

FOIA/PA-2012-0196

1

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

RESPONSE
TYPE

☐

FINAL

☒

PARTIAL

REQUESTER

John Tormey

DATE

JUN 12 2012

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.

☐

You will receive a refund for the amount listed.

☐

None. Minimum fee threshold not met.

☐

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 FOIA request will be available in ADAMS at ML12104A104. Records with an ML accession number are available in the NRC Library at www.nrc.gov/reading-rm/adams.html. For assistance in obtaining any public records, please contact the NRC's Public Document Room (PDR) at 1-800-397-4209 or by e-mail at PDR.Resource@nrc.gov.

The record in Appendix C-3 contains information that was previously redacted by NRC.

Your fee payment has been received.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Donna L. Sealing

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

2012-0196

JUN 12 2012

PART II.A -- APPLICABLE EXEMPTIONS

APPENDICES

C

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
William M. Dean	Regional Administrator, Region I	See Appendix C	<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 AVAILABLE IN THE PDR**

<u>NO.</u>	<u>ACCESSION NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	ML031400324	5/15/03	Delegation of Lic Sig Authority (10 pages)
2.	ML003724172	06/15/00	Transmittal of DNMS MMR (37 pages)
3.	ML003714924	05/10/00	Transmittal of DNMS MMR (38 pages)
4.	ML052570338	09/09/05	License status change control (3 pages)
5.	ML052570309	09/09/05	Megarad Inc., License Termination Control No. 137644 (3 pages)
6.	ML052520319	09/09/05	Megarad Inc., Termination request letter (2 pages)
7.	ML042880459	10/12/04	Inspection 03036064/2004002 (3 pages)
8.	ML040290894	01/29/04	Inspection of license No. 31-30746-01 (2 pages)
9.	ML030160435	01/14/03	Megarad Inc., Issuance of corrected copy of license (6 pages)
10.	ML030090258	01/03/03	New and renewal – License term checklist (1 page)
11.	ML030090380	03/31/09	Materials license termination form (2 pages)
12.	ML030090364	Undated	Megarad Inc., Chronological history (3 pages)
13.	ML030090144	Undated	Megarad Inc., Amendment 3 (1 page)
14.	ML030090116	01/08/03	Megarad Inc., Issuance of license termination (8 pages)
15.	ML023460531	10/07/02	Application for materials license (5 pages)

16.	ML022820795	10/01/02	Megarad Inc., Response to RAIs (3 pages)
17.	ML022540029	09/09/02	Postal receipt signed by Gary Balestracci (1 page)
18.	ML022520269	09/04/02	Megarad Inc., Second RAI (2 pages)
19.	ML021840561	07/03/02	Request for additional information (5 pages)
20.	ML021500378	05/28/02	Postal receipt to Sheryl Villar (1 page)
21.	ML021390004	05/15/02	Incorrect NRC license (3 pages)
22.	ML021820552	05/14/02	Supplemental information relative to amendment request (5 pages)
23.	ML021820539	05/14/02	New license submittal (15 pages)
24.	ML020850782	03/26/02	Void of application for new license (2 pages)
25.	ML020650508	02/28/02	Telephone conversation record (1 page)
26.	ML020590348	02/28/02	Deficiency response (2 pages)
27.	ML020170054	01/16/02	Request for additional information (3 pages)
28.	ML013650136	12/26/01	Application for material license (1 page)
29.	ML013610414	12/26/01	New Rhode Island license application (6 pages)
30.	ML013480058	12/12/01	Telephone conversation record (1 page)
31.	ML013460176	12/11/01	Telephone conversation record (1 page)
32.	ML013230425	11/14/01	Issuance of license amendment (5 pages)
33.	ML011380395	05/18/01	Inspection at Longwood Inspection Facilities (10 pages)
34.	ML003731772	07/05/00	Inspection at New York site (12 pages)
35.	ML003703779	04/17/00	Final action – order revoking license (2 pages)
36.	ML003692207	03/13/00	Order revoking license (9 pages)

- | | | | |
|-----|-------------|----------|--|
| 37. | ML003688283 | 02/25/12 | Order revoking license following 30 day suspension
(13 pages) |
| 38. | ML003710985 | 03/01/00 | Status of New York's Agreement State Program
(13 pages) |

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

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	03/31/09	Materials license-Megarad (9 pages)
2.	06/25/04	License 06-30423-01 Transferred to license 31-30746-01 (3 pages)

Re: FOIA/PA 2012-0196

**APPENDIX C
RECORDS BEING WITHHELD IN PART**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/ (PAGE COUNT)/EXEMPTIONS</u>
1.	08/25/99	Material licensing package for amendment 1 for Megarad, Inc. (18 pages) (Exemption 6)
2.	06/25/04	License 06-30423-01 Transferred to license 31-30746-01 (29 pages) (Exemption 6)
3.	10/28/01	New radiation safety officer (5 pages) (Exemption 6)