

August 8, 2006

Mr. Scott C. Cullen
GRACE Policy Institute
28 W. 44th Street, Suite 1504
New York, NY 10036

RE: RESPONSE TO FOIA 2006-0175

Dear Mr. Cullen:

This letter is in response to your appeal of the agency's June 23, 2006 denial of your request for a document under the Freedom of Information Act (FOIA). Specifically, the NRC denied your request for "Markup by C. Jackson, Chairman's office of draft Affirmation Notice for SECY-03-0195". This two-page document was withheld in its entirety under Exemption 5. See Appendix D, Document Number 22 of the NRC's response of June 23, 2006. For reasons explained below, I partially grant the appeal.

The first page of the document that you seek is a draft affirmation notice on SECY-03-0195-Final Rule, 10 CFR Part 50, "Financial Information Requirements for Applications to Renew or Extend the Term of an Operating License for a Power Reactor." I am releasing that page. The second page lists proposed changes to the draft Federal Register notice of the final rule, with handwritten annotations by a member of the NRC Chairman's staff. The Commission directed changes to the Federal Register notice have been made available to the public via ADAMS (ML033520418), which is available through the agency's website. The second page contains pre-decisional notes generated as part of the agency's deliberative process leading up to publication of a final rule. Disclosure of this type of information would compromise the agency's deliberative process by inhibiting NRC employees from candidly commenting on pending issues. The public already has the benefit of the agency's final position. Public understanding of this position would not be enhanced by disclosure of the staff's advice or recommendations on the draft document. The agency has a legitimate interest in protecting the integrity of its deliberative process that has been traditionally recognized by the courts. Therefore, we will continue to withhold this page of the document in its entirety under Exemption 5.

The Deputy Director for Reactor Protection and Preparedness Programs will respond separately to the remaining documents subject to your appeal.

This is a final agency action on this record pursuant to 10 C.F.R §9.29(c)(3)(2001). As set forth in the FOIA (5 U.S.C. §552(a)(4)(B)), judicial review of this decision is available in a district court of the United States in the district in which you reside or have you principal place of business, or in the District of Columbia.

Sincerely,

/RA/

Annette L. Vietti-Cook

Attachment: Draft affirmation notice

ADAMS ACCESSION NUMBER: ML062200375

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OFFICE	OGC	SECY	
NAME	Trothschild/ RA	Avietti-Cook /RA	
DATE	08 / 03 /2006	08 / 04 /2006	/ /2006

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☐ Sensitive

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