

ONE HUNDRED THIRTEENTH CONGRESS  
**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

July 23, 2014

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

Dear Chairman Macfarlane,

On July 21, 2014, the Nuclear Regulatory Commission (NRC) staff transmitted the Waste Confidence draft final rule to the Commission. We request an update on next steps now that the draft final rule has been submitted, including when the Commission will act on the rule and end the NRC's two-year licensing moratorium.

Section 101 of the Atomic Energy Act states: "It shall be unlawful...for any person within the United States to...manufacture, produce, transfer, acquire, possess, use, import, or export any utilization or production facility except under and in accordance with a license issued by the Commission..." This authority, which rests solely with the NRC, is one of the agency's core functions and is the foundation for applying and enforcing safety and security requirements.

On June 8, 2012, the U.S. Court of Appeals for the DC Circuit vacated the 2010 revision of the NRC's Waste Confidence rule which provides the generic determination of the environmental impacts associated with spent fuel, a necessary basis for issuing licenses. In the wake of the Court's decision, the NRC instituted a moratorium on license issuance. For the last two years, the NRC has been unable to execute its fundamental responsibility for issuing licenses that rely on the Waste Confidence rule, including licenses and license renewals for new nuclear plants and dry cask storage facilities.

In its September 6, 2012, direction to NRC staff, the Commission established an aggressive 24-month schedule to publish the final rule. This schedule was later revised to provide for publication of a final rule by October 3, 2014, a one-month delay. It is our understanding that the Commission would need to conclude its action on the matter one month earlier in order to facilitate publication.

Having voted on the draft rule and having received a robust briefing from the NRC staff and an external panel on March 21, 2014, the Commission should be familiar with the issues addressed in the draft final rule. It is our expectation that this familiarity enables the Commission to act with the same urgency that was required of the staff.

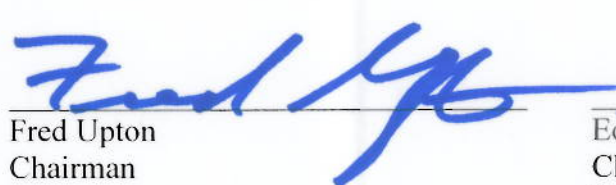
To provide clarity about when the NRC will resume its core function of issuing licenses, please respond to the following questions by August 6, 2014:

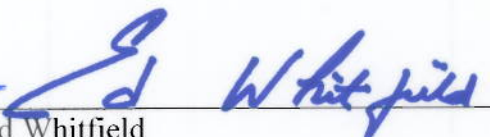
- Please indicate the date by which the Commission expects to conclude its action on the draft final rule including the schedule for the Commission affirmation meeting;
- Please provide a list of the licensing matters that await final action pending issuance of the final Waste Confidence rule and the schedule for acting on each of those licenses; and
- Please describe any hurdles to the NRC's resumption of licensing responsibilities.


Please inform the committee immediately of any circumstances that would prevent expeditious action on this matter. Given the importance of this issue, any delay in Commission action on this matter would require additional scrutiny.

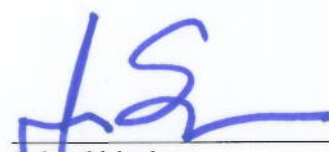
If you have any questions or concerns, please contact Annie Caputo of the Majority Committee staff at 202-225-2927.

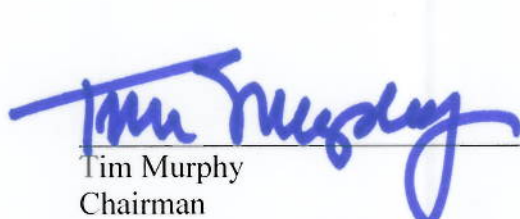
Sincerely,

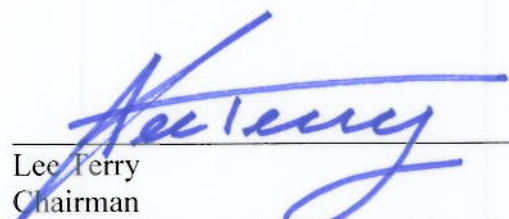
  
Fred Upton  
Chairman

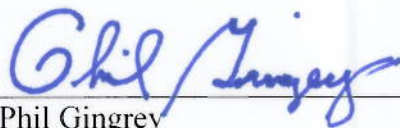
  
Ed Whitfield  
Chairman  
Subcommittee on Energy and Power

  
Joe Barton  
Chairman Emeritus


  
John Shimkus  
Chairman  
Subcommittee on Environment and the Economy

  
Tim Murphy  
Chairman  
Subcommittee on Oversight and  
Investigations

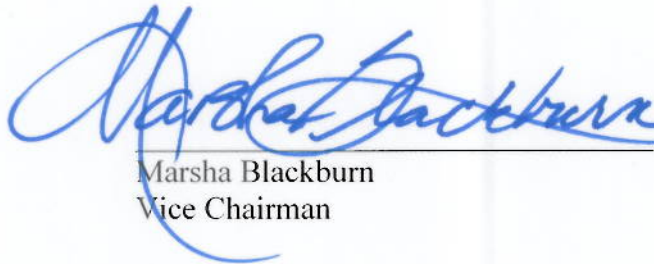
  
Lee Terry  
Chairman  
Subcommittee on Commerce, Manufacturing,  
and Trade



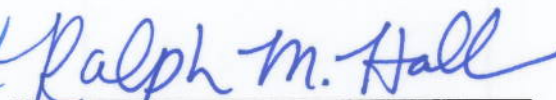
Phil Gingrey  
Vice Chairman  
Subcommittee on Environment and  
the Economy



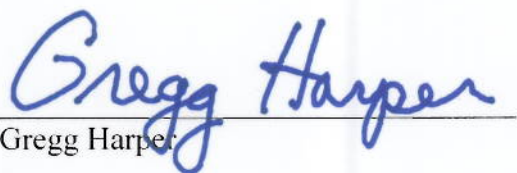
Robert E. Latta  
Vice Chairman  
Subcommittee on Communications and Technology



Marsha Blackburn  
Vice Chairman



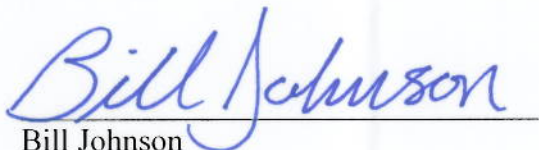
Ralph Hall



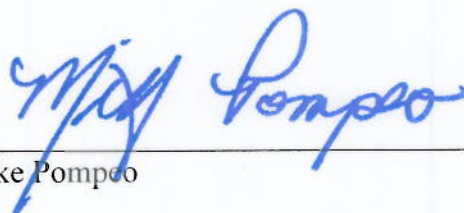
Gregg Harper



Gus Bilirakis



Bill Johnson



Mike Pompeo



Adam Kinzinger



H. Morgan Griffith



Billy Long



Pete Olson



Renee Ellmers

cc: The Honorable Henry A. Waxman