



RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

2000-0326

2

RESPONSE TYPE FINAL PARTIAL

REQUESTER

Tami Sheheri

DATE

OCT 26 2000

PART I. -- INFORMATION RELEASED

- No additional agency records subject to the request have been located.
- Requested records are available through another public distribution program. See Comments section.
- APPENDICES Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- APPENDICES Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- APPENDICES Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Comments.

PART I.A -- FEES

- AMOUNT * You will be billed by NRC for the amount listed. None. Minimum fee threshold not met.
- \$ You will receive a refund for the amount listed. Fees waived.

* See comments for details

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- No agency records subject to the request have been located.
- Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed

**APPENDIX C
RECORDS BEING RELEASED IN THEIR ENTIRETY
(If copyrighted identify with *)**

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	04/27/95	Letter from Sen. Lieberman to Chairman Selin regarding intrusion at 3 Mile Island. (2 pages)
2.	12/15/95	Letter from James Taylor to Sen. Lieberman responding to 10/20/95 letter regarding constituent's concerns about Millstone. (4 pages)
3.	01/19/96	Letter from D. Rathbun to Sen. Lieberman. (1 page)
4.	10/24/96	Letter from D. Rathbun to Sen. Lieberman. (1 page)
5.	12/02/98	Letter from W. Travers to Sen. Lieberman providing information about manual reactor trips at Millstone. (5 pages)
6.	12/22/98	Letter from W. Travers to Sen. Lieberman responding to attached 12/4/98 letter regarding constituent's concern about changes to 10 CFR Part. 35. (5 pages)
7.	03/15/00	Letter from chairman Meserve to Sen. Lieberman responding to attached 03/02/00 incoming letter regarding regulatory actions governing the release of radioactively contaminated materials for use in consumer products. (8 pages)
8.	05/23/00	Letter from Sens. Lieberman & Thompson regarding publishing of the "United States Government Policy and Supporting Positions. (3 pages)

JOSEPH I LIEBERMAN
CONNECTICUT

COMMITTEES
ENVIRONMENT AND PUBLIC WORKS
GOVERNMENTAL AFFAIRS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-0703

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HARTFORD, CT 06103
203 240 3566
TOLL FREE 1 800 225 5605

April 27, 1995

The Honorable Ivan Selin
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Chairman:

In February 1993, after an intruder drove into the protected area of the Three Mile Island nuclear power plant and evaded capture for a considerable length of time, I wrote to you raising concerns about the adequacy of security precautions at nuclear plants in this country.

In March 1993, shortly after a terrorist group exploded a bomb in the World Trade Center, I chaired a hearing examining the Commission's rules and regulations to protect nuclear powerplants from terrorism and sabotage. One of my major concerns was that NRC regulations then in place did not require nuclear power plant security systems to protect against the use of vehicles as bombs or the use of vehicles to carry explosives.

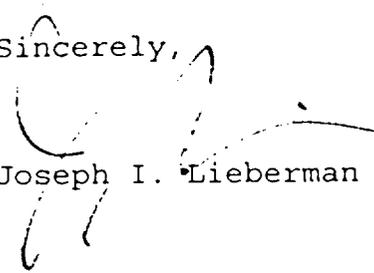
I was pleased that in August 1994 the NRC amended its rules to explicitly protect against terrorists using vehicles to gain entry or carry equipment and/or explosives into nuclear power plants and to protect against the detonation of explosives in vehicles at or outside nuclear power plants. Under the terms of the rule, licensees were required to submit by February 28, 1995 a summary description of the vehicle control measures it will implement to meet the requirements of the rule. Full implementation by licensees is required by February 29, 1996.

I am requesting a status report on implementation. Have all licensees submitted the required summary of measures they will implement? Has the NRC reviewed these summaries to determine compliance with the rule? Does the NRC believe that, in light of the recent attack in Oklahoma City, the implementation schedule under the rule should be accelerated? Are any additional security measures, not reflected in the rule, necessary in light of events in Oklahoma City? Does the rule require licensees to design a system to protect against an explosion of the force used at Oklahoma City?

~~Handwritten signature~~ C/1

I would appreciate your prompt response to my questions.
Thank you for your efforts on these critical issues.

Sincerely,



Joseph I. Lieberman

JIL:jar/vh

EDC-774
L



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

December 15, 1995

The Honorable Joseph I. Lieberman
United States Senate
Washington, DC 20510-0703

Dear Senator Lieberman:

I am responding to your letter of October 20, 1995, in which you requested that the NRC review the comments made by Mr. Thomas M. Bonanno in his letter to you dated August 30, 1995. In his letter, Mr. Bonanno pointed out what he felt were inconsistencies in my letter to you dated July 11, 1995, which provided the status of NRC actions regarding a complaint filed by Mr. Bonanno in 1992 with the Department of Labor (DOL).

The NRC staff has reviewed Mr. Bonanno's letter and concluded that the information provided to you in my letter of July 11, 1995, accurately reflected the actions taken in response to Mr. Bonanno's complaint and our knowledge of the status of Mr. Bonanno's complaint with DOL. Mr. Bonanno comments on page 2 of his letter of August 30, 1995, that my office was cognizant of the status of his OIG investigation. Mr. Bonanno is correct only in the sense that we did receive from him a copy of the OIG letter of February 8, 1995, which indicated that OIG had determined that an investigation was not warranted unless Mr. Bonanno could provide more specific information.

Mr. Bonanno indicates on page 3 of his letter to you that the NRC attempted to conceal its knowledge of the extent of his efforts in the 10-month time span between the occurrence of his injury and the time he reported his concern to the NRC to resolve his workman's compensation dispute dealing with an industrial safety issue, an issue outside of NRC purview. Since Mr. Bonanno's activities in this time frame were not relevant to nuclear safety, NRC comments on these activities are neither pertinent nor necessary.

While Mr. Bonanno continues to insist that he was promised an NRC investigation of his concerns, we can only reiterate that the staff member in question does not recall making such a statement to Mr. Bonanno and that, in any case, employees are not authorized to promise that an investigation by the NRC Office of Investigations (OI) will be performed. Mr. Bonanno infers (on page 4 of his letter) that the "actual" reason that OI did not investigate his complaint was that a summary of his concern developed on March 3, 1992, by the then Senior Resident Inspector at Millstone, did not adequately portray the wrongdoing aspects of his concern, allowing OI to dismiss his issues. This assumption by Mr. Bonanno is not correct. Since Mr. Bonanno's issues did not provide specific indication of wrongdoing in relation to an issue within NRC jurisdiction, there was no basis for initiating an OI investigation.

Mr. Bonanno discusses, on pages 4 and 5 of his letter, his understanding of the NRC/OSHA interface. Mr. Bonanno correctly noted that there is an OSHA Liaison Officer at NRC Region I. In addition to providing advice and guidance

to inspectors on potential non-radiological hazards observed during inspections, this individual serves as the principal point of contact between the NRC Region I Office and the appropriate OSHA Regional Office. However, contrary to the statements made by Mr. Bonanno, NRC personnel do not have the authority to issue written citations and orders regarding compliance with OSHA regulations. When non-radiological safety concerns are observed by an NRC inspector, the inspector is to inform licensee management orally, and monitor, as appropriate, the licensee's corrective actions. If significant industrial safety concerns are identified, if a problem is repetitive, or if the licensee demonstrates a pattern of unresponsiveness to identified concerns, the inspector will discuss the issue with licensee management and will provide relevant information to the Regional Office OSHA Liaison Officer who is then responsible for determining whether the related events and conditions are to be reported to the OSHA Regional Office. NRC inspectors recognize and understand that they do not make decisions regarding OSHA regulations and that they should be careful not to imply that a given condition represents a violation of OSHA requirements. The Region I OSHA Liaison Officer does not recall the content of his conversation with Mr. Bonanno on April 2, 1992 as it is presented in Mr. Bonanno's letter. Mr. Bonanno again discussed the NRC/OSHA interface with the Region I OSHA Liaison Officer in telephone conversations on November 1 and November 2, 1995, during which the NRC role under the Memorandum of Understanding (MOU) between the NRC and OSHA was explained. A copy of the NRC/OSHA MOU is attached for your information.

On pages 5 and 6 of his letter, Mr. Bonanno takes exception to NRC's reliance on the status of DOL actions in response to his complaint. The NRC must rely on DOL decisions in this case because the issues involve concerns outside of NRC regulatory jurisdiction. Since Mr. Bonanno's complaint does not involve alleged retaliation for raising a nuclear safety concern, neither 10 CFR 50.7 nor Section 211 of the Energy Reorganization Act of 1974 (the NRC whistleblower protection statute) apply. Also, the safety negligence referred to in Mr. Bonanno's statement relates solely to an industrial safety issue and not a radiological health or safety matter, it is an issue outside the scope of NRC's authority, and, therefore, one to which the wrongdoing aspects of 10 CFR 50.5 do not apply.

In late October 1995, Mr. Bonanno contacted the NRC resident inspector office at Millstone and requested that NRC perform an inspection of the Millstone Unit 1 drywell head detensioning process because he felt that there still may be a possibility for personal injury due to a defective head detensioning tool. In telephone conversations with the Region I OSHA Liaison Officer and the Region I Senior Allegation Coordinator on November 2, 1995, Mr. Bonanno indicated that he had contacted the OSHA Area Office in Hartford, Connecticut, and that OSHA had requested a response from Northeast Utilities on the potential safety hazards related to the drywell head detensioning process. The NRC resident inspectors then contacted the licensee, who provided the resident inspectors with a copy of their response to OSHA. In summary, the licensee's response to OSHA indicated that the tool and method used to remove the drywell head studs at Millstone 1 had been redesigned and refined over the last 5 years to improve the industrial safety aspects related to the use of the equipment. A copy of the licensee's response to OSHA is attached. While Mr. Bonanno specifically requested that the NRC resident inspectors perform a

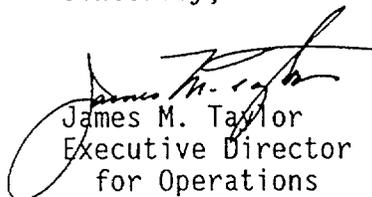
Senator Joseph I. Lieberman

3

followup inspection of the drywell head detensioning process, it is not NRC policy to conduct inspections solely on the basis of an industrial safety issue. OSHA's assessment of the licensee's response will provide the answers to Mr. Bonanno's questions in this area.

Since the comments made by Mr. Bonanno in his letter of August 30, 1995, reflected his continuing dissatisfaction with NRC staff performance with regard to his concerns, we forwarded a copy of the letter to the NRC Office of Inspector General (OIG). We will continue to track the resolution of Mr. Bonanno's appeal of his case with DOL to determine whether sufficient new information develops to support his discrimination claim.

Sincerely,


James M. Taylor
Executive Director
for Operations

Enclosures: 1) NRC/OSHA Memorandum of Understanding
2) Northeast Utilities response to OSHA Complaint 75045849

bcc: Allegation File RI-95-A-0029

ORA/SAC
DRathbun
12/1/95

No legal
obj - note
comments
Burns
11/28/95

EDO
JTaylor
11/17/95

OCM
w/edits
12/8/95

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NAME	DVito	JDurr	RMatakas for Bletts	WPasciak	WKane for TMartin
DATE	11/14/95	11/15/95	11/16/95	11/16/95	11/16/95

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 19, 1996

The Honorable Joseph I. Lieberman
United States Senate
Washington, D.C. 20510

Dear Senator Lieberman:

Enclosed are documents responsive to a verbal request by Joyce Rechtschaffen of your staff. These are draft documents and are not available to the public; therefore, I request that you restrict use to you and your staff.

Sincerely,

Linda Portner
for

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosures:
As Stated

C/O
[Signature]
Rathbun



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 24, 1996

Northeast Utilities I

ok

The Honorable Joseph Lieberman
United States Senate
Washington, DC 20510

Dear Senator Lieberman:

I am responding to a request by your staff for the status of NRC's activities pursuant to Northeast Utilities' termination of employees in January of 1996. Specifically requested was the status of the initial NRC review of this matter and the status of any resulting investigative activities.

In March 1996 a task force was set up to review the January 1996 work force reduction at Northeast Utilities to determine if the process was utilized to discriminate against employees who had raised safety concerns. The task force completed its efforts in mid-April and orally reported its findings to senior NRC management. Subsequently, the Office of Investigations (OI) initiated two investigations regarding several complaints. OI is presently pursuing these matters. In mid-September, the task force was asked to document its findings and a report has now been completed. The task force report and the OI investigations are part of the review being conducted by the United States Attorney for the District of Connecticut.

Sincerely,

Handwritten signature of Dennis K. Rathbun in cursive.

Dennis K. Rathbun, Director
Office of Congressional Affairs

9/4
~~Handwritten scribble~~
Release

RT



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 2, 1998

The Honorable Joseph I. Lieberman
United States Senate
Washington, DC 20510-0703

Dear Senator Lieberman:

I am responding to your staff's request for information concerning the safety implications of two recent manual reactor trips at Millstone Unit 3, and what actions the NRC took or plans to take. To more fully address your staff's concerns, I will also discuss a third reactor trip that occurred subsequent to your request.

On September 15, 1998, operators manually tripped the reactor from 100% power when high conductivity was detected in the condensate system. Operators followed their abnormal operating procedure (AOP) for a condenser tube leak, and manually tripped the reactor. Northeast Nuclear Energy Company (NNECO) later determined that the high conductivity was caused by saltwater intrusion into a leg of the steam generator blowdown system. The saltwater intrusion was caused by a faulty sequence of procedure steps performed to isolate the blowdown system. In order to prevent a recurrence, NNECO revised the procedure used to remove and restore the blowdown system from service.

On October 28, 1998, operators again manually tripped the reactor from 100% power in accordance with the AOP, due to high conductivity in the condensate system. This time NNECO found a leaking condenser tube. Prior to restarting the reactor following the second event, the leaking condenser tube was repaired and the AOP was revised to allow operators greater flexibility to determine the extent of the saltwater intrusion before tripping the plant.

In both of the above events, the NRC resident inspector responded to the control room and verified that the operator actions taken were in accordance with procedures, all systems functioned as designed, and that the plant was in a stable condition.

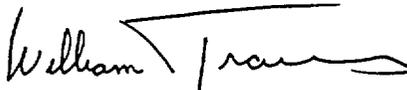
On November 11, 1998, operators manually tripped the reactor from 90% power because of reduced condenser vacuum. In response to a storm in the area, operators were attempting to backwash the condenser to prevent seaweed fouling. During this evolution, which required turning off one condenser circulating pump, a second pump automatically shutdown because of the seaweed fouling. Because the backwash efforts were not effective, and the loss of two pumps could reduce condenser vacuum, operators manually tripped the plant in accordance with procedures for a degraded condition in the power conversion system. The NRC resident inspector was notified and briefed on the event. Following the event, the resident inspector observed licensee evaluation of the event, evaluated corrective actions, and determined that all systems operated as expected. In addition, the inspector verified that the water level in the intake structure did not go below a level that challenged the operability of the safety-related service water pumps.

C/S

NNECO determined that inadequate planning for the storm condition contributed to the event. Relevant procedures were changed to ensure that key members of the organization are aware of weather conditions earlier, to effect more timely response and preparation for storms.

While there is some risk associated with any reactor transient, whether it is initiated by automatic reactor protective devices or manually by plant personnel, we have determined that the overall risk significance of these three plant shutdowns was low. Actions taken by plant operators during these three events protected the Millstone Unit 3 power conversion system, which in addition to being the system which supports electrical generation, is also the normal system used to remove heat from the reactor core. The power conversion system components used to remove decay heat functioned properly, and, as a result, the nuclear safety-related systems designed to mitigate an accident were not challenged and remained in a stand-by status. No radiological releases occurred, and the health and safety of the public was not threatened.

Sincerely,

A handwritten signature in cursive script that reads "William D. Travers". The signature is written in black ink and is positioned above the printed name and title.

William D. Travers
Executive Director
for Operations

Distribution

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FROM: DUE: 11/30/98 EDO CONTROL: G19980690
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FINAL REPLY:

Senator Joseph Lieberman

TO:

OCA

FOR SIGNATURE OF : ** GRN ** CRC NO:

Callan, EDO

DESC: ROUTING:

REQUEST SUMMARY OF THE SAFETY IMPLICATION ~~OF~~ TWO
RECENT PREVENTABLE REACTOR TRIPS AT MILLSTONE

Travers
Knapp
Thompson
Norry
Blaha
Burns
Collins, NRR

DATE: 11/20/98

ASSIGNED TO: CONTACT:
RI Miller

SPECIAL INSTRUCTIONS OR REMARKS:

ACB



G19-0727

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 22, 1998

The Honorable Joseph Lieberman
United States Senate
Washington, DC 20510

Dear Senator Lieberman:

I am responding to your letter, dated December 4, 1998, in which you transmitted correspondence from your constituent, Dr. Jonathan Alexander, that supported proposed changes to the U.S. Nuclear Regulatory Commission's (NRC) 10 CFR Part 35 regulations on medical use of byproduct material. In particular, he supported the proposed changes in the training and experience requirements for the use of byproduct material in diagnostic cardiology. In addition, Dr. Alexander feels that it is too early to set any definitive training and experience requirements for physicians using intravascular brachytherapy.

The Commission considers the overall issue of training and experience to be one of the most important issues addressed during the rulemaking. Adequately trained personnel are key to the safe use of radioactive material in medicine. Therefore, the Commission has proposed that the training and experience criteria for all users of radioactive material be risk-informed and focused on safety. At the same time, however, the Commission recognizes that the proposed rule must be adaptable to the many medical uses of byproduct material, including intravascular brachytherapy. This important issue, among others, was discussed at a Commission public meeting in June 1998. The Commission directed the staff to study the issue further and provide a basis for its current position.

On August 13, 1998, the proposed rulemaking was published in the Federal Register, for a 90-day public comment period. On November 18, 1998, in response to requests, the public comment period was reopened until December 16, 1998. A series of public meetings was also scheduled during the comment period. These meetings took place August 19-20, 1998, in San Francisco, California, September 16-17, 1998, in Kansas City, Missouri, and October 21-22, 1998, in Rockville, Maryland. Details of the public meetings were published in the Federal Register on July 24, 1998 (63 FR 39763). As noted in the Federal Register notice for these meetings, the Commission, through the facilitator for the meetings, invited participants who represent a broad spectrum of interests that may be affected by the proposed rulemaking. The American College of Cardiology (ACC) staff has worked with the NRC staff to ensure that the cardiologists' interests are represented at these meetings. Representatives of the ACC and the American Society of Nuclear Cardiology were invited to participate in the public meetings.

The Commission plans to carefully evaluate all the public comments in finalizing the training and experience requirements for all users of byproduct material.

Sincerely,

A handwritten signature in black ink, appearing to read "William D. Travers".

William D. Travers
Executive Director
for Operations

Handwritten initials "C/6" and a large, dark scribble or stamp.

December 22, 1998

The Honorable Joseph Lieberman
United States Senate
Washington, DC 20510

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Sincerely,

131

William D. Travers
Executive Director
for Operations

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DATE	12/ /98	12/23/98

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<http://www.senate.gov/~lieberman/>

December 4, 1998

REC'D BY SECY

7 DEC 98 2:10
Hon. Shirley Jackson
Chair
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Ms. Jackson:

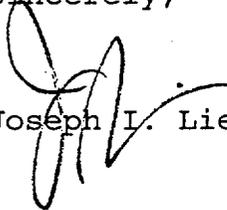
I'm enclosing a copy of a letter which I received from one of my constituents, Dr. Jonathan Alexander, regarding NRC revisions to training experience requirements for the medical use of isotopes.

My constituent indicates he supports a proposed reduction in training and experience hours for nuclear cardiology from 1200 to 120 hours. He also feels it is premature to set any definitive training experience requirements in the area of experimental and intravascular brachytherapy.

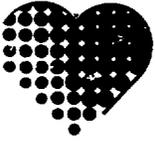
I would greatly appreciate it if you would provide me with a response which addresses the issues my constituent has raised.

Thank you for your attention to this matter.

Sincerely,


Joseph I. Lieberman

JIL:vh
Enclosure



Western Connecticut Cardiac Center

at Danbury Hospital

24 HOSPITAL AVE.
(203) 797-7155

DANBURY, CT 06810
FAX (203) 731-8050

JONATHAN ALEXANDER, M.D., F.A.C.P., F.A.C.C.
Director, Nuclear Cardiology & Cardiac Rehabilitation

Clinical Professor of Medicine
Yale University School of Medicine

September 10, 1998

U.S. Senator Joseph I. Lieberman
706 Hart Senate Office Building
Washington, D.C. 20510

Re: Nuclear Regulatory Commission Revisions to Training Experience Requirements for the Medical Use of Isotopes.

Dear Senator Lieberman:

The Nuclear Cardiology Department at Danbury Hospital is a large center performing between 20 and 25 isotope studies per day. The Cardiology and Nuclear Medicine Departments share in the administration and functioning of this department. I have been the Director of the Nuclear Cardiology program for the past 20 years and have been here since it's inception.

The NRC published a proposed rule in August of 1998 revising it's current regulations governing the medical use of isotopes. I would urge you to contact the NRC and support the proposed reduction in training from 1200 to 120 hours. Twelve hundred hours is clearly excessive and unnecessary. In addition, the NRC has ruled that intravascular brachytherapy should be regulated. It is important to realize that this is a highly experimental procedure that is only being performed in a few large academic medical centers. I do not envision it's broader acceptance in the near future. Therefore, I think it is premature to set any definitive training experience requirements in this area.

The radiology community has been telling law makers on Capitol Hill that the changes will jeopardize patient care and cause incidents that are deleterious to patient care. I would strongly object to these statements. I would support the proposed reduction in training and experience hours for nuclear cardiology and to urge the NRC to refrain from assigning definitive training experience requirements for experimental and intravascular brachytherapy at this time.

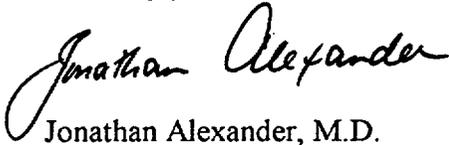


Sen. Joseph I. Lieberman
September 10, 1998
Page Two

Re: NRC Revisions

Should you have any further questions or concerns regarding this issue, please do not hesitate to contact me. I appreciate the time that you spend in support of the above.

Sincerely yours,

A handwritten signature in cursive script that reads "Jonathan Alexander".

Jonathan Alexander, M.D.

JA/jqn



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

March 15, 2000

CHAIRMAN

The Honorable Joseph I. Lieberman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Lieberman:

I am responding to your March 2, 2000, letter expressing concerns with the U.S. Nuclear Regulatory Commission's (NRC's) regulatory actions governing the release of radioactively contaminated materials for use in consumer products.

First, I want to assure you that the Commission has not predetermined an outcome to our process for determining whether to initiate a rulemaking to set specific standards for the control of solid material. The NRC is in the preliminary stages of examining its approach for controlling the release of solid material with small amounts of radioactivity regulated under the Atomic Energy Act (AEA) from licensed sites. The principal rationale for examining our approach is that there are currently no generally applicable NRC regulations for release of these materials.

To facilitate an examination of this issue, the NRC has sought public input as to whether a national standard pertaining to AEA materials (but obviously not other radioactive materials) should be put in place (among other points). As you note, an initial step in that process was to prepare a paper discussing issues associated with alternative courses of action for public comment. This "Issues Paper" was published in a Federal Register notice (FRN) on June 30, 1999 (64 FR 35090), with a comment period that was originally scheduled to close on November 15, 1999, but which was extended to December 22, 1999. To provide further opportunity for public input, the NRC noticed and held a series of public meetings during the Fall of 1999 at four locations throughout the Nation. Information about current NRC efforts in this area -- including the contents of the Issues paper, opportunities for public comment, and summaries of comments at the public meetings held to date -- is available on NRC's website. The NRC website has the following address: <http://www.nrc.gov/NMSS/IMNS/controlsolids.html>.

The Issues Paper noted that the Commission was considering a rulemaking to set specific standards for control of solid material and that it was seeking public input on major issues associated with such an action before the start of any formal rulemaking process. The Issues Paper solicited input and comment on alternative courses of action, including whether to proceed to develop a rule. This paper further noted that, in making decisions about these alternatives and approaches, NRC would conduct a detailed evaluation of relevant factors -- human health and environmental impacts, cost-benefit considerations, impacts on other

C/S 7

industries, survey capabilities, and international, Federal, and State initiatives in this area. The Commission is now awaiting an analysis of the matters raised in the Issues Paper from the NRC staff in order to determine a proper course of action. The matters you raise in your letter, such as a limit that would provide adequate protection of public health and safety when radioactively contaminated materials are released and the effects of such a rule on the recycling industry, would be addressed in the rulemaking, if the Commission should choose to proceed with that course of action. Of course, in that case, there would be additional opportunities for public input through comment on a draft generic environmental impact statement and on a proposed rule.

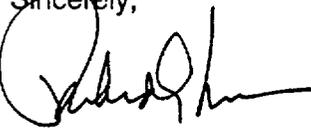
Your letter also states that in considering the Energy Policy Act of 1992, Congress specifically rejected the development of a "below regulatory concern" (BRC) standard. The Commission had issued two policy statements relating to BRC, one in 1986 and another in 1990. These policy statements were not rules and hence were not promulgated pursuant to the Administrative Procedures Act (APA), with attendant rights for public comment and judicial review. In 1992, Congress explicitly revoked these two specific Commission policy statements by passing section 2901 of the Energy Policy Act. However, while the Energy Policy Act eliminated any further effect of the two policy statements, it did not remove the Commission's responsibility under section 10 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 to develop criteria and procedures for evaluating exemption requests for specific waste streams. Moreover, the 1992 Act did not revoke the Commission's general authority under the AEA to exempt classes of material from licensing requirements by rulemaking pursuant to the APA. As a result, the Commission does not believe that the revocation of the two specific BRC-related policy statements created a general prohibition on the Commission's general authority to develop rules for the clearance of material or equipment.

Similarly, Congress did not revoke the Commission's authority to permit release of such material on a site-specific basis. Licensees seek release of such materials when they are no longer useful or when the licensed facilities are decommissioned. In the absence of a standard, NRC has generally addressed the release of solid material on a case-by-case basis using license conditions and existing regulatory guidance. In each case, material may be released from a licensed operation with the understanding and specific acknowledgment that the material may contain very low levels of radioactive material, but that the concentration of radioactive material is so small that its control through licensing for the protection of public health and safety is no longer necessary. This case-by-case approach is consistent with the Commission's general authority under the AEA to regulate material either through the issuance of specific license conditions or through the promulgation of generally applicable rules.

There are three other specific issues in your letter that I would like to address with some additional detail. These include your concerns and questions regarding the selection of Science Applications International Corporation to perform technical analyses, NRC actions related to plans for the release of materials from the U.S. Department of Energy (DOE) K-25

facility, and information on materials previously released from licensed facilities. These issues are addressed in the enclosure to this letter.

I trust this reply responds to your concerns.

Sincerely,


Richard A. Meserve

Enclosure: Discussion of Specific Issues

cc: The Honorable Bill Richardson
The Honorable Carol Browner

Enclosure 1

Discussion of Specific Issues

A) Issues concerning NRC's contractor SAIC

Issue

"[The concern for NRC objectivity] is underscored by the selection of Science Applications International Corporation (SAIC) to perform the technical analyses that would form the foundation for a rulemaking on this subject. SAIC handles regulatory compliance issues for businesses that have a direct interest in the deregulation of radioactive materials, thereby raising a question of its objectivity on this subject."

Response:

The NRC requires all of its contractors to disclose any work performed for others, or planned work for others, where there is a potential that the work for others will conflict with the contractor's work for NRC. SAIC did not identify any work where there could be a potential conflict of interest. Following receipt of information from the Paper, Allied-Industrial, Chemical and Energy Workers International Union that there was a potential conflict of interest, the NRC issued a Stop Work Order to SAIC on December 17, 1999 and a cure letter on that same date giving SAIC an opportunity to explain and defend its position. The NRC is currently in the process of evaluating responses received from SAIC and will take appropriate action based on the results of its review.

B) Issues related to NRC's actions regarding DOE planned release of contaminated materials

Issue

"In addition, we understand that the NRC has given its tacit approval of a plan to release approximately 6,000 tons of radioactively contaminated materials for recycling at the Department of Energy's (DOE) K-25 facilities on the Oak Ridge Reservation. To our knowledge, this is the largest proposed release of its kind in history. Allowing such a plan to move forward in advance of resolving the issues raised in the NRC proposal raises serious questions concerning whether those issues can be resolved in an impartial manner."

Response:

We understand that the Department of Energy (DOE), as part of its program to decommission and close various facilities, has contracted with private firms to provide decommissioning and decontamination services for these facilities. Part of this process includes decontamination of metals, their survey for residual contamination, and then release for unrestricted use if they meet DOE release criteria. In one case, a DOE contractor, BNFL, has proposed to utilize a subsidiary company (Manufacturing Sciences Corporation (MSC)) to decontaminate and release nickel metal generated as a part of the decommissioning operations (this is the nickel case referenced in the March 2, 2000 letter from Senator Baucus, et al). Although prototype testing of a proprietary decontamination process has been conducted by MSC under a State of

Tennessee license, no nickel metal has been released, or is currently planned for release. Secretary of Energy Richardson recently announced that the nickel material in question will not be considered for release from the DOE facility until there is a national standard for release of volumetrically contaminated materials.

NRC does not have regulatory jurisdiction over the release of materials in this case. The regulatory authority is exercised by the State of Tennessee, an "Agreement State" under Section 274 of the Atomic Energy Act. However, NRC has reviewed information from Tennessee on the proposed decontamination and release of the nickel. NRC's review did not identify any factors suggesting that Tennessee's action creates a public health and safety or compatibility concern warranting the exercise of NRC's authority to suspend Tennessee's Agreement with the NRC. In addition, the Commission believes that the State has acted within its regulatory authority under its Agreement and that the State's action is not preempted by NRC's Federal regulatory program. NRC staff is continuing to follow up with Tennessee on details of the process and methodology used by Tennessee in granting approval for the release.

C) Issues related to previous releases of materials by licensees

Issue

"We also would appreciate receiving information on the volume of contaminated materials that have been released into commerce since 1992, separated by licensee, the associated radioactivity, and where the materials went."

Response:

NRC inspectors routinely inspect the licenses' radiation protection programs and implementing procedures, which includes the survey records, for compliance with regulatory requirements. However, while 10 CFR Part 20 requires that records be kept of all radiation surveys, these survey records are not required to be submitted to NRC. Therefore, NRC does not track the volume of solid material released and does not have data that would allow estimate of the volume, the portion that was released into commerce, or where the materials went.

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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

March 2, 2000

Dr. Richard Meserve, Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, Maryland 20852

Dear Chairman Meserve:

We are writing to express our serious concerns with Nuclear Regulatory Commission (NRC) regulatory actions which could provide for the release of radioactively contaminated materials for use in consumer products and for other uses. We believe these actions suffer from several flaws. First, they appear to lack sufficient justification and support on the record. Even if such flaws can be corrected, other NRC actions may undermine the objectivity of the process. Second, and more importantly, we believe that such actions may be inconsistent with the Atomic Energy Act and the NRC's mission to protect public health and safety.

As you know, on June 30, 1999, the NRC released an issue paper seeking public input into the question of whether it should broaden its current case-by-case approach which permits the release of radioactive materials for use as consumer products and for other purposes.

Under sections 84 and 161 of the Atomic Energy Act, the NRC has the general responsibility to protect the health and safety of the public from unreasonable risks posed by byproduct and other radioactive materials. Despite the statutory requirement, the major impetus for the NRC to consider a radioactive release rule appears to be improving the consistency of its radioactive release regulations among air, water and solid media.

To our knowledge, NRC has not determined that the actions it is considering to increase the amount of radioactive material in commerce will not constitute an unreasonable risk to the health and safety of the public. Moreover, to our knowledge there have been no NRC economic analyses of the potential negative impact the proposal or regulatory changes could have on the metals recycling and related industries. Finally, NRC has not adequately explained why the consistency of regulatory treatment among differing media justifies the increased amount of radioactive materials in commerce that would result.

We would also note that in considering the Energy Policy Act of 1992, Congress specifically rejected the development of a "below regulatory concern" standard.

3/3...To EDO to Prepare Response for Chairman's Signature...Date due Comm:
NOON March 7,...Cpy to: SECY/RAS, RF, OCA to Ack....00-0153..Commission Correspondence

TO BE PREPARED FOR HEARING ON
THURSDAY, 03/09/2000.

PRINTED ON RECYCLED PAPER

BY EDO --G20000115

In addition to our concern about whether there exists an adequate basis for changing the current system, several other actions undertaken by NRC suggest that the Commission may have already decided to move forward with changing the current case-by-case approach, regardless of the outcome of the public comment and review of the June 1999 proposal.

For instance, a June 30, 1998, NRC memorandum from L. Joseph Callan to NRC staff directs the staff to focus the rulemaking on "the codified clearance levels above background for unrestricted use that are adequately protective of public health and safety." This direction suggests that NRC may not seriously evaluate the option of not moving forward with a rulemaking. Rather, it seems to indicate that the process is designed to justify further deregulation of nuclear materials rather than objectively analyze whether such a change is warranted.

This concern is underscored by the selection of Science Applications International Corporation (SAIC) to perform the technical analyses that would form the foundation for a rulemaking on this subject. SAIC handles regulatory compliance issues for businesses that have a direct interest in the deregulation of radioactive materials, thereby raising a question of its objectivity on this subject.

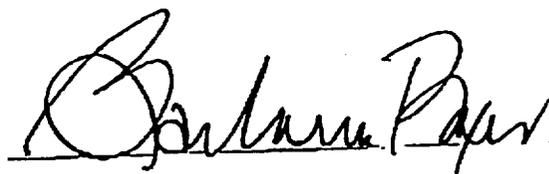
In addition, we understand that the NRC has given its tacit approval of a plan to release approximately 6,000 tons of radioactively contaminated materials for recycling at the Department of Energy's (DOE) K-25 facilities on the Oak Ridge Reservation. To our knowledge, this is the largest proposed release of its kind in history. Allowing such a plan to move forward in advance of resolving the issues raised in the NRC proposal raises serious questions concerning whether those issues can be resolved in an impartial manner.

We believe that until the concerns we have raised are addressed, and Congress is further consulted, the Commission should not proceed with any action that could result in increasing the amount of radioactive materials released into commerce.

We also would appreciate receiving information on the volume of contaminated materials that have been released into commerce since 1992, separated by licensee, the associated radioactivity, and where the materials went.

Thank you for your attention and consideration. Please inform us as soon as possible how the Commission intends to proceed in this matter.

Sincerely,



Frank R. Lautenberg

Garry Sid

J. L. ...

L. ...

CC: The Honorable Bill Richardson
Secretary
Department of Energy

The Honorable Carol Browner
Administrator
Environmental Protection Agency

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United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

May 23, 2000

The Honorable Richard A. Meserve
Chairman
Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

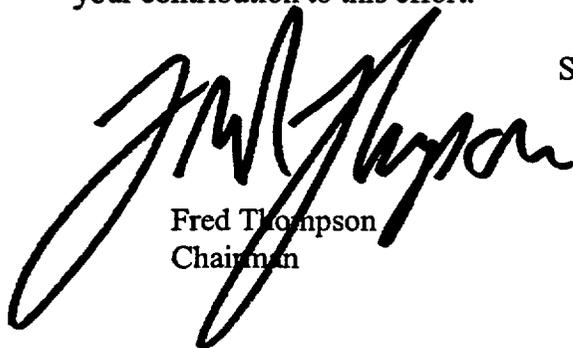
Dear Chairman Meserve:

In each Presidential election year since 1960, the Senate and the House of Representatives have, alternatively, published the "United States Government Policy and Supporting Positions." This publication, commonly known as the "Plum Book," will be published by the Senate this year, under the auspices of the Governmental Affairs Committee.

We are writing to call your attention to the importance of this publication. As in the past, OPM will gather the necessary position data from the agencies using the position categories from the 1996 edition. OPM will contact agency Directors of Personnel about their role in this effort. The actual "data call" will be issued this summer and will include information on the automated system being developed. With your help, we will be able to produce a quality product quickly and with the fewest possible workload demands on your staff.

Since we plan to publish the Plum Book in early November, we request that you stress the importance of timely, accurate reporting to your staff so that the book may be published and available for use by interested parties soon after the election. Compiling the data for the Plum Book would be impossible without agency support, and we want to thank you in advance for your contribution to this effort.

Sincerely,



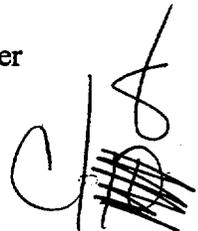
Fred Thompson
Chairman



Joseph I. Lieberman
Ranking Minority Member

REC'D BY

6 MAY 01



HK

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FROM: DUE: / /

ML003721501
EDO CONTROL: G20000285
DOC DT: 05/23/00
FINAL REPLY:

Senator Fred Thompson
Senator Joseph I. Lieberman

TO:
Chairman Meserve

FOR SIGNATURE OF : ** GRN ** CRC NO: 00-0363

DESC:
U.S. Senate Publication of the "Plum Book"

ROUTING:
Travers
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Miraglia
Norry
Craig
Burns/Cyr

DATE: 06/07/00

ASSIGNED TO: CONTACT:
HR Bird

SPECIAL INSTRUCTIONS OR REMARKS:
For Appropriate Action.

ACB

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Jun 06, 2000 15:20

PAPER NUMBER: LTR-00-0363 LOGGING DATE: 06/06/2000
ACTION OFFICE: ~~SEN~~ EDO
AUTHOR: JOSEPH LIEBERMAN
AFFILIATION: SEN
ADDRESSEE:
SUBJECT: U.S. SENATE PUBLICATION OF THE "PLUM BOOK"..
ACTION: Appropriate
DISTRIBUTION: RF, OCA
LETTER DATE: 05/23/2000
ACKNOWLEDGED No
SPECIAL HANDLING:
NOTES:
FILE LOCATION: ADAMS
DATE DUE: ~~6/30/00~~
05/23/2000 DATE SIGNED:

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