly competitive market. The information in this PRA represents a level of expenditure, detail, sophistication, and NRC acceptance which is not remotely approached with respect to BWR's by GE's present or potential competitors. Accordingly, public disclosure of this information would permit competitors or potential customers to utilize this information at no cost and would thereby deprive GE not only to seek reimbursement of its expenditures but also an economic competitive advantage by allowing competitors to copy the design at little or no cost; and

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3. The three NRC contractor (Brookhaven National Laboratory) reports also contain GE proprietary information and are being withheld in their entirety for the same reasons stated above.

The NRC has reviewed General Electric's proprietary claim and agrees that the information involved is proprietary.

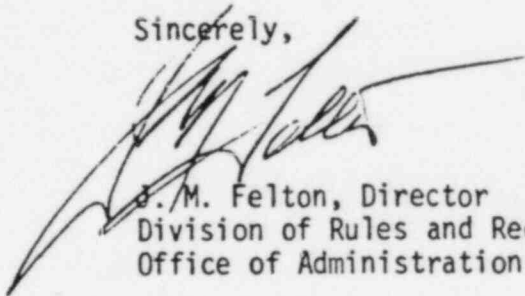
These documents are being withheld from public disclosure pursuant to Exemption (4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and 10 CFR 9.5(a)(4) of the Commission's regulations. These documents do not contain any reasonably segregable factual portions.

Pursuant to 10 CFR 9.9 of the Commission's regulations, it has been determined that the information is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for this denial are the undersigned and Mr. Harold R. Denton, Director, Office of Nuclear Reactor Regulation.

This denial may be appealed to the Commission's Executive Director for Operations within 30 days from the receipt of this letter. As provided in 10 CFR 9.11, any such appeal must be in writing, addressed to the Executive Director for Operations, 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."

The review of additional documents related to your request is continuing. You will be notified at the completion of this review.

Sincerely,



J. M. Felton, Director  
Division of Rules and Records  
Office of Administration

Enclosure: Appendix A

APPENDIX A

1. GESSAR II Probabilistic Risk Assessment (PRA)
2. BNL Memo dated 5/5/83 "Status of GESSAR PRA Review."
3. BNL Letter Report "Review and Evaluation of the GESSAR II PRA - Containment Failure Modes and Fission Product Release," 7/27/83.
4. BNL Letter Report "Review of GESSAR II Probabilistic Risk Assessment," undated.



# UNION OF CONCERNED SCIENTISTS

1346 Connecticut Avenue, N.W. • S. 1101 • Washington, DC 20036 • (202) 296-5600

13 March 1984

FREEDOM OF INFORMATION  
ACT REQUEST

FOIA-84-175

Rec'd 3-15-84

Mr. J. M. Felton, Director  
Division of Rules and Records  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

RE: Freedom of Information Act Request for the GESSAR-II  
Probabilistic Risk Assessment and Associated NRC  
and NRC-contractor Reviews of that Report (Sholly  
FOIA Request Number 84-07)

Dear Mr. Felton:

Pursuant to the Freedom of Information Act, please make  
available at the Commission's Public Document Room at 1717 H Street,  
N.W., Washington, D.C., copies of documents in the following  
categories:

- A. A copy of the General Electric Probabilistic Risk Assessment for the GESSAR-II standard plant design (BWR/6 Mark III), and all updates, amendments, appendices, addenda, supplements, and all other changes thereto.
- B. Copies of all NRC staff reviews of the documents described above in "A".
- C. Copies of all NRC contractor reviews of the documents described above in "A".
- D. For any review identified under "C" above, provide the name of the reviewing organization, the lead investigators, all other investigators, the NRC Contract and FIN numbers assigned to the review project, the funding provided for the review project, and the NRC Form 189 for each such project.

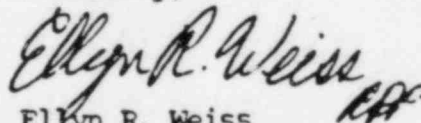
If there are any questions regarding this request, please contact me at 296-5600. It is my understanding that a proprietary claim has been made with respect to some or all of the documents identified in "A" above. This request specifically includes a request to review the bases for the proprietary claim and release all of the documents discussed in "A" above.

The definition of "trade secret" is also relatively narrow. It has been defined as an "unpatented, secret, commercially valuable plan, appliance, formula or process which is used for the making, preparing, compounding, treating or processing of articles or materials which are trade commodities. Consumers Union, supra, 301 F.Supp. at 801.

It is impossible to believe that all of the Gessar PRA is legally exempt from disclosure under this standard. For one thing, the Gessar design is not "secret" since it is subject to NRC review and public scrutiny. In addition, it is my understanding that the codes being used are primarily publicly-available codes.

I would appreciate your response as soon as possible.

Sincerely,



Ellyn R. Weiss  
General Counsel  
Union of Concerned Scientists

Enclosure 1