

EDO Principal Correspondence Control

FROM: DUE: 10/06/09

EDO CONTROL: G20090527

DOC DT: 09/17/09

FINAL REPLY:

Representative Joe Barton
Representative Greg Walden

TO:

Chairman Jaczko

FOR SIGNATURE OF :

** PRI **

CRC NO: 09-0455

Chairman Jaczko

DESC:

New Plant Licensing (Due to Reps: 10/8/09)
(EDATS: SECY-2009-0416)

ROUTING:

Borchardt
Virgilio
Mallett
Ash
Ordaz
Burns/Gray
Hawkins, ASLBP
Burns, OGC
Schmidt, OCA
Diaz-Toro, OEDO
Rihm, OEDO

DATE: 09/18/09

ASSIGNED TO:

CONTACT:

NRO

Johnson

SPECIAL INSTRUCTIONS OR REMARKS:

Please prepare response in accordance with OEDO
Notice 2009-0441-01 (ML090490315). You may also
refer to the ADAMS Congressional Correspondence
Folder to help in preparing response.

Template: SECY-017

E-RIDS: SECY-01

EDATS

Electronic Document and Action Tracking System

EDATS Number: SECY-2009-0416

Source: SECY

General Information

Assigned To: NRO

OEDO Due Date: 10/6/2009

Other Assignees:

SECY Due Date: 10/8/2009

Subject: New Plant Licensing

Description:

CC Routing: NONE

ADAMS Accession Numbers - Incoming: NONE

Response/Package: NONE

Other Information

Cross Reference Number: G20090527

Staff Initiated: NO

Related Task:

Recurring Item: NO

File Routing: EDATS

Agency Lesson Learned: NO

OEDO Monthly Report Item: NO

Process Information

Action Type: Letter

Priority: Medium

Sensitivity: None

Signature Level: Chairman Jaczko

Urgency: NO

OEDO Concurrence: YES

OCM Concurrence: NO

OCA Concurrence: NO

Special Instructions: Please prepare response in accordance with OEDO Notice 2009-0441-01 (ML090490315). You may also refer to the ADAMS Congressional Correspondence Folder to help in preparing response. Please contact Roger Rihm, OEDO for any further guidance.

Document Information

Originator Name: Representative Joe Barton/Representative Greg Walden

Date of Incoming: 9/17/2009

Originating Organization: Congress

Document Received by SECY Date: 9/17/2009

Addressee: Chairman Jaczko

Date Response Requested by Originator: 10/8/2009

Incoming Task Received: Letter

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Sep 17, 2009 11:33

PAPER NUMBER: LTR-09-0455 **LOGGING DATE:** 09/17/2009
ACTION OFFICE: EDO

AUTHOR: REP Joe Barton
AFFILIATION: CONG
ADDRESSEE: Gregory Jaczko
SUBJECT: Concerns the licensing process

ACTION: Signature of Chairman
DISTRIBUTION: RF, OCA to Ack

LETTER DATE: 09/17/2009
ACKNOWLEDGED No
SPECIAL HANDLING: Commission Correspondence

NOTES:
FILE LOCATION: ADAMS

DATE DUE: 10/08/2009 **DATE SIGNED:**

EDO --G20090527

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September 17, 2009

The Honorable Gregory B. Jaczko
Chairman
United States Nuclear Regulatory Commission
Mail Stop O-14F2
Washington, DC 20555-0001

Dear Chairman Jaczko:

We are writing concerning your recent interview reported on September 11, 2009 on NationalJournal.com entitled "NRC At Center of Regulatory Bottleneck." That interview raises questions about the current status of the processing of new nuclear plant applications by the Nuclear Regulatory Commission (NRC). The interview reinforces our concerns raised by your July 7, 2009 Heritage Foundation speech and remarks relating to the status of new plant licensing by the NRC. During that speech, in response to a question about when the first application for a new nuclear power plant would be through the NRC application review process, you stated that you "would like to see the NRC make some final decisions during my time as Chairman" and "would hope that by 2012 we've made substantial progress on reviewing at least one of the applications in front of us, where we are at the point where we can make a decision one way or another on whether to approve an application."

According to the NRC website, to date 18 Combined License (COL) applications covering 28 new reactors have been submitted to the NRC. The majority of these pending applications seek authorization to construct new reactor units at or adjacent to existing nuclear power plant sites, and have been submitted by applicants that are currently successfully operating nuclear reactors at those sites and/or have significant nuclear experience. We further understand from the NRC's published schedules that the Commission staff is currently scheduled to complete safety and environmental reviews for up to 12 of the pending applications by 2011 or 2012.¹ Based on the published schedules and model regulatory milestones, it appears the Commission should be in a position to make decisions during your tenure on significantly more than one of the pending COL applications.²

¹ See "New Reactor Licensing Applications, Schedules by Calendar Year" dated 09/03/09, <http://www.nrc.gov/reactors/new-reactors/new-licensing-files/new-rx-licensing-app-legend.pdf>.

² The NRC's regulations at 10 CFR Part 2, Appendix B ("Model Milestones for Hearings Conducted Under 10 CFR Part 2, Subpart L"), provide that evidentiary hearings commence within 175 days of issuance of the safety and

Letter to The Honorable Gregory B. Jaczko

Page 2

The recently reported interview on NationalJournal.com and your statement in the Heritage Foundation speech that you "would hope" that the Commission will be in a position to make a decision on "at least one" of the pending applications by 2012 appear to indicate that NRC is not currently on track to meet its published schedules and model regulatory milestones for review of new plant applications. We seek clarification of this important matter.

We are, moreover, concerned about potential regulatory delays in the licensing process because the current fleet of 104 operating reactors provides approximately 20 percent of the nation's electricity and will need to be replaced and expanded over the next several decades to meet growing energy needs and climate change goals. Further, as Congress considers climate change legislation that would set strict greenhouse gas emission reduction requirements, it is important for Congress, the regulated community and the public to be aware if the NRC licensing process for new plants will be subject to significant regulatory delays. In analyzing the pending climate change legislation and making projections about the costs and impacts of such legislation, the Environmental Protection Agency (EPA), the Energy Information Administration (EIA) and other entities have assumed the expanded use of nuclear power in the coming years. The assurance of timely development and expansion of new reactors is critical to future energy supply and is highly relevant to consideration of whether the mandates of the proposed cap-and-trade legislation will be achievable, and whether assumptions by EPA, EIA and other entities about the pending climate change legislation are realistic or accurate. Accordingly, we request you provide us with responses to the following:

1. How many COL applications are currently being actively reviewed by the Commission?
2. For those applications identified in response to item 1, is the Commission currently on track to meet the published schedules for safety and environmental reviews?
3. For those applications identified in response to item 1:
 - a. Does the Commission anticipate meeting the model milestones set forth in 10 CFR Part 2, Appendix B, that provide that an evidentiary hearing commence within 175 days of completion of the Commission staff safety and environmental reviews of the applications?
 - i. If not, please explain how much additional time may be required.
 - ii. How much time does the Commission currently estimate will be required for completing evidentiary hearings on the pending applications?
 - b. Does the Commission anticipate meeting the model milestones set forth in 10 CFR Part 2, Appendix B, that provide that the presiding officer issue an initial decision within 90 days of completion of the evidentiary hearing and closing of

environmental review documentation, and that the presiding officer issue a decision within 90 days of completion of the evidentiary hearing and closing of the record.

Letter to The Honorable Gregory B. Jaczko


Page 3

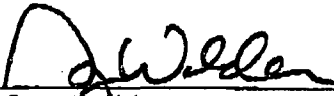
the record? If not, please explain why not and how much additional time may be required. If the Commission anticipates meeting the milestones for some COL applications but not others, please explain what factors lead to that assessment of each application.

4. Has the Commission established any targeted dates for the Commission or Atomic Safety Licensing Boards to commence evidentiary hearings on any of the pending applications? If not, why not?
5. Has the Commission established any targeted dates for the Commission or Atomic Safety Licensing Boards to complete evidentiary hearings on any of the pending applications? If not, why not?
6. What is a realistic amount of time for the regulated community and the public to expect the Commission to take to complete its review of the pending COL applications that are being actively pursued?
7. What measures or actions do you anticipate that the Commission will undertake during your tenure to ensure that reviews of COL applications will be timely and efficiently completed?
8. What assurances, if any, can you provide that the Commission is committed to ensuring that Commission staff, Atomic Safety and Licensing Boards, and the Commission establish and adhere to published schedules for completing reviews of COL applications?
9. What assurances, if any, can you provide that timely and efficient completion of COL application reviews and the licensing of new nuclear plants will be a priority for the Commission?

Please provide your responses to the questions above within three weeks from the date of this letter. If any questions, please contact the Minority Committee staff at (202) 225-3641. We appreciate your prompt attention to this matter.

Sincerely,


Joe Barton
Ranking Member


Greg Walden
Ranking Member
Subcommittee on Oversight and Investigations

cc: The Honorable Henry A. Waxman, Chairman

The Honorable Bart Stupak, Chairman
Subcommittee on Oversight and Investigations