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Congress of the United States

House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515–6115
Majority (202) 225–2927
Minority (202) 225–3641

March 22, 2013

The Honorable George Apostolakis
Commissioner
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Commissioner Apostolakis:

Thank you for appearing before the Subcommittee on Energy and Power and the Subcommittee on Environment and the Economy on February 28, 2013, to testify at the hearing entitled "Nuclear Regulatory Commission: Policy and Governance Challenges."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for 10 business days to permit Members to submit additional questions for the record, which are attached. The format of your responses to these questions should be as follows: (1) the name of the Member whose question you are addressing, (2) the complete text of the question you are addressing in bold, and then (3) your answer to that question in plain text.

To facilitate the printing of the hearing record, please respond to these questions by mail by the close of business on Friday, April 5, 2013. Please also e-mail your responses to the Legislative Clerk in Word format at Nick.Abraham@mail.house.gov.

Thank you again for your time and effort preparing and delivering testimony before the Subcommittees.

Sincerely,

Ed Whitfield
Chairman
Subcommittee on Energy and Power

John Shimkus
Chairman
Subcommittee on Environment
and the Economy

cc: The Honorable Bobby L. Rush, Ranking Member. Subcommittee on Energy and Power
The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment and the Economy

Attachment

The Honorable Ed Whitfield

1. In our hearing last July, Commissioner Magwood referred to the post-Fukushima actions the Commission approved on March 9, 2012, and stated:

   "We still have much work to do but the steps taken thus far represent a very significant increase in safety based on the Fukushima experience."

   a. Has any effort been made to account for the increase in safety inherent in those actions?

   b. Shouldn't this new, higher level of safety provide the threshold against which the benefits of any future actions should be analyzed?

2. I understand that there are several domestic companies developing small modular reactors (SMRs) that have engaged NRC staff about design certification activities. Which designs have been endorsed by potential license applicants who have written to the NRC indicating their intent to build such a design?

   a. Does the NRC currently have adequate staff and resources to address its small reactor licensing work?

   b. If the NRC is faced with limited resources for licensing activities, how will the NRC prioritize it's licensing efforts with regard to small reactors?

   c. Please provide the status of the NRC's progress on aligning the existing regulatory framework developed primarily for large light water reactors with that needed for SMR technologies including any issues that might require rulemaking.

The Honorable John Shimkus

1. I understand the NRC is analyzing the safety of using dry cask storage for extended periods of time. What is the time frame currently being analyzed?

   a. Is the NRC considering a requirement that Independent Spent Fuel Storage Installations maintain or reinstate the capability to repackage dry cask storage canisters?

2. In Finding #2 of the Commission's 2010 waste confidence determination, the NRC found that a repository would be available "when necessary". The court vacated the NRC's determination, and now the Commission is forced to initiate a new waste confidence proceeding.

   a. Since the scope of the NRC waste confidence proceeding seems focused on environmental impact issues, how will you gather evidence to support Finding 2, which addresses repository availability, not environmental impact?

   b. Will DOE provide evidence for the record on its plans for a repository?

   c. Without evidence from DOE, what sort of evidence do you think would support a repository availability finding?

   d. In vacating the NRC's Waste Confidence rule, the court directed the NRC to examine the environmental impact if a repository is never available and the period of storage on site is indefinite. Isn't the Finding #2 determination of repository availability a necessary element of determining the time period to be examined by the environmental impact statement?

e. To what extent will the Commission consider the "No Action" alternative documented in the Yucca Mountain Environmental Impact Statement?

The Honorable Doris O. Matsui

As you know, there are nine commercial shut down nuclear power plant sites in the U.S., including Rancho Seco owned by my hometown utility, the Sacramento Municipal Utility District. Although the spent fuel is monitored and well-guarded, and is not an immediate safety or security concern, the presence of spent fuel at these sites is costly and prevents the use of the site for economically productive uses that would benefit the community.

Because SMUD and the utilities that own the other shut down reactors are not able to move the spent fuel to a permanent storage site, I am supportive of the federal government moving it to interim storage facilities. We need interim storage with or without a permanent facility.

1. Can you outline for me what challenges the Commission faces in moving spent fuel to interim storage?

2. Do you believe that independent progress can be made on developing interim storage facilities even though we cannot currently reach a consensus on a permanent repository?

I believe it makes sense to move spent nuclear fuel from decommissioned sites first and I hope we can start seeing progress made in this area. As we all know, the U.S. Court of Appeals for the D.C. Circuit is currently considering whether or not to order the NRC to resume consideration of the Yucca Mountain license application.

3. Can you tell me what challenges the NRC or DOE would face if the federal court orders work to resume on Yucca? In particular do you see impediments to reacquiring the permits, or finding the personnel and knowledge base to resume where work was left off