



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

PDR
016

SEP 4 1985

Mr. Lyle Graber, Licensing Engineer
Licensing Information Service
NUS Corporation
2536 Countryside Boulevard
Clearwater, FL 33575-2094

IN RESPONSE REFER
TO FOIA-85-562

Dear Mr. Graber:

This is in response to your letter dated August 5, 1985, in which you requested, pursuant to the Freedom of Information Act (FOIA), a copy of SECY-85-103.

SECY-85-103, identified by portions as separate documents on the enclosed appendix, is being released in part. Document 2 identified on the appendix is being placed in the NRC Public Document Room (PDR) in file folder FOIA-85-562 in your name.

Documents 1 and 3 through 5 contain the predecisional legal analyses, opinions and recommendations between the Office of the General Counsel (OGC) and the Commissioners. The documents pertain to a draft rule regarding emergency preparedness exercise requirements for an initial licensing decision. The documents are exempt from mandatory disclosure pursuant to Exemption 5 of the FOIA (5 U.S.C. 552(b)(5)) and the Commission's regulations at 10 CFR 9.5(a)(5). Release of the documents would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. The documents do not contain any reasonably segregable factual portions. The documents are being withheld in their entirety.

Pursuant to 10 CFR 9.15 of the Commission's 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 this denial is Mr. James A. Fitzgerald, Assistant General Counsel.

This denial may be appealed to the Secretary of the Commission within 30 days from the receipt of this letter. Any such appeal must be in writing, addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal of an Initial FOIA Decision."

Sincerely,

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

Enclosure: As stated

APPENDIX

<u>DATE</u>	<u>DESCRIPTION</u>
1. 03/21/85	SECY-85-103, Memo from M. Malsch, Deputy General Counsel, to the Commissioners, subject: <u>UCS v. NRC</u> , 735 F. 2d 1437 (D.C. Cir. 1984) (Emergency Preparedness Exercises May Not Be Excluded By Rule From OL Hearings) (7 pages)
2. Attachment 1 to SECY-85-103	February 20, 1985 Memorandum from G. Cunningham ELD, to W. Briggs, OGC, Subject: <u>UCS v. NRC</u> , 735 F. 2d 1437 (D.C. Cir. 1984) (3 pages)
3. Attachment 2 to SECY-85-103	Draft Federal Register Notice, re: emergency preparedness exercises for an initial licensing decision (5 pages)
4. Attachment 3 to SECY-85-103	Comparative Text, re: draft rule, (1 page)
5. Attachment 4 to SECY-85-103	Draft memorandum from S. Chilk, Secretary, to W. Dircks, EDO, re: <u>UCS v. NRC</u> , 735 F. 2d 1437 (D.C. Cir. 1984) (1 page)