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FOIA/PA REQUEST

Case No. 2008-0071
Date Rec'd: 12-19-07
Specialist: Winters
Related Case: _____

December 19, 2007

Ms. Carol Ann Reed
FOIA / Privacy Act Officer
U.S. Nuclear Regulatory Commission
Mail Stop T-6 D8
Washington, DC 20555-0001

FREEDOM OF INFORMATION ACT REQUEST

Dear Ms. Reed:

Pursuant to the Freedom of Information Act, 5 U.S.C. 522, as amended and 10 C.F.R. 9.8 of the Commission's regulations Greenpeace requests that Nuclear Regulatory Commission provide us with the letter from the Nuclear Energy Institute to the Commission; dated December 8, 2006.

According to former Commissioner McGaffigan, the NRC's staff proposed rulemaking was significantly altered based upon this letter from the Nuclear Energy Institute (NEI):

I also appreciate NEI's December 8, 2006 letter to the Commission that proposed that the beyond-design-bases security assessments be handled in Part 52 at the design certification stage (when practicable changes, if needed, can be most readily adopted). That suggestion helped the entire Commission in the development of alternatives to the staff proposal.

(U.S. Nuclear Regulatory Commission, Commission Voting Record, Proposed Rulemaking – Security Assessment Requirements For New Nuclear Power Reactor Designs, SECY-06-204, Attachment 2, Commissioner McGaffigan's Comments on SECY-06-0204, April 27, 2007, p. 1. <http://www.nrc.gov/reading-rm/doc-collections/commission/cvr/2006/2006-0204vtr.pdf>) According to our conversation with the NRC public document room the letter is being withheld due to security concerns. Greenpeace would like the letter released; redacted if necessary.

Additionally Greenpeace requests any and all documents in the possession of the NRC concerning the above referenced letter and the regulatory changes suggested by NEI.

This request includes but is not limited to all regional headquarters and offices, the office of the Executive Director of Operations, the NRC Chairman and all NRC Commissioner's Office's.

Please consider "documents" to include reports, studies, test results, correspondence, memoranda, meeting notes, meeting minutes, working papers, graphs, charts, diagrams, notes from drop-in visits and summaries of conversations and interviews, computer records, e-mail and any other form of written communications including internal NRC memoranda.

Pursuant to and in compliance with 10 C.F.R. 9.41 of the Commission's regulations governing requests for fee waivers, Greenpeace provides the following information.

Greenpeace seeks the requested information solely to contribute to and help shape the public debate concerning NRC's role in the regulation of the nuclear industry or in this instance how NEI has regulated the NRC. The information provided by the NRC will be analyzed and extracted for use in an analysis of the NRC's regulation of the nuclear industry since the terrorist attacks of September 11, 2001.

Greenpeace is a nationally known non-profit public interest organization founded in 1971. We will use these documents in preparation of our analysis of the NRC's regulation of nuclear power plant security. As Greenpeace's nuclear policy analyst I have over a decade of experience deciphering NRC documents and making the information contained in them more understandable to the public.

The requested information and Greenpeace's analysis will greatly contribute to the public's understanding of the Commission's role in regulating the nuclear industry. The information provided will allow the public to better understand why the NRC scuttled the staffs' rulemaking in 2006 that would have amended the current regulations for nuclear power reactors by adding security design assessment requirements for future applicants for a construction permit, operating license, standard design approval, design certification, manufacturing license, or combined license. (U.S. Nuclear Regulatory Commission, Proposed Rulemaking – Security Assessment Requirements For New Nuclear Power Reactor Designs, SECY-06-204, September 28, 2006, p.1.)

We plan to broadly disseminate the information contained in our analysis to the press and the general public. For several years now our publications, comments and press releases have been made available free of charge on our web site. The requested information will significantly increase the public understanding of the issue and the NRC's role in regulating the nuclear industry.

Our past publications have attracted attention in the local, national and trade media. Copies of the reports have been distributed to members of the public, the nuclear industry, citizen groups, federal & state governments and members of Congress.

Greenpeace has neither a commercial nor a private interest in the agency records sought.

Since "disclosure of the information is in the public interest because it is likely to contribute significantly to the public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requester" (5 U.S.C. 552 (a)(4)(A) (iii)), we request a complete waiver of any processing or duplicating costs you might incur in providing these records to us. If you rule otherwise, please notify us before filling the request.

If all or any parts of this request are denied, please cite the specific exemptions on which you rely in refusing to release the documents.

Further, since the Freedom of Information Act provides that the remainder of a file must be released if only portions are exempt from disclosure, we request that we be provided with all non-exempt portions that are reasonably segregable. Of course, we reserve our right to appeal the withholding or deletion of any information.

As provided in the Freedom of Information Act Amendments, we will expect to receive the requested records or a final determination within twenty working days. If your office is unable to fully respond to this request in that time, please send us a written estimate of when the request will be completed.

If you have any questions about this request, please contact me at 202-319-2487.

Thank you for your attention to this request.

Sincerely,

James P. Riccio
Nuclear Policy Analyst
Greenpeace
702 H Street NW, Suite 300
Washington, DC 20001

From: Jim Riccio <jim.riccio@wdc.greenpeace.org>
To: <FOIA@nrc.gov>
Date: Wed, Dec 19, 2007 9:23 AM
Subject: Greenpeace FOIA Request

Dear FOIA branch,

Attached is Greenpeace's FOIA request for the NEI letter to the Commission dated December 8, 2006. Apparently this letter influenced the Commission's thinking on the current proposed rule regarding Aircraft impact but is being withheld from the public.

Have a happy holiday.

Jim

Jim Riccio
Nuclear Policy Analyst
Greenpeace
202-319-2487