

2011-0264

1

**RESPONSE TO FREEDOM OF
INFORMATION ACT (FOIA) / PRIVACY
ACT (PA) REQUEST**RESPONSE
TYPE ☒ FINAL ☐ PARTIAL

REQUESTER

Deborah Brancato

DATE

AUG 24 2011

PART I. -- INFORMATION RELEASED

- ☐ No additional agency records subject to the request have been located.
- ☐ Requested records are available through another public distribution program. See Comments section.
- ☒ **APPENDICES
A** Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- ☒ **APPENDICES
B, C** Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- ☐ Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD 20852-2738.
- ☒ **APPENDICES
B, C** Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☐ We are continuing to process your request.
- ☒ See Comments.

PART I.A -- FEES

AMOUNT *

\$

* See comments
for details

- ☐ You will be billed by NRC for the amount listed. ☐ None. Minimum fee threshold not met.
- ☐ You will receive a refund for the amount listed. ☒ Fees waived.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ No agency records subject to the request have been located.
- ☒ Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- ☒ This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

The incoming request is in ADAMS at ML11171A072.

Records with an ML Accession number are available in the NRC electronic public reading room (ADAMS) at <http://www.nrc.gov/reading-rm.html>. If you need assistance in reviewing records in the electronic public reading room, please contact the PDR on (301) 415-4737, or toll free on (800)397-4209.

See Part I.C Comments (continued)

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Donna L. Sealing

**RESPONSE TO FREEDOM OF INFORMATION
ACT (FOIA) / PRIVACY ACT (PA) REQUEST (Continued)**

DATE

AUG 24 2011

PART I.C COMMENTS (Continued)

In telephone conversations with NRC staff on 6/27 & 7/6 the scope was clarified to provide the following:

1) Emergency Operating Procedures for loss of all AC power; 2) NRC inspection of Severe Accident Management guidelines; 3) Licensee responses (Non-Sensitive information only); 4) NRC inspection of B5b and 10 CFR50.54(hh) equipment and procedures; and 5) the identification of records that are already publicly available in the NRC electronic reading room (ADAMS). Records subject to this scope are identified on the enclosed appendices.

**RESPONSE TO FREEDOM OF INFORMATION
ACT (FOIA) / PRIVACY ACT (PA) REQUEST**

2011-0264

AUG 24 2011**PART II.A -- APPLICABLE EXEMPTIONS**APPENDICES
C, D

Records subject to the request that are described in the enclosed Appendices are being withheld in their entirety or in part under the Exemption No.(s) of the PA and/or the FOIA as indicated below (5 U.S.C. 552a and/or 5 U.S.C. 552(b)).

- ☐ Exemption 1: The withheld information is properly classified pursuant to Executive Order 12958.
- ☐ Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- ☐ Exemption 3: The withheld information is specifically exempted from public disclosure by statute indicated.
- ☐ 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).
- ☐ 41 U.S.C., Section 253b, subsection (m)(1), prohibits the disclosure of contractor proposals in the possession and control of an executive agency to any person under section 552 of Title 5, U.S.C. (the FOIA), except when incorporated into the contract between the agency and the submitter of the proposal.
- ☒ Exemption 4: The withheld information is a trade secret or commercial or financial information that is being withheld for the reason(s) indicated.
- ☐ The information is considered to be confidential business (proprietary) information.
- ☒ The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.390(d)(1).
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- ☐ Disclosure will harm an identifiable private or governmental interest.
- ☐ Exemption 5: The withheld information consists of interagency or intraagency records that are not available through discovery during litigation. Applicable privileges:
- ☐ 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)
- ☐ Exemption 6: The withheld information is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- ☐ Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
- ☐ (A) Disclosure could reasonably be expected to interfere with an enforcement proceeding (e.g., it would reveal the scope, direction, and focus of enforcement efforts, and thus could possibly allow recipients to take action to shield potential wrong doing or a violation of NRC requirements from investigators).
- ☐ (C) Disclosure could constitute an unwarranted invasion of personal privacy.
- ☐ (D) The information consists of names of individuals and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
- ☐ (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
- ☐ (F) Disclosure could reasonably be expected to endanger the life or physical safety of an individual.
- ☐ OTHER (Specify)

PART II.B -- DENYING OFFICIALS

Pursuant to 10 CFR 9.25(g), 9.25(h), and/or 9.65(b) 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 person responsible for the denial are those officials identified below as denying officials and the FOIA/PA Officer for any denials that may be appealed to the Executive Director for Operations (EDO).

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL		
			EDO	SECY	IG
Eric J. Leeds	Director, Office of Nuclear Reactor Regulation	Appendixes C and D	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Appeal must be made in writing within 30 days of receipt of this response. Appeals should be mailed to the FOIA/Privacy Act Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, for action by the appropriate appellate official(s). You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

**APPENDIX A
RECORDS ALREADY PUBLICLY AVAILABLE**

Accession Number	ML051570442
Document Date	5/31/2005
Document Type	Letter
Title	Indian Point Units 2 and 3, Response to NRC Guidance for Use in Achieving Satisfactory Compliance With February 25, 2002 Order EA-02-026, Section B.5.b.
Author Affiliation	Entergy Nuclear Northeast
Author Name	Dacimo F R
Pages	3
Official Record?	Yes
Availability	Publicly Available
Sensitivity	Non-Sensitive
Accession Number	ML052990031
Document Date	10/19/2005
Document Type	Letter
Title	Response to NRC Request for Additional Information RE: February 2002, Order Section B.5.b for Indian Point.
Author Affiliation	Entergy Nuclear Northeast
Author Name	Dacimo F R
Pages	2
Official Record?	Yes
Availability	Publicly Available
Sensitivity	Non-Sensitive
Accession Number	ML11158A119
Document Date	4/29/2011
Document Type	Emergency Preparedness-Emergency Plan Implementing Procedures
Title	2-ECA-0.0, Rev. 7, "Loss of All AC Power."
Author Affiliation	Entergy Nuclear Northeast
Author Name	
Pages	29
Official Record?	Yes
Availability	Publicly Available
Sensitivity	Non-Sensitive
Accession Number	ML11158A121
Document Date	5/4/2011
Document Type	Emergency Preparedness-Emergency Plan Implementing Procedures
Title	3-ECA-0.0, Rev. 5, "Loss of all AC Power."
Author Affiliation	Entergy Nuclear Northeast
Author Name	

Pages 54
 Official Record? Yes
 Availability Publicly Available
 Sensitivity Non-Sensitive

Accession Number ML111320311
 Document Date 5/13/2011
 Document Type Inspection Report, Letter
 Title IR 05000247/2011009; 04/18/2011 - 04/27/2011; Indian Point Nuclear Generating Unit 2; Temporary Instruction 2515/183 - Followup to the Fukushima Daiichi Nuclear Station Fuel Damage Event.

Author Affiliation NRC/RGN-I/DRS/EB2
 Author Name Doerflein L T
 Pages 28
 Official Record? Yes
 Availability Publicly Available
 Sensitivity Non-Sensitive

Accession Number ML111310606
 Document Date 5/13/2011
 Document Type Inspection Report, Letter
 Title IR 05000286/2011009; 04/18/2011 - 04/27/2011; Indian Point Nuclear Generating Unit 3; Temporary Instruction 2515/183 - Followup to the Fukushima Daiichi Nuclear Station Fuel Damage Event.

Author Affiliation NRC/RGN-I/DRS/EB2
 Author Name Doerflein L T
 Pages 23
 Official Record? Yes
 Availability Publicly Available
 Sensitivity Non-Sensitive

Accession Number ML111470361
 Document Date 5/27/2011
 Document Type Memoranda
 Title Region I Completion of Temporary Instruction (TI)-184, "Availability and Readiness Inspection of Severe Accident Mitigation Guidelines (SAMGs)."

Author Affiliation NRC/RGN-I/DRP/PB7
 Author Name Powell R J
 Pages 54
 Official Record? Yes
 Availability Publicly Available
 Sensitivity Non-Sensitive

Accession Number ML11172A107
 Document Date 6/10/2011
 Document Type Letter

Title	Indian Point, Units 1 and 2 - 30-Day Response to NRC Bulletin 2011-01, Mitigating Strategies.
Author Affiliation	Entergy Nuclear Northeast
Author Name	Pollock J
Pages	4
Official Record?	Yes
Availability	Publicly Available
Sensitivity	Non-Sensitive

APPENDIX B
RECORDS BEING RELEASED IN THEIR ENTIRETY
(If copyrighted identify with *)

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/ (PAGE COUNT)</u>
1.	02/09/06	ML060540486	Letter from F. Dacimo, Entergy to NRC on Response to NRC Phase 2 Assessment of Spent Fuel Pools. (5 pages)
2.	02/23/06	ML060590067	Letter from F. Dacimo, Entergy to NRC on Response to Report of Inspection of Nuclear Reactor Safeguards Interim Compensatory Measure – Section B.5.b, Temporary Instruction 2515/164. (2 pages)
3.	10/13/06	ML062780152	Letter from C. Haney, NRR to M. Kansler, Entergy on Indian Point Units 2 & 3 Mitigation Strategy Assessments and Closure Process for Phases 1, 2, and 3. (7 pages)
4.	10/13/06	ML070220153	Disposition of Mitigation Strategies Identified During Phase 2 and Phase 3. (1 page)
5.	06/14/07	ML071700242	Letter from F. Dacimo, Entergy to NRC on Additional Information Regarding Implementation Details for the Phase 2 and 3 Mitigation Strategies. (2 pages)

**APPENDIX C
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u>
1.	10/13/06	Indian Point Core and Containment Mitigation Strategy Assessment Summary Report. (6 pages total, 3 pages released) / EX 4
2.	01/11/07	Letter from F. Dacimo, Entergy to NRC on Response Providing Information Regarding Implementation Details for the Phase 2 and 3 Mitigation Strategies. (66 pages total, 3 pages released) / EX 4
3.	11/10/08	Letter from J. Rogge, NRR to J. Pollock, Entergy on Indian Point Units 2 and 3 – NRC Team Inspection Report 0500247/2008008 and 05000286/2008008. (24 pages total, 9 pages released) / EX 4

APPENDIX D
RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u>
1.	10/13/06	Indian Point – Mitigating Strategies Table (ADAMS Accession No. ML063030177). (26 pages) / EX 4
2.	07/11/07	Attachment to Indian Point Units 2 and 3 B.5.b Safety Evaluation. (ADAMS Accession No. ML071800444). (102 pages) / EX 4