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U.S. House of Representatives

Committee on Commerce

Room 2125, Rayburn House Office Building

Washington, DC 20515-6115

September 20, 1996

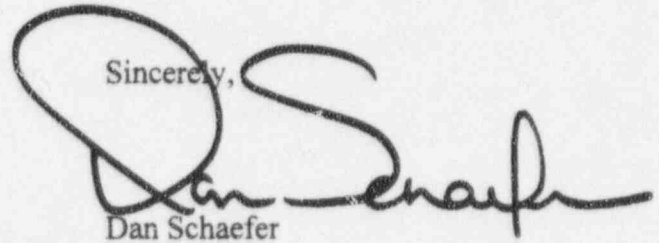
JAMES E. DERDERIAN, CHIEF OF STAFF

The Honorable Shirley Ann Jackson
Chairman
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, Maryland 20852

Dear Honorable Jackson:

As we discussed, please find questions enclosed pertaining to the hearing on September 5, 1996. Please respond by October 11, 1996.

Sincerely,



Dan Schaefer

Chairman

Subcommittee on Energy and Power

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Post-hearing questions for the Nuclear Regulatory Commission
submitted by the Majority

1. You point out in your testimony that NRC will be working with DOE on the Hanford tank farm privatization effort. In that situation, from what source will funding for the NRC's regulatory role come from?
2. The report of the Institute of Medicine (IOM), Radiation in Medicine: A Need for Regulatory Reform, indicates that the only distinction of byproduct materials versus other radioactive elements in medicine is that these materials originated in a nuclear reactor. Is there anything unique about the use or handling of byproduct materials in medicine that warrants a separate NRC regulatory role? Have there been any specific problems or deficiencies in how the States or FDA have handled regulation of radioactive materials in medical applications?
3. The NRC is responsible for overseeing the remediation of uranium mill tailing sites. Please provide a brief report of the status of current remediation activity at the sites under the NRC's jurisdiction. At what percentage of these sites has the Commission approved final cleanup plans? Has the NRC run into any unforeseen difficulties with the implementation of remediation plans at these sites?
4. The Commission recently participated in a meeting of the Gore-Chernomyrdin Commission in Russia. To what extent has the NRC been involved in providing technical assistance to the former Soviet Union in addressing unsafe conditions at reactors? Has the NRC seen significant improvements in the operation and performance of foreign reactors as a result of this assistance? Has the NRC provided any direct financial assistance to improve foreign reactor safety?
5. In its Report to Congress on the NRC's License Fee Policy Review as required by the Energy Policy Act of 1992, the NRC states that electric ratepayers paid, at a minimum, \$35.1 million in fiscal year 1993 to support NRC activities which have no bearing on the regulation of commercial nuclear energy facilities. These activities relate to NRC regulation of other federal agencies, such as VA hospitals, NASA radiographers, and the Commission's international activities. It is currently estimated that this "hidden tax" amounts to about \$47 million per year. Does the Commission concur with the report's conclusion that charging utilities and other NRC licensees for such activities constitutes a hidden tax on licensees? Would you support legislation to exclude such costs from the calculation of licensee user fees?
6. I understand that a third party review of the Millstone site will be conducted prior to restart of any of the site's reactors. Who will be responsible for the makeup of this independent third party, and who will be responsible for the costs associated with the third party's activities?

7. As a result of the Millstone situation, many utilities presently have some program underway to go back and evaluate their licensing documentation – focusing principally on their final (or updated) safety analysis reports – for the stated purpose of determining whether the physical plant matches up with the description contained in the FSAR. Given the substantial resources to be expended by utilities in conducting such a review, what guidance has the NRC provided licensees regarding how to address discrepancies between the plant and the FSAR, and what level of detail should be in the FSAR? Where is this guidance set forth? Of the reports you are starting to get back from utilities, are you finding that all of the plants are identifying significant safety issues, or is the problem more isolated?
8. What is the difference between a technical specification versus a commitment contained in an FSAR? how has the Commission decided what should be addressed in a technical specification and what should be addressed in a utility's FSAR? What guidance have you provided the staff with respect to the enforcement actions that should be taken in the event that discrepancies in the FSAR are identified? Does the commission now plan to treat all FSAR discrepancies in the same manner from an enforcement perspective? What steps have you taken to ensure that the positions taken by the agency's regional offices, particularly with regard to enforcement actions, are consistent with prior NRC positions and are consistent from region to region?
9. In July of 1996, the agency's first performance-based regulation – the maintenance rule – went into effect. This regulation was advertised at the time as a means of giving licensees more flexibility in structuring their maintenance programs, with the Commission focusing more on the results of a utility's maintenance program. At this point, it appears that all of the pre-existing maintenance requirements remain on the books. Will the maintenance rule wind up being just another regulation on top of the existing rules, rather than an alternative way to approach maintenance? Is the NRC specifically looking at the elimination of maintenance regulations now that the maintenance rule is in place?
10. Your testimony mentions the cooperation between NRC and DOE as the Department seeks a new tritium production source. What has the NRC identified as possible problems or difficulties associated with DOE's proposed use of commercial reactors for the production of tritium for defense purposes? Would the use of a commercial reactor for this purpose require hardware modifications or other changes requiring amendments to a reactor's operating license?
11. Your testimony states that the Commission plans to have its new strategic plan in place by the beginning of calendar year 1997, yet its budget request will not reflect the new plan perhaps until fiscal year 1999. Does the NRC anticipate any difficulty in implementing the plan due to the lag between its budget requests and its timeline for putting the plan in place? Will these changes result in a leaner fiscal year 1998 budget request to Congress?

12. Commercial mixed hazardous-radioactive waste is dual-regulated by the NRC and the Environmental Protection Agency, which complicates the management of these wastes and actually prevents certain mixed wastes from appropriate treatment and disposal because adequate NRC/RCRA permitted treatment and disposal facilities simply do not exist. Involuntary on-site storage puts some NRC licensees into automatic violation of RCRA's land ban storage prohibition. Have the Commission and EPA put any resources into developing a strategy to resolve this issue? Would the Commission support requiring EPA to promulgate a contingent management exclusion for mixed waste in the final hazardous waste identification rule for process wastes, which would be based on a finding that the existing NRC regulations constitute appropriate management of mixed waste and that such waste, when managed under NRC controls, does not pose a substantial present or potential threat to human health or the environment, and thus does not fall within the definition of hazardous waste?

THE HONORABLE MICHAEL BILIRAKIS

ENERGY AND POWER SUBCOMMITTEE
OVERSIGHT HEARING ON THE U.S. NUCLEAR REGULATORY COMMISSION
SEPTEMBER 5, 1996

NUCLEAR MEDICAL REGULATION

It is my understanding that the states regulate all medical uses of ionizing radiation not produced in a reactor. Is the NRC aware of any safety problems as a result of state control in this area?

REGULATION RULEMAKING

What weight does NRC assign to public comments on rulemaking? If there was overwhelming opposition to an NRC proposed rule, how does the agency reconcile those concerns? Specifically, if the NRC received 81 out of 85 comment letters opposing the rulemaking addressing the unauthorized use of radioactive material, why would the agency continue to move forward with this initiative?

QUESTIONS FOR NRC CHAIRMAN JACKSON
Submitted by Representative Markey

Reactor Safety Ranking

1. Eleven years ago, I asked a previous Commission to providing a listing of the 5 most unsafe nuclear reactors in America, as well as the top 5 safest nuclear reactors in America (see "Nuclear Reactor Safety," Hearings before the Subcommittee on Energy Conservation and Power of the Committee on Energy and Commerce, House of Representatives, Serial No. 99-177). Please provide a similar listing now.

Deterrent Effect of NRC Fines and Penalties

1. What is the largest fine the NRC has ever issued to a licensee for violating NRC rules or the terms of an NRC-issued license?
2. On average, how much time elapses between the point at which a potential rule or license violation is first detected, the point at which NRC determines the activity in question did indeed constitute a violation, and the actual collection of the fine from the licensee?
3. What is the average cost to a licensee per day of shutting down a reactor for safety-related repairs or upgrades necessary to comply with NRC requirements?
4. In light of your responses to questions 1, 2, and 3, do you believe that the prospect of NRC fines serves as a sufficient deterrent to violations of NRC rules or applicable license requirements, or is the NRC concerned that licensees may view such fines just another cost of doing business? Should these fines be increased in size in order to strengthen their deterrent and punitive effects?
5. Under the federal securities laws, the SEC can bar an individual from the securities industry for life (or for a specified period of years) for violations of the securities laws, and it periodically uses this authority to sanction individuals at securities firms who break the rules. Does NRC have similar authority to bar persons employed by a nuclear licensee from being employed by or associated with a licensee if that person was found to be responsible for violations of NRC rules? If so, has the NRC ever used this authority (please provide a listing of all individuals so barred within the last 5 years)? If not, don't you think that the NRC should have such authority.

Safety Problems at the Millstone Reactors

1. During the Subcommittee hearing your indicated that steps had been taken to respond to the NRC IG's findings regarding improper disclosure by NRC staff to Northeast Utilities of the identities of several of the individual alleged it intended to interview. Can you tell me what specific actions were taken against which specific individuals in response to the IG's findings?

2. I understand that a new safety issue has been raised at Millstone I relating to a containment isolation valve (known as a CU-29 valve). According to a September 3, 1996 NRC IG report, this valve was supposed to be tested every two years or at every reactor outage. However, Northeast Utilities postponed testing of the valve for 20 years, and when it finally did test it in 1995 it didn't work properly. Reportedly, the NRC staff knew about this for many years and did nothing to force the licensee to comply with NRC rules. This incident is disturbingly reminiscent of the events surrounding the full-core off-load violations at Millstone.

A) What is the justification for the NRC staff's failure to promptly detect and correct this violation?

B) What individuals were responsible for the NRC staff's handling of this matter?

C) What positions are these individuals in now?

D) Has any action been taken to discipline, sanction, or otherwise hold these individuals accountable for this regulatory failure?

3. Why should employees of licensees, such as Mr. Gallatis, be forced to take the unusual and rather extreme step of filing a public 2.206 petition to the NRC to take enforcement action before the agency responds to safety concerns they have regarding a licensee? Do you think it appropriate NRC practice to not fully investigate whistleblower complaints until they are the subject of a public petition or a press report? What specific actions are you taking to assure that in the future, whistleblower complaints are fully investigated at an earlier point?

4. Please provide a listing of the individuals and offices within the NRC who were responsible for: 1) overseeing Northeast Utilities activities with respect to the full-core offloads at Millstone in violation of NRC rules; 2) investigating Mr. Gallatis' initial allegations and NU's responses to such allegations.

A) In your response, please indicate who was responsible for supervising these persons' activities.

B) During the years 1991-present, what performance evaluations did these individuals receive?

C) In the aftermath of the findings reached by the NRC IG and OI, has the NRC taken any action to sanction, discipline or dismiss any of these individuals for failing to thoroughly investigate this matter in a timely fashion (if so, what action was taken)? Where any of these individuals promoted? Did any receive bonuses or other awards for their job performance?

5. What about those at Northeast Utilities that were responsible for the utilities' violation of its license, those who filed false or misleading reports with the NRC, those who failed to promptly report Mr. Gallatis' allegations to the NRC, and those who harassed or retaliated

against Mr. Galatis or other NU employees -- what is being done to hold them accountable for their misdeeds? Have any of these individuals been disciplined, sanctioned or dismissed?

6. When does the NRC intend to act on Mr. Galatis' petition? Why is it that the NRC acted so promptly on Northeast's request for a license amendment to allow them to perform a full fuel core offload, but has taken so long to respond to this petition?

7. Do you think it would be appropriate to approve a restart of the Millstone reactors when the Justice Department announced last month that it has undertaken a criminal investigation of the company? Were Northeast Utilities to be criminally indicted or convicted, what impact would that have on its licensee status?

8. I recently received a letter from a former Northeast employee who alleges that he and other employees who had raised concerns about safety practices at the Millstone reactors were targeted for dismissal in a January 1996 corporate downsizing (see attachment 1). Has NRC examined whether any of the 100 employees laid off as part of that downsizing may have been the subjects of retaliation for their efforts to bring attention to safety concerns at the reactors? If not, please explain why not. If so, please explain what actions the NRC is taking to pursue this matter.

9. In light of the events at Millstone, concerns have been raised by some whistleblowers about the adequacy of investigative techniques used by the NRC Office of Investigations (OI), its independence, its response to allegations of whistleblower harassment or retaliation, and its contacts with licensee legal counsel. I recently received a copy of notes prepared by Mr. Galatis' attorney in preparation for a meeting with you to discuss these deficiencies (see attachment 2). Inasmuch as the allegations contained in these notes raise some very serious substantive issues with respect to the adequacy of OI investigative techniques, I request your evaluate and respond to the concerns raised therein, as well as the specific suggestions for reforms. Are any steps being undertaken to alter OI investigative techniques in response to the type of concerns raised in these notes?

Safety Problems at the Haddam Neck Reactor

1. According to a recent article in the Boston Globe, the Haddam Neck plant is being shut down due to a series of 11 safety concerns identified by the NRC. On page 19 of your prepared testimony, you stated that "the plant was shut down due to a design deficiency restarting to containment fan coolers" and reported that "additional safety-significant design-related issues have been raised." Please describe the nature and severity of the safety problems that have been identified at this reactor.

2. How serious are these safety problems?

3. How and when were these problems identified?

4. What actions are being taken by the licensee and by the NRC staff in response to these concerns.
5. Can you assure us that this plant won't be restarted until all of these safety problems are fully resolved?
6. The aforementioned Globe article reports that the Haddam Neck plant may not be restarted. Has the licensee informed the NRC whether this is the case?

Safety Problems at the Maine Yankee Reactor

1. A May 8, 1996 report issued by the NRC Inspector General found "significant indications" that operators of the Maine Yankee reactor hid problems in a safety-related computer program from the NRC. These deficiencies related to safety items identified by the NRC as priorities in this Three Mile Island Action (TMI) Plan. The IG report further notes that these deficiencies resulted in this item being formally closed out when it should not have been. As a result, the TMI action plan reports to Congress (which were being submitted in response to a request I initiated), contained inaccuracies. Do you believe the IG findings regarding this matter suggest deficiencies or gaps in implementation of the TMI action plan by NRC licensees?
2. In light of the experience at Maine Yankee, is the NRC concerned that other TMI action plan items may also have been improperly closed by the NRC staff or by licensees? In light of the IG's findings with respect to Maine Yankee, isn't it possible that there are other TMI action plan items should not have been closed out? What is the NRC doing to assure that TMI action plan items have not been improperly closed out by the licensees or the NRC staff.
3. The IG also found that the NRC staff's review of this matter had been "deficient" and that the staff had "missed several opportunities to identify the inappropriate handling of the issue and take corrective action." Please identify the NRC staff persons responsible for reviewing this matter and indicate what supervisory or disciplinary action (if any) has been taken by the NRC in response to the deficiencies identified by the IG. What positions are these individuals in at the present time.
4. In a June 13, 1996 nonpublic Management Implications Report regarding the events at Maine Yankee, the NRC IG made several findings regarding regulatory failures at the NRC. A few weeks ago, you wrote me to indicate that you have asked the NRC staff to review the IG's findings and report on what actions should be taken in response. What actions have been taken? Will the NRC now release the June 13, 1996 IG report?
5. The IG report also notes that evidence of wrongdoing by the licensee at Maine Yankee has been referred to OI for further action. Has OI completed its investigation of this matter? Please provide me with a copy of any reports or memoranda issued by OI on its findings or recommendations and outline what actions the NRC has taken in response to such

recommendations. If not, please report on what is being done to assure a timely resolution of this matter.

6. It is my understanding that on January 3, 1996 the NRC staff issued an order allowing the Maine Yankee reactor to operate at 90 percent of full licensed power, notwithstanding the fact that the reactor is not in compliance with TMI Action Plan Items II.K.3.30 and II.K.3.31 (regarding plant parameters following a small break loss of coolant accident).

A) What is the Commission's position regarding the staff's rationale for allowing this plant to operate notwithstanding its noncompliance with the TMI action plan requirements?

B) What was the basis for the NRC staff's determination that allowing the plant to operate at 90 percent of full capacity was an adequate substitute for requiring the licensee to undertake the analysis required under the aforementioned TMI action plan requirements.

C) Does the Commission believe this action by the NRC staff was justified?

D) How many other nuclear plants are operating in noncompliance with these TMI action plan requirements (if there are any, please list them and indicate when the NRC staff approved them for operation and under what conditions)?

7. I understand that a cut wire was recently discovered in certain safety-related circuitry in the Maine Yankee reactor control room area. Reportedly, this wire had been cut by mistake, the activity resulting in the cut wire was not documented, and the error was not discovered for a period of years. I recently received a copy of a September 16, 1996 letter from a Maine resident, Mr. Henry Meyers, which raises a number of safety-related questions regarding this matter (see Attachment 3).

A) Please provide me with a copy of the NRC's responses to the questions contained in the aforementioned letter.

B) What actions is the NRC taking (or does it intend to take) to respond to this and other safety problems at this license? In your response, please summarize that actions are being taken by the NRC and the licensee to respond to safety deficiencies identified by the Maine Yankee Independent Special Assessment Team.

NRC Policies and Procedures Regarding Protection of Whistleblowers

1. According to a March 7, 1996 letter I received from the NRC IG, as of March of this year less than one-half (23) of the 47 recommendations contained in the January 1994 Review Team report on inadequacies in NRC policies and procedures relating to whistleblower protection had been fully implemented, with only 3 of the 11 "High Priority" recommendations (or 30%) having been fully implemented. Despite the fact that the

problems encountered by allegers are, according to the IG, "of grave concern," the two year delay suggests that the NRC did not appear to accord these items of sufficiently high priority for action. The IG attributed delays in responding to its recommendations for reforms in this area to "delays in issuing important management directives and policy statements."

A) Please explain the reason for these delays.

B) Why was this matter not give top priority by the NRC, given the importance of whistleblowers to the NRC's effectiveness in carrying out its mission?

C) What were the other rulemakings that the NRC considered more important than protecting whistleblowers?

D) According to your written testimony, the staff has now completed action on 43 of the 47 recommendations, and intended to take action on 2 of the remaining items by October. You indicated that the other two recommendations require proposed legislative changes affecting the Department of Labor. Please describe the four recommendations which still are awaiting final action, what actions you anticipate taking to close out action on these recommendations, and when you expect that they will be completed.

2. On July 14, 1994, the NRC IG issued a report on "Investigation of Improper Disclosure of Allegers' Identities by the NRC Office of Investigations (OI) to the Tennessee Valley Authority, Office of Inspector General (TVA-OIG)." This report indicates that the identities of TVA employees who brought safety concerns to the attention of the NRC were subsequently disclosed to TVA-OIG without their consent. Moreover, such improper disclosures were facilitated by a Memorandum of Understanding (MOU) providing for such disclosure. Please explain:

A) Why NRC OI entered into such an MOU with TVA-OIG, and who was responsible for this action.

B) Why, as the IG report states, "based on a regional office instruction, Region II employees were misleading allegers as to the degree they could expect their identities to be protected." Who issued such instructions and on what authority?

C) What is the current job status of those NRC employees responsible for signing the aforementioned MOU, providing misleading information to allegers regarding their confidentiality, or disclosing the names of allegers to TVA-OIG. Was any of these individuals the subject of any disciplinary action or sanction for these activities? If so, please explain what actions were taken. If not, please explain why no one was held accountable for these regulatory failures.

D) Why did the NRC decide in May 1991 to allow the release of allegers' names who had not signed confidentiality agreements? What disclosures are currently provided to

allegers regarding the confidentiality of information they provide to the NRC and regarding their anonymity?

3. During the Subcommittee hearing I asked you what action was being taken to respond to the findings contained in the NRC IG's April 22, 1996 report entitled "Improper Release of Identities of Allegers." In your response, you indicated that "I have explicitly asked our executive director for operations to take the results of the various Inspector General Reports in sum to identify the relative responsibility and accountability of various individuals, as well as management responsibility, and to take the appropriate disciplinary or personnel action with respect to those responsible." What specific actions have been taken in response to your request? Have you reached final disposition of the matters described in the report?

4. During the hearing, you indicate that "there is no excuse" for disclosing the names of allegers and that "individuals who have been involved and the case has been made that they have been, have been appropriately removed." Please indicate which individuals have been removed from their positions for having improperly disclosed the identities of allegers at Millstone. What is the current employment status of these individuals?

Cracks in Steam Generator Tubes

1. In your March 27, 1996 responses to questions posed in my letter of March 5, 1996, you stated that the NRC does not planning any further action to assure that nuclear power plant safety plans prepare for the possibility of multiple ruptures in steam generator tubes. In your response, you state that you see no reason to change the current definition of a design-basis generator tube rupture, because to date only single steam generator tube ruptures have occurred and because emergency operating procedures provide guidance to operators for mitigation of beyond design basis-events.

A) If the design-basis were to be changed to fully prepare for the possibility of multiple ruptures in steam generator tubes, wouldn't that provide a greater margin of safety than reliance on "mitigation" actions by the operator?

B) What additional safety risks are posed by relaying on "mitigat[ion] of beyond design basis events" rather than fully preparing for accident scenarios involving multiple ruptures of steam generator tubes?

2. In your March 27, 1996 letter, you also state that "in some cases, the technical specifications allow crack-like indications to remain in service provided that there is reasonable assurance that the tubes containing these crack-like indications will be capable of performing their intended safety function during the operating interval between inspections."

A) How is this "reasonable assurance" determined, and what are the procedures for making such a determination?

B) Is the determination made entirely by the licensee, or is approval by the NRC required?

C) Have any cracked tubes that were left in service subsequently failed?

D) How often has this happened?

E) What were the consequences?

3. In your March 27, 1996 letter, you stated that several actions had been taken by NRC staff to respond to safety concerns raised by cracked steam generator tubes, including issuance of an information notice (IN 94-88) and generic letter (95-03) on this matter. However, as the events at Millstone have suggested, licensees may not always be relied upon to fully comply with NRC requirements, and the NRC staff has not always been vigilant in enforcing compliance. What actions have been taken to assure that licensees actually perform comprehensive examinations of steam generator tubes, and that they hold the periodic internal meetings you referred to in your letter? Has NRC staff checked to see what licensees are doing in this area?

4. Your letter also refers to an ongoing rulemaking effort intended to address steam generator integrity issues. What specific proposals are being considered as part of this rulemaking? What is the current status of this rulemaking effort?

Defective Electrical Cables

1. In your March 27, 1996 letter, you stated that a study performed by Sandia National Laboratory identified defects in electrical cables that failed during simulated accidents, and that "failure of these cables during or following design-basis events may affect the performance of safety functions in nuclear power plants." In what specific ways could performance of safety functions at nuclear power plants be affected by the failure of these electrical cables?

2. If, as you say, safety functions could be affected by these defective cables, what is the empirical basis for the staff conclusion that "there is no immediate safety concern."

3. In your letter you state that "most in-plant cable applications are well below the environmental conditions (e.g., temperature and/or radiation) assumed for aging in the tests. While this is welcome, it begs the following question: are any of these cables installed in applications which are at or above those assumed for aging in the tests? If so, at which powerplants are they installed? Has the NRC assessed the safety consequences of allowing these cables to remain?

4. In your response you indicated that the NRC issued a notice to licensees regarding the cable test failure problem and noted that licensees are expected to review this notice and consider "appropriate actions." What are the appropriate actions to take in response to these notice?

5. You states that staff "visited several sites since the information notices were issued and determined that the licensees had evaluated the information notices and had taken appropriate action, thereby assuring that these cables were not installed inside containment in a high-temperature environment." Which nuclear powerplant operators made these changes?
6. How many other sites have cables installed in similar environments? Has the NRC checked to see if such licensees have undertaken similar changes to respond to the information notice issued by the staff on this matter?

Defects in Thermo-Lag Fire Protection Barriers

1. In your March 27, 1996 letter, you reported that only 28 of the 86 nuclear reactors that use defective Thermo-Lag fire barriers have actually completed corrective actions -- even though the NRC identified concerns about the fire resistance of Thermo-Lag back in 1991. You also report that corrective actions will not be completed at all 86 reactors until the year 2000. Do you find a nearly 9-year delay in corrective action to be acceptable timetable for responding to the problem of combustible fire barriers at nuclear powerplants? Why isn't corrective action being speeded up?
2. Your letter reports that the NRC staff is currently reviewing Thermo-Lag corrective action plans by licensees and that the staff "will perform inspections after corrective actions are implemented." To date, has the NRC staff conducted any inspections of corrective actions undertaken by licensees to respond to the Thermo-Lag problem? Which licensees have been inspected? Did the NRC staff find the unit's implementation of correction actions to be adequate?

Nuclear Reactor Vessel Head Penetration

1. In your March 27, 1996 letter, you reported that the NRC staff was currently assessing a white paper submitted by the Nuclear Energy Institute and several PWR owners groups on the safety significance of PWR vessel head penetrations and industry activities to manage this issue. You further stated that the staff intended to decide what further actions were required. Have any conclusions or determinations been made? If so, what are they?

On-Line Maintenance

1. Concerns have been raised about problems with on-line maintenance at the Seabrook nuclear reactor last year. Please describe the nature and severity of the problems which occurred and what steps have been undertaken to prevent a reoccurrence.
2. Please provide me with copies of any reports prepared by NRC staff about problems with on-line maintenance at Seabrook.

3. Do these problems at Seabrook raise any questions about the general advisability of allowing licensees to conduct on-line maintenance at nuclear reactors? Have any other licensees experienced problems with on-line maintenance? Which ones? What happened?

Nuclear Decommissioning Costs/Licensee Ownership Arrangements

1. On page 21 of your prepared testimony you note that in response to the ongoing restructuring of the electricity industry, you are examining the issue of whether utilities in a restructured market will have adequate funds set aside to cover nuclear decommissioning costs and that you have issued an advanced notice of proposed rulemaking on this matter. Please explain how utilities currently fund decommissioning costs, and what legal requirements exist to provide assurance that utilities will be able to satisfy all of their decommissioning obligations. How do you envision these arrangements could be affected by electric utility industry restructuring? What options are you considering to assure that utilities have sufficient funds available to cover decommissioning costs?

Mixed Waste

1. What is the basis for NRC's determination that existing disposal alternatives for Cs-137 contaminated electric arc furnace dust are not cost-effective?

2. What is the volume of undisposed material that would be the subject of NRC's Draft Technical Position?

3. How much waste that would have been affected by the Draft Technical Position has already been treated and disposed at existing facilities?

4. If existing treatment and disposal alternatives are not cost-effective, what is the NRC's explanation as to why so much waste has already been treated and disposed?

5. The National Council on Radiation Protection is currently conducting a study, funded in part by the NRC, to investigate the current state of scientific research on the health effects of exposure to low levels of ionizing radiation. Is NRC planning to finalize the Draft Technical Position prior to finalizing the NCRP's study?

6. Is it NRC's expectation that the Draft Technical Position, if finalized, will establish a precedent that would be expanded to other radionuclides and waste streams? If not, what is the legal basis for carving out Cs-137 contaminated mixed waste?

7. If a mixed waste stream develops as a result of a melting incident, how will it be determined as a technical matter what waste would be below the cutoff level that would qualify for the exemption? Once a determination is made would it qualify for the exemption? Once a determination is made about what waste in a waste stream would qualify for the exemption, how will that waste be segregated from the waste that does not qualify? What will

happen to be remaining, more radioactive waste, for which disposal alternatives are currently nonexistent?

(Attachment 1)

HARRY S. BLANK

EIGHT GRISWOLD COURT

WATERFORD, CONNECTICUT 06385

203-447-8052

September 9, 1996

The Honorable Edward Markey
Room 2133
Rayburn House Office Building
US. Congress
Washington, DC. 20515

My Dear Mr. Markey

I read with great interest in the September 6, 1996 edition of the HARTFORD COURANT, your recent comments concerning the Nuclear Regulatory Commission's oversight of the Millstone Nuclear Power Facility located in Waterford, CT.

You see Mr. Markey, I am one of those people who spoke out against some of the events that have been, and probably still are, taking place at that facility. While I did not go outside company, and therefore gain no whistleblower status, I was "laid off" by Northeast Utilities for my efforts in January 1996. Using a very complex igneous device called a "workforce reduction matrix", a copy of which I have enclosed, I was rated on numerous subjective items that basically indicated that I was not a teamplayer, or more likely a social misfit. Surprisingly, I was not indicted as the "unibomber"

When I was laid off the NRC chose to interview only a small portion of those 100 people who accompanied me. Given the technical nature of the facility, would it be presumptuous to think that the NRC should have interviewed ALL technical people dismissed to determine if there was some hidden agenda by NU to eliminate people who spoke up concerning safety issues?

I certainly appreciated your comments concerning the "Schultz" labeling of the NRC. It is indeed appropriate and fitting. Until cornered, or placed in the public potlight, nothing changes. For your pleasure, I have enclosed a copy of a parody concerning Millstone entitled, "Millstonia"

With regards to Northeast Utilities themselves, the "Millstone Macarena" describes it so aptly. Hands are waved, and great fanfare and employee rallies accompany the introduction of new programs with unique and catchy names that will theoretically correct all problems. After some significant amount of time though, very little changes. The same people remain, perhaps reshuffled into new positions, but they and their attitudes remain nonetheless.

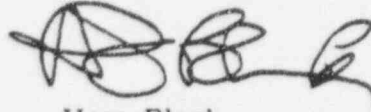
Mr. Markey, I ask of you that you be the voice of a 100 people, who were notified on a cold January morning that based on their evaluations with this "workforce reduction matrix", their services were no longer needed, and then unceremoniously hustled outside the security fence. Ushered past their peers, unable to clean out their personal effects, and then have their badges, dignities, employment, and the futures of their families changed forever. Ask yourself the question Mr. Markey...if we were laid off for "lack of work" in January 1996 when 2 out of 3 Millstone facilities were operational, then with ALL 3 units currently off-line, why haven't there been additional layoffs? Is NU hiding something...again?

With the new reshuffling of players again, things will only change if pressure is applied by the public, other government agencies and those capable of enforcing what should be paramount, the safety of the public.

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I certainly would enjoy the opportunity to discuss with you specific items, as I confident the remaining 99 laid off workers would also be, where both the NRC and NU have conveniently managed to ignore serious situations. Revelations come forward each day in the local papers concerning the hidden activities of the current management at Millstone. I look forward to hearing from you, either by mail, or you can reach me at the number above. I certainly now have sufficient time on my hands.

Thank you

A handwritten signature in black ink, appearing to be 'H. Blank', with a stylized flourish at the end.

Harry Blank

(Attachment 2)

NOTES FOR MEETING WITH CH. JACKSON

Problem:

NRC does not seem to understand that its true constituency is the public and not licensees.

Result:

Many members of the public believe that the NRC is too cozy with the licensees and is more beholding to the financial interests of the licensees than the public health and safety.

Evidence:

1. There is limited access to Commission for general public. The primary means of access is through 10 C.F.R. § 2.206. Even then the public only can access the Commission by requesting "radical" action, such as the suspension, revocation or modification of a license. Such a request immediately is viewed as "anti-nuclear" and places petitioner in position of having to defend character instead of focusing on issues.

2. The Commission has been highly inconsistent in its treatment of issues raised in § 2.206 process.

For example, the 1992 letter to Chairman Selin regarding water level instrumentation issues raised by Paul Blanch. The letter was not designated as a § 2.206 petition and, in fact, requested no licensing actions. Further, the letter made three specific requests: 1) that each BWR perform an operability determination on its water level instrumentation; 2) if the water level instrumentation system was declared inoperable that the BWR be required to demonstrate it had an adequate backup system for measuring water level; and, 3) if the water level instrumentation system was declared inoperable and there was no adequate backup system, that the reactor be shutdown until such time as repairs were made. Such a shutdown would be in accordance with the plant's technical specifications.

After declaring the letter to be a § 2.206 petition, the Commission issued a federal register notice representing that the petitioners were asking to shutdown all BWR's.

David Lochbaum and Donald Prevatte filed a § 2.206 petition regarding issues they discovered while reviewing the Susquehanna spent fuel cooling pool. The petition was rejected because they did not request any licensing action and there was no formal mechanism for insisting the Commission address their safety issues.

The George Galatis petition was filed in August 1995. The petition clearly called for two licensing actions, i.e., 60 day suspension of license and denial of a license amendment. It took the Commission a couple of months to decide whether the petition met the criteria. It then took another five months to schedule a public hearing. It now has taken another three plus months and there is no decision.

Petition filed on behalf of Arnie Gundersen seeking license revocation of Nuclear Energy Services for maintaining retaliatory lawsuit. Petition rejected on merits without giving any opportunity to submit evidence.

3. Contrast the processing of NU's application to amend license for full core offload. Entire process took less than three months and amendment granted just in time for NU to start unloading fuel. Amendment granted based, in part, upon "administrative controls" even though there was significant evidence NU was not living up to prior promises.

4. Contrast that NRC staff can review 800 page start-up plan for MS Unit 3 and schedule meeting with NU within a couple of weeks of receipt.

5. "Public meetings" with licensee, such as meeting on Unit 3 restart plan often are scheduled during daytime hours when most of the public cannot attend.

6. The Unit 3 restart plan has not even been placed in the PDR so the public could form any enlightened opinion on the plan.

7. Important self-assessment documents were withheld from public by NRC as "proprietary information." Top NRC officials did not even acknowledge the existence of these documents until we discovered them, along with the chain of correspondence linking them to the NRC

officials, and turned them over to the IG for investigation.

Suggestions: The NRC must create additional avenues that provide legitimate channels for public input. Either § 2.206 must be expanded to include "non-licensing" actions, or a new procedure needs to be designed for input. Blanch, Lochbaum and Prevatte raised legitimate generic issues where punishment of a licensee was not, and should not, have been an issue.

The Commission needs to treat the public with the same respect and trust with which it treats licensees. This means considering and acting upon legitimate requests from the public with the same expediency that it acts on requests by licensees.

The NRC needs to be forthcoming about information in its possession regarding licensee activities. It is a self-fulfilling prophecy that the public does not give enlightened comments on nuclear issues when the public does not have the information necessary to form an enlightened opinion.

Problem:

The Office of Investigations employs techniques which give the licensee improper insight into its investigations and precludes alлегers from providing the necessary information.

Result:

The investigations fail to discover evidence of wrongdoing, employees are discouraged from coming forward, the investigations become fodder for the IG and the press, employees lives and careers are ruined and the licensees continue to engage in intentional wrongdoing.

Evidence:

1. OI disclosed to NU that it would be investigating allegations by G. Galatis prior to initiating on-site investigation. This allowed his personnel file to be sent to Winston & Strawn and for lawyers to contact OI investigator to discuss Galatis prior to investigation.
2. OI refuses to provide a copy of the transcript of alлегer interviews to the alлегer or his representative. OI does allow for transcript review, but because investigator must accompany transcript pressure is to review in hour or two. Often, investigator wants to conduct additional

interview at same time.

As a result, alleged and representatives are unable to reference previous testimony. This is particularly detrimental to representatives who lack technical background, yet must interact with NRC on technical issues.

3. OI arranges witness interviews by contacting legal department of licensee and disclosing employees it wants to interview. This has occurred on numerous occasions even when alleged requested that witnesses be contacted offsite, without knowledge of licensee, because of fear of intimidation and retaliation.

This also allows licensee to contact witness and pressure to provide legal counsel at licensee's expense. This allows licensee's lawyers to prepare witnesses for OI interviews. Licensee's lawyers have access to virtually all witness interviews, except alleged.

Witnesses are misled about circumstances of representation. Lawyers represent licensee and not witness.

4. OI requests that witnesses provide supporting documents through legal department of licensee. This allows licensee to know precisely what documents OI has and does not have.

5. OI actively discourages employees from pursuing allegations of HI&D. OI attempts to channel those allegations to DOL so they don't have to investigate and tells alleged that cases are hard to prove, alleged may suffer additional retaliation.

6. OI relies on NRR for technical advice. In many cases, NRR has known about and condoned situation for years. Thus, NRR has vested interest in steering to conclusion that there is no violation, violation is *de minimus*, and there is no safety significance.

Even when NRR not previously involved, NRR has over-reliance on licensee for assessment of whether violation has occurred and safety significance. Wampler, Pilgrim evacuation and Gundersen IG reports under David Williams all

documented the staff's reliance of licensee representations without any attempt to verify. In each case, NRC had in its possessions documentary evidence that contradicted representations of licensee. Williams was concerned enough that with Gundersen report he sent a letter to Ivan Selia about the apparent pattern of over-reliance on licensee representations.

7. OI does not follow-up with allegor after licensee interviews. Allegor not given a chance to rebut licensee representations, or provide contrary evidence. This in stark contrast to IG investigations where interaction with allegor is frequent.

Suggestions: OI needs greater independence. Previous attempts to place OI with IG were unsuccessful, but this is just type of independence that OI needs.

OI needs to get licensee lawyers out of their investigatory process. If licensee wants to provide lawyers for witnesses, it should provide (pay for) them for all witnesses, including allegor. But witness should choose own attorney, not have to use licensee's.

OI needs to investigate HI&D aggressively. HI&D is a safety allegation. In fact, it is probably the most significant safety allegation given that the NRC is an audit agency and relies on employees to discover and disclose problems.

OI needs to work with allegors instead of against them.

Problem:

NRC enforcement actions are wholly ineffective.

Result:

Violations are repeated because violations make good business sense.

Evidence:

1. Estimates at NU--\$26,000 for every hour shaved off shutdown time, \$600,000 for every day. If licensee can shave even 1 day off shutdown for \$100,000 fine, this is half-million dollar profit.

2. Noncited violations simply send message that rules are not taken seriously, nor are violations of rules.

Suggestions:

Make individuals accountable. When individuals violate rules, particularly HI&D, ban them from industry.

(Attachment 3)

P.O. Box 88
Peaks Island, ME 04108
September 16, 1996

Hon. Shirley Jackson
Chairwoman
U.S. Nuclear Regulatory Commission
Washington, D.C. 205550-0001

Dear Madame Chairwoman:

I am writing with respect to the belated discovery of a cut wire in safety-related circuitry located in the Maine Yankee control room area.

This matter raises serious doubt as to whether Maine Yankee maintenance and testing procedures have been conducted in accord with applicable NRC regulations. The facts that the wire was cut by mistake, that the activity involving the cutting of the wire was not properly documented, and that the error was not discovered for a period of years suggest that other safety related errors have been committed and remain undetected.

I request that the Commission, in its consideration of the findings of the NRC Independent Safety Assessment Team at Maine Yankee, ask NRC staff, unless they have already done so, to address the following questions:

1. What specific actions led to discovery of the cut cable in circuitry located in the environs of the Maine Yankee control room?
2. What NRC regulations, if any, require that work on safety related circuitry be controlled by procedures requiring, among other things, documentation displaying names of authorizing officials, supervisors, workers and inspectors, and dates on which the work was authorized, performed, and inspected. [In this case, it appears that Maine Yankee has no records indicating the names of the persons who authorized, supervised, conducted, or inspected the activity during which the wire was cut. Moreover, more than three years elapsed between cutting of the wire and its discovery.]
3. What Maine Yankee procedures controlled the work involving removing excess wires in the control room environs?
4. In what manner, if any, was the removal of wire not conducted in accord with procedures intended to control such activities?
5. Do NRC regulations, explicitly or implicitly, require periodic testing of the circuitry containing the cut wire? Do NRC regulations, explicitly or implicitly, specify a maximum time

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interval between such tests? If so, what is that time interval?

6. Did Maine Yankee procedures require testing of this control room environs circuitry during the period that the wire was cut? If so, when was such testing supposed to have been conducted?

7. Were the deficiencies leading to the cut wire and the delay in its discovery rooted in inadequate procedures or noncompliance with procedures?

8. In view of the deficiencies (rooted in inadequate procedures and/or failure to follow procedures) manifest in the cut wire and its belated discovery, what is the basis for concluding that other significant safety-related defects rooted in deficient maintenance practices are absent from Maine Yankee?

Thank you for your attention to this matter.

Sincerely,

Henry R. Myers

cc: Senator Cohen
Senator Snowe
Senator Lieberman
Senator Biden
Congressman Dingell
Congressman Markey