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Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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March 22, 2013

The Honorable Allison Macfarlane
Chairman
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Chairman Macfarlane:

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.

Also attached are Member requests made during the hearing. The format of your responses to these requests should follow the same format as your responses to the additional questions for the record.

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

Attachments

Attachment 1—Member Requests for the Record

During the hearing, Members asked you to provide information for the record. For your convenience, relevant excerpts from the hearing transcript regarding these requests are provided below.

The Honorable Steve Scalise

I don't know how anyone can look at this slide and dismiss the cumulative impact of regulations as merely a matter of scheduling, and I am told that in addition to this, there are approximately 40 more post-Fukushima items yet to be considered. Is that correct?

The Honorable Bobby L. Rush

Can you provide this committee with more information on programs, what forms of support the NRC provides to these HBCUs and do you think that these types of programs can be replicated at other agencies?

Attachment 2—Additional Questions for the Record

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 its 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 repack 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 Joe Barton

In the response to this Committee's January 15, 2013 letter regarding filtered vents, the NRC failed to answer the question of when it will conduct a full review of the regulatory differences between the U.S. and Japan that existed at the time of the accident, indicating that it has limited such review to merely three issues: station blackout protections, hydrogen control, and transferring spent fuel from pools to casks. Furthermore, the NRC response stated that the U.S. and Japan have "similar approaches to safety, including defense-in-depth protections." Such an inadequate response generates more questions than answers. Please respond to the following:

1. When will the Commission conduct a full review of the regulatory differences between the U.S. and Japan that existed at the time of the accident?
2. If the Commission believes the U.S. and Japan have similar approaches to safety, including defense-in-depth protections, does it also believe we face a similar risk for a Fukushima-like accident? If not, please describe any and all nuclear safety differences between the U.S. and Japan as existed in Japan at the time of the Fukushima accident including but not limited to, each of the following:
 - a. A fully independent and transparent regulatory agency
 - b. The design basis process for siting and constructing nuclear plants including data and assumptions used as underpinnings for the design basis
 - c. Operator training and licensing
 - d. Emergency preparedness and response including communications, training, government interface
 - e. Control room habitability
 - f. Station blackout protections
 - g. Safety culture including a safety-conscious work environment and corrective action program
 - h. Supplemental emergency equipment similar the NRC's B.5.b requirements
 - i. Severe accident preparation including training, manuals, equipment inspections and maintenance
 - j. Seismic and flooding requirements
3. Was the Japanese Diet report incorrect when it stated that Japan had not fully incorporated the defense-in-depth philosophy? If yes, please explain.

The Honorable John D. Dingell

1. As you know, the Yucca Mountain facility remains unused yet we are still generating nuclear waste at facilities across the country. Has the Commission considered whether the D.C. Circuit Court's 2012 decision and the lack of a permanent storage facility will affect the continuation of existing licenses or possibly invalidate them? Please answer yes or no.
2. In addition to nuclear facilities and the computer infrastructures that support them, nuclear facilities could potentially be disrupted through off site attacks such as at the mines the produce fuel or companies that manufacture parts. If reactor fuel, parts, equipment, or other products are qualified to come on site, should the Commission have jurisdiction or input over cyber or physical protection before it comes on site?
3. The Fukushima disaster obviously gave us a lot to think about when it comes to nuclear energy and the Commission has put considerable thought into this matter. However, in a recent letter to the Commission, I joined my committee colleague, Mr. Barrow, and others, to express concern about a pending decision that may require a significant number of nuclear facilities to install containment filtered vents. The concern is that it may not be appropriate for the facilities your decision may affect. Due to the differences in the affected reactors, would a case-by-case evaluation provide greater certainty that the best technologies are being used rather than a broad approach such as the filtered vent proposal?
 - a. In regards to other Fukushima recommendations already put into place, please explain why these were issued as orders and not through the rulemaking process.
4. Last year I submitted a question to Chairman Macfarlane in regards to the status of an application by Aerotest Operations for an indirect license transfer to Nuclear Labyrinth. In your written response, you indicated that the Commission would request additional information from Aerotest. It is my understanding that the additional information was submitted by Aerotest last month. Does Commission anticipate requesting additional information from Aerotest?
 - a. What is the Commission's anticipated timeline to make a final decision on the application?

The Honorable Lois Capps

1. My constituents are concerned by the lack of progress on implementing a long-term storage solution for the spent fuel at Diablo Canyon. Chairman Macfarlane, what assurances can you provide my constituents that the NRC is committed to implementing a long-term solution for fuel storage?
 - a. If no long-term site can be identified, I'm concerned that San Luis Obispo and other communities will become de facto long-term storage sites. Has the NRC developed a plan for long term storage of spent fuel at Diablo Canyon and other nuclear reactor sites?
 - i. If you are developing such a plan, will it strengthen current standards to ensure long term safety?
2. Dr. Jeanne Harderbeck, a U.S. Geological Survey seismologist, recently published a peer-reviewed article in the Bulletin of the Seismology Society of America that raises numerous questions about the safety of the Shoreline fault. Did the NRC consider Dr. Harderbeck's scientific findings in its analysis for "RIL 12-01 Confirmatory Analysis of Seismic Hazard at the Diablo Canyon Power Plant" from the Shoreline Fault Zone" (ML121230035)?
 - a. If not, why not? And, if so, how did Dr. Harderbeck's findings affect the NRC's analysis?

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?