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PROPOSED RULE **PR 2**
(57 FR 61013)

GE Nuclear Energy

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March 30, 1993
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Mr. Samuel J. Chilk
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: Proposed Rule, "Availability of Official Records,"
57 Fed. Reg. 61013 (Dec. 23, 1992)

Dear Mr. Chilk:

GE Nuclear Energy (GE) welcomes the opportunity to submit its views in response to the subject Federal Register notice, which invited comments on the Commission's proposal to amend its regulations governing NRC treatment of proprietary and copyright information. GE actively participated in formulating the comments on the subject amendments concurrently being submitted by the Nuclear Management and Resources Council (NUMARC), and we fully support those comments.

We are most concerned about the proposed additional exceptions to the current right to withdraw information claimed by the submitter to be proprietary if the NRC disagrees with that claim. These exceptions constitute more than a fine-tuning of the NRC process for handling proprietary information. If adopted, they would substantially alter the long-standing and effectively operating Commission regime governing the submission, review, and protection of proprietary information. The consequent potential for inappropriate disclosure of proprietary information -- particularly as regards the so-called "FOIA" and "Advisory Committee" exceptions -- poses serious risks for property rights developed at great expense, and for the competitiveness of the U.S. nuclear energy industry.

We believe the exceptions as proposed go well beyond what the governing law requires, and that they are unwise as a matter of sound regulatory policy, as well as of national energy policy. Their adoption without complementary changes in the current NRC process for submission and review of proprietary information, as recommended by NUMARC, would markedly lessen protections against disclosure of proprietary information. Dilution of those protections would adversely impact competition within the domestic nuclear industry, and would endanger the competitive position of U.S. nuclear companies in the world marketplace. These competitive consequences and the attendant impact on the

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Nuclear Energy Division

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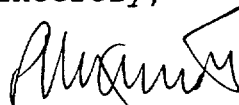
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U.S. economy implicate important national policy interests and should weigh heavily in the Commission's determination of the final rule's proprietary protection regime.

In addition, though not as critical, there is the potential for significant mischief, and the certainty of much wasted time and effort, in the overly prescriptive proposed marking requirements. As discussed in NUMARC's comments, any system of marking which clearly identifies the proprietary claim should suffice. Requiring the entire industry to use precisely the same language accomplishes little, inconveniences many and creates the potential for loss of valuable proprietary information due to a trivial error in wording of a notice, an error which in no way makes unclear the proprietary claim to that information. The requirement as proposed is simply not worth the effort and risk it entails.

GE agrees with NUMARC that alternatives to the subject proposals can be adopted which will meet the requirements of law while affording appropriate protection to proprietary information submitted to the NRC. We therefore urge the Commission to consider carefully the recommendations contained in NUMARC's comments.

Sincerely,



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