

June 7, 2006

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

Dear Senator Lieberman:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of March 15, 2006, that forwarded a letter from Connecticut Attorney General Blumenthal requesting legislation directing the NRC to conduct an Independent Safety Assessment (ISA) of the Indian Point Energy Center, which is operated by Entergy Nuclear Operations, Inc. Your letter also asked for responses to the following items: 1) whether the legal situation has changed, such that the NRC now requires additional legal authority in order to be able to conduct such an inspection; 2) whether the NRC has received a request from the State of New York, the State of Connecticut, or other interested parties for an ISA and has acted to decline such a request; 3) whether neighboring States, under current law and regulation, are able to petition for the conduct of an ISA at Indian Point; and 4) whether an analysis by NRC of whether an ISA, such as that performed at Maine Yankee, is an appropriate mechanism to examine the safety issues raised in the Attorney General's letter.

Regarding the legal authority to conduct an inspection such as the Maine Yankee ISA, the NRC currently has the legal authority to conduct inspections at nuclear power plants. Plant-specific legislation is not necessary to set inspection protocols. The NRC's Reactor Oversight Process (ROP) inspection program in place today, including the enhanced engineering team inspections, are superior to the processes in place at the time the Maine Yankee assessment was made in 1996. The ROP was implemented more than six years ago and has been greatly enhanced, in part, by incorporating the insights gained from past inspections and assessments, such as the Maine Yankee assessment and more recently the engineering team inspections conducted in the fall of 2004. The enhanced engineering team inspections provide a comprehensive, safety-focused review of risk-significant plant components with lower safety margin.

The NRC has received requests from Congresswoman Sue Kelly and Senator Hillary Rodham Clinton for an ISA at Indian Point. In addition, legislation requiring a Maine Yankee-type ISA has been introduced in the House and the Senate (H.R. 4891 and S. 2488). The NRC conducted an ISA at Maine Yankee in response to a specific set of concerns connected with the facility's power up-rate application and allegations of misconduct made at the time. The Commission explained in our response to Congresswoman Kelly and Senator Clinton that the Maine Yankee ISA was a unique, one-time review and that the Commission does not believe that a Maine Yankee-type ISA is warranted at Indian Point. We believe that the current increased level of oversight at Indian Point is appropriate and that the performance of the current ROP inspection regimen planned for Indian Point will effectively accomplish the intent and objectives of the requests for an ISA.

In response to your question on the ability of neighboring States to petition the NRC for the conduct of an ISA at Indian Point, NRC's regulations provide, in Section 2.206 of Title 10 of the Code of Federal Regulations, for the filing of petitions for action with respect to NRC-licensed activities. The decision to grant or deny such petitions rests within the Commission's discretion. Regardless of the formality of the request, the NRC takes seriously all requests from public officials to examine safety and security issues.

The NRC believes the ROP is the appropriate mechanism to examine the safety issues raised in the Attorney General's letter, given the current scope and depth of the ROP inspection activities, which include the engineering team inspections. The engineering team inspection is performed by a multi-disciplinary team consisting of NRC inspectors as well as outside contractors and is scheduled to be performed at both Indian Point Units 2 and 3 in 2007. The NRC inspects Indian Point Units 2 and 3 separately, in effect doubling inspection scrutiny for key inspections such as this engineering inspection. For each unit, the inspection is expected to last seven weeks, including four weeks of on-site time, and involve approximately 700 hours of direct inspection effort. As with all NRC inspections at Indian Point, representatives from the New York State government are welcome to observe the inspection. In performing this inspection, the NRC staff will use operating experience, risk assessment, and engineering analysis to select safety-significant components and operator actions to verify that the selected components are capable of performing their intended safety function and that operating procedures are consistent with the design and licensing bases. The combination of the risk-informed baseline inspections with the improved engineering inspection provides a comprehensive, safety-focused review of significant plant components. This improved engineering team inspection was pilot-tested at four sites, including Vermont Yankee, in the fall of 2004.

In addition, the NRC Resident Inspectors for Indian Point conduct routine inspections on a continuing basis. NRC regulations and oversight process focus on ensuring nuclear safety and security across seven "cornerstone" areas, including emergency planning. Under our current ROP, NRC resident inspectors and regional specialists with specific areas of expertise routinely sample and evaluate the work performed by Entergy's engineering organization to determine whether engineering analyses adequately support safe operation.

Enclosed is our response to Connecticut Attorney General Blumenthal. If you have further questions or would like a briefing on these issues, please contact me.

Sincerely,

/RA/

Nils J. Diaz

Enclosure:
As stated