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DUE: 07/14/04

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FINAL REPLY:

Senator James Inofe  
Senator James Jeffords  
Senator George Voinovich  
Senator Joseph Lieberman

TO:

Chairman Diaz

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO: 04-0409

DESC:

Post Hearing Questions from the 5/20/04 Hearing on  
the Oversight of the NRC

ROUTING:

Reyes  
Norry  
Virgilio  
Kane  
Collins  
Dean  
Burns  
Rathbun, OCA  
Paperiello, RES  
Anderson, OEDO

DATE: 07/01/04

ASSIGNED TO:

CONTACT:

NRR	Dyer
OGC	Cyr
NMSS	Strosnider
HR	Bird
OE	Congel
NSIR	Zimmerman

SPECIAL INSTRUCTIONS OR REMARKS:

Use Q&A format attached. Provide hard copy and  
diskette to Patty Anderson, OEDO by Noon on  
7/14/04.

Template: SECY-017

6/7  
FRids: SECY-01



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5382

# United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
WASHINGTON, DC 20510-6176

ANDREW WHEELER, MAJORITY STAFF DIRECTOR  
KEN CONNOLLY, MINORITY STAFF DIRECTOR

June 29, 2004

04 JUN 30 PM 1:25  
CHAIRMAN REC'D

Mr. Nils J. Diaz  
Chairman  
U.S. Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, Maryland 20852-2738

Dear Chairman Diaz:

Thank you for appearing before the Subcommittee on Clean Air, Climate Change, and Nuclear Safety on Thursday, May 20, 2004. We appreciate your testimony in our effort to conduct oversight on the Nuclear Regulatory Commission. Your testimony was helpful and we know that your input will prove valuable as the Subcommittee continues its work on this important topic.

Enclosed are questions that have been submitted by Senators Inhofe, Jeffords, Voinovich, and Lieberman for the hearing record. Please submit your answers to these questions by COB Friday, July 16, 2004 to the attention of Shawn Ryan, Senate Committee on Environment and Public Works, 415 Hart Senate Office Building, Washington, D.C. 20510. In addition, please provide the Committee with a copy of your answers via electronic mail to [shawn\\_ryan@epw.senate.gov](mailto:shawn_ryan@epw.senate.gov) and on a 3.5 inch disk in WordPerfect or Microsoft Word format. To facilitate the publication of the record, please reproduce the questions with your responses.

Again, thank you for your assistance. Please contact Brian Mormino or John Shanahan at (202) 224-6176 or Jim Reilly at (202) 224-2441 or Chris Miller at (202) 224-8832 with any questions you may have. We look forward to reviewing your answers.

Sincerely,



George V. Voinovich  
Chairman



Thomas R. Carper  
Ranking Member

Senator Inhofe's Questions for NRC

1. *HR/*  
*NRR* Have you considered the possibility of consolidating the employees at the four Regions to headquarters? Since every nuclear reactor has full-time NRC resident inspectors located at each facility, is it really necessary to have four regional offices? Please provide a breakdown as to the functions performed solely at the Regional Offices, and those functions which are performed at both headquarters and in the regions.
  
2. *NRSS* How is the interaction between the EPA and the NRC on the setting of radiation standards? Now that the standards for Yucca Mountain have been set, I think we should give serious consideration to consolidating the process at the NRC. Is it feasible/possible for the EPA's functions to be consolidated at the NRC?

Senator Jeffords' Questions for Chairman Diaz, Commissioner Merrifield and Commissioner McGaffigan

*NRR* 1. I have a question regarding record keeping related to nuclear fuel. It is my understanding that the NRC used to have a more direct role in keeping records on the location of nuclear fuel and waste at power plants, but that it changed its policy in the 1980s. Now the license holders are primarily responsible for this task. In light of what has happened at Vermont Yankee, and with the increase in buying and selling of nuclear plants to new owners, is the NRC reconsidering taking a more active role? Would you need additional authority from Congress to do so?

*NRR* 2. The discovery of missing fuel rods at Vermont Yankee resulted from NRC inspections required of all plants as a follow-up to the loss of fuel at the Millstone plant.

Have other plants reported missing fuel? And when will the inspection of other plants be completed?

*NRR* 3. On May 4, 2004, the NRC responded to the Vermont Public Service Board's request for additional independent review at Vermont Yankee. Your letter stated that a pilot engineering assessment would be conducted. The assessment team will be comprised of NRC staff, state officials, and at least two independent contractors.

(a) When will these inspections start?

(b) Will you commit to having an independent observer in addition to the independent contractors on the inspection team?

*NRR* 4. There have been on-going allegations from nuclear advocacy groups in New England that NRC staff "misled" Senator Leahy and me regarding the extent to which the NRC's new power uprate guidelines were related to the Independent Safety Assessment conducted at Maine Yankee. These allegations have been made to the Commission in writing.

Will you clarify this issue and provide a summary to the Subcommittee of the provisions of the extended power uprate guidelines that were explicitly drawn from the Maine Yankee Independent Safety Assessment?

*OCC/NRR* 5. Constituents have raised concerns with me regarding the process for requesting a public hearing on the Vermont Yankee power uprate. I request that you clarify two issues:

(a) First, my constituents believe that the time in which they need to request a hearing begins when the notice of the application appears on the Commission's web site rather than in the Federal Register. Isn't the Federal Register notice, when one is submitted, the official start of the clock for hearing requests? Will that be the case for Vermont Yankee?

OGC (b) Second, my constituents are concerned about both the evidentiary and standing requirements contained in the new NRC hearing regulations. In response to a request for a hearing, does the NRC have the discretion to decide whether or not to use its current or former regulations to govern the hearing process?

6. On May 18, 2004, Senator Inhofe and I received a letter from you regarding the Commission's views on nuclear waste that is incidental to reprocessing at Department of Defense facilities. I noted with some dismay that while the Vermont Public Service Board waited seven weeks for a reply to its questions regarding the proposed power uprate at Vermont Yankee, this response was obtained the same day questions were submitted to the NRC. I have a few questions regarding this letter, and I have written to you regarding this matter.

NMSS/  
OGC (a) In the letter you write that the NRC "does not have regulatory authority or jurisdiction" over the Savannah River, Hanford, or Idaho facilities. Isn't that because the high-level waste storage tanks at these locations were authorized only for short-term, temporary storage, and not for permanent disposal?

NMSS/  
OGC (b) Isn't it the case that under Section 202 of the Energy Reorganization Act, the NRC has regulatory authority and jurisdiction over any "facilities authorized for the express purpose of ... long-term storage of high-level radioactive waste generated by" the Department of Energy?

NMSS/  
OGC (c) Wouldn't legislation allowing DOE to say that high-level waste isn't high-level anymore circumvent the NRC's responsibility for licensing and regulating the facility in which permanent disposal is to take place? Have you actually reviewed and taken a position on Section 3116 of the DOD Authorization bill that is presently on the Senate floor?

NRC Oversight Hearing – May 20, 2004  
Voinovich Questions for NRC Chairman Diaz

- 1  
NRR GAO claims that the recommendations are being implemented slowly because of resource constraints at the NRC. What are some of these constraints and what needs to be done to address them?
- 2  
NRR What progress are you making in implementing the Davis-Besse lessons-learned task force recommendations?
- 3  
NRR GAO claims that several of the issues that led NRC to not prevent the Davis-Besse incident were identified in past GAO reports, Commission lessons-learned task force recommendations, and Inspector General reports. The GAO also states that the NRC is reviewing "the effectiveness of its response to past NRC lessons-learned task force reports." What is the progress of the review you are performing on your effectiveness to fully implement past recommendations?
- 4  
NRR How are you addressing NRC's major communication failures that GAO identified as playing a significant role in the Davis-Besse incident?
- 5  
HR What is NRC's human capital situation? What are the top things Congress can do to support NRC's human capital development?
- 6  
NRR What is required of on-site inspectors in terms of their daily responsibilities? What are their weekly hours, salary, other benefits, etc.? How much do the inspectors move around the country? How are they recruited and what are the basic qualifications? How are they trained?
- 7  
NRR Why specifically do you disagree with GAO's recommendation that you develop a set process and guidance for deciding whether to shutdown a plant?
- 8  
NMSS Does NRC have the tools needed to quickly license such applications as the gas centrifuge plant that USEC has decided to build in Piketon, Ohio?
- 9  
NRR Why specifically do you disagree with GAO's recommendation that you develop a methodology to assess early indications of deteriorating safety at nuclear power plants?
- 10  
NRR What steps have you required at Davis-Besse but not at other plants around the country? Why have these steps not been required at other plants? Additionally, you have required that Davis-Besse conduct independent assessments of safety culture over the next 5 years. Why have you not required the same types of assessments, such as surveys, at other plants?
- 11  
NRR What have you changed since the Davis-Besse incident to address the lessons-learned task force recommendations about safety? How do these changes interact with other initiatives that you are doing or have done?

OE 12

In the past, have you considered regulating safety culture? If so, what conclusions have been reached and why? What changes (if any) have you made in response to these considerations?

13

OE

What are other countries doing to regulate safety culture at their nuclear plants? How is this different from what is done in the U.S.? Are there any foreign regulations and/or practices that should be replicated in the U.S.?

U.S. SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC  
WORKS

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND  
NUCLEAR SAFETY

NRC OVERSIGHT HEARING, MAY 20, 2004

Questions submitted by Senator Joseph I. Lieberman

Chairman Diaz, thank you for your testimony. I appreciate the Commission's work to enhance security at our nation's nuclear power plants, and the work of the NRC Nuclear Emergency Preparedness Project Office. I would like to ask you two questions regarding security and emergency preparedness, specifically with respects to the Indian Point Power plant. As you know, this plant is of particular concern because of the nuclear wastes stored there, and the location of this plant. Approximately 11 million people live within the zone of concern around this power plant, many of them in my state of Connecticut. My constituents live downwind of the plant. I know that the NRC delegates much of the planning for these concerns to FEMA, but since the NRC retains ultimate responsibility for these plans, I direct these questions to you.

1. Chairman Diaz, should there a no-fly zone around the Indian Point power plant?  
*NSIR* It is my understanding that we have established no-fly zones around Disney theme parks, for security concerns. Why do we have no fly-zones around theme parks, but not our nuclear facilities?
2. I am concerned about the Evacuation Plans for the area around Indian Point. My constituents have first-hand experience with the fact that our roads are already carrying nearly twice as much traffic as they were designed for. I-95 and I-84 are reduced to stop-and-go speeds on a daily basis. It will require very careful planning based on realistic assumptions to be sure that our roads aren't reduced to a standstill in the event of an evacuation. Is it realistic to assume, for example, that families will be willing to separate to facilitate the evacuation, or would it be more realistic to assume that families will gather together first, and that each family will stay together, to evacuate as a family? Have we done the best demographic studies possible to facilitate evacuation plans?  
*NSIR*

## FORMAT FOR CONGRESSIONAL Q&As

QUESTION 6. Congressional questions are assigned to various offices for preparation of the answers.

(A) What is the typing format for responding to Congressional questions?

### ANSWER.

Q&As are to be typed on word processing equipment (WordPerfect) and provided to the EDO both by hard copy and a 3.5 inch diskette (as directed on Green Control Ticket under Special Instructions or Remarks). Type each Q&A as a separate job (including multiple parts, [A, B, C, etc.]) to aid in later revisions and transmission of Q&As to Congressional Affairs. Use 11 pitch, Arial type style, initial caps only, and double spacing. Use four spaces between each paragraph. Side margins are 1-inch for both left and right; and 1-inch for the top and bottom margins. Do not use a required return after each typed line.

At the bottom right margin on each page in the footer text, indicate Committee, originating Office (not Division or Branch). Current date should appear directly below the Committee/Office. Subsequent revisions should reflect the revised date.

Inhofe/NRR  
08/06/98

**QUESTION 6.(A).**

**2**

If succeeding pages are required in answering the question, the question number and page number should be typed in the header margin text area, so that it appears at the top of each succeeding page (as shown above).

If enclosures are to be included with a response, indicate on Q&A (as shown below) and type question number and part (A, B, C, etc., as appropriate) on each enclosure. Three copies of each enclosure are required. Also, provide an electronic copy of the enclosure, if possible.

**Enclosure:**

**Sample Q&A Format**

**Inhofe/NRR  
08/06/98**