

**RESPONSE TO FREEDOM OF  
INFORMATION ACT (FOIA) REQUEST**

FOIA-2023-000014

1

RESPONSE  
TYPE☐

INTERIM

☒

FINAL

**REQUESTER:**

Lawrence Criscione

**DATE:**

12/16/2022

**DESCRIPTION OF REQUESTED RECORDS:**

A copy of ML12313A059 and all records associated with it being quarantined on October 26, 2022.

**PART I. -- INFORMATION RELEASED**

- ☐ The NRC has made some, or all, of the requested records publicly available through one or more of the following means: (1) <https://www.nrc.gov> ; (2) public ADAMS, <https://www.nrc.gov/reading-rm/adams.html>; (3) microfiche available in the NRC Public Document Room; or FOIA Online, <https://foiaonline.gov/foiaonline/action/public/home>.
- ☒ 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 Part I.D -- Comments) for a disclosure determination and direct response to you.
- ☐ We are continuing to process your request.
- ☒ See Part I.D -- Comments.

**PART I.A -- FEES**

AMOUNT

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You will be billed by NRC for the amount indicated.

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You will receive a refund for the amount indicated.

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Fees waived.

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Since the minimum fee threshold was not met, you will not be charged fees.

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Due to our delayed response, you will not be charged search and/or duplication fees that would otherwise be applicable to your request.

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

- ☐ We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). See 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- ☒ We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- ☐ Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- ☒ You may appeal this final determination within 90 calendar days of the date of this response. If you submit an appeal by mail, address it to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Mail Stop T-6 A60M, Washington, D.C. 20555-0001. You may submit an appeal by e-mail to [FOIA.resource@nrc.gov](mailto:FOIA.resource@nrc.gov). You may fax an appeal to (301) 415-5130. Please be sure to include on your submission that it is a "FOIA Appeal." Only a pre-registered user may file an appeal through FOIA Online, <https://foiaonline.gov/foiaonline/action/public/home>. A user who has not registered an account prior to filing the initial FOIA request may still submit an appeal by one of the above mentioned options.

**PART I.C -- REFERENCES AND POINTS OF CONTACT**

You have the right to seek assistance from the NRC's FOIA Public Liaison by submitting your inquiry at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>, or by calling the FOIA Public Liaison at (301) 415-1276.

If we have denied your request, you have the right to seek dispute resolution services from the NRC's Public Liaison or the Office of Government Information Services (OGIS). To seek dispute resolution services from OGIS, you may e-mail OGIS at [ogis@nara.gov](mailto:ogis@nara.gov), send a fax to (202) 741-5789, or send a letter to: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. For additional information about OGIS, please visit the OGIS website at <https://www.archives.gov/ogis>.



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**PART I.D -- COMMENTS**

At 1:52 AM on October 26, 2022, you emailed the NRC's Chief Information Officer, as well as several others, including the FOIA Office, with the subject line, "FOIA Request for records pertaining to ML12313A059." In your email, you requested electronic delivery of "a copy of ML12313A059 and all records associated with it being quarantined on October 26, 2022." In a follow-up email at 12:43 PM on October 26, 2022, you informed the original recipients of your request that, although the email to which ML12313A059 was attached had been released from quarantine at 6:35 AM, you still wanted your request to be processed "because [you] would like the document (ML12313A059) to be made public in ADAMS". You explained that you were writing an article about the matters addressed in the document.

At the time of NRC's receipt of your request, staff in the Office of the Chief Information Officer confirmed that there were no records responsive to that part of your request seeking records associated with ML12313A059 being quarantined.

In any event, based upon your 12:43 PM email, we understand that, given your stated reason for continuing to pursue your request, you are now requesting access to ML12313A059, which consists of several distinct records: (a) A SECY Correspondence Control Ticket; (b) an email string that you sent to Susan Vrahoretis, which she then shared with Annette Vietti-Cook and several others; and (c) multiple attachments to that email string. These attachments consist of: (1) a copy of the NRC Policy for Handling, Marking, and Protecting Sensitive Unclassified Non-Safeguards Information (SUNSI); (2) portions of Handbook 12.6 Part II, Protection and Control of Sensitive Unclassified Information (revised 12/20/1999); (3) 5-page guidance, entitled SUNSI Handling Requirements that you downloaded from the NRC's intranet on 10/25/2012; (4) Yellow Announcement No. 077 (dated 10/26/2005), entitled Policy Revision: NRC Policy and Procedures for Handling, Marking, and Protecting SUNSI; (5) SECY-04-0191, dated 10/19/2004; and (5) and a letter you wrote to then-Senator Lieberman, dated 10/15/2012. We note that, while several of these records are already publicly available, many of these attachments bear handwritten notations and highlighting, presumably added by you.

We have completed our review of ML12313A059; as reflected on Part II, certain redactions have been made.

Signature - Freedom of Information Act Officer or Designee

**Stephanie A. Blaney**

Digitally signed by Stephanie A. Blaney  
Date: 2022.12.16 13:27:44 -05'00'

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**PART II.A -- APPLICABLE EXEMPTIONS**

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)), after taking into consideration the foreseeable harm standard when reviewing records and applying these FOIA exemptions.

- ☐ Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- ☐ 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 the 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. 4702(b), which prohibits the disclosure of contractor proposals, except when incorporated into the contract between the agency and the submitter of the proposal.
- ☐ Other:
- ☐ Exemption 4: The withheld information is a trade secret or confidential commercial or financial information that is being withheld for the reason(s) indicated.
- ☐ 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 is considered to be another type of confidential business (proprietary) information.
- ☐ The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- ☒ Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
- ☒ Deliberative process privilege.
- ☐ Attorney work product privilege.
- ☐ Attorney-client privilege.
- ☒ Exemption 6: The withheld information from a personnel, medical, or similar file, 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 open enforcement proceeding.
- ☐ (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
- ☐ (D) The information consists of names 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 any individual.
- ☐ Other:

**PART II.B -- DENYING OFFICIALS**

In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.

DENYING OFFICIAL	TITLE/OFFICE	INFORMATION DENIED	APPELLATE OFFICIAL		
			EDO	SECY	OIG
Stephanie A. Blaney	FOIA Officer	cell number; personal email address; internal pathways	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Rochelle Baval	Executive Assistant to the Secretary	Correspondence Control ticket	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Select Title/Office from drop-down list		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Select Title/Office from drop-down list		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>