

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

Docket # 50-293-LR

Entergy Corporation

Pilgrim Nuclear Power Station

License Renewal Application

November 29, 2010

PILGRIM WATCH REQUEST FOR HEARING ON A NEW CONTENTION

In accordance with 10 C.F.R § 2.309 (c)(1) Pilgrim Watch files the following new contention:

Until and unless some third party assumes responsibility for cleanup after a severe nuclear reactor accident to pre-accident conditions, sets a cleanup standard, and identifies a funding source, Entergy should be required to take all of the mitigation steps that would be required by a SAMA analysis (i) based on a conservative source term using release fractions no lower than those specified in NUREG-1465 or used by the NRC in studies such as NUREG 1450, cleanup to a dose rate of not more than 15 millirem a year, and at least the 95th percentile of the total consequences determined by the EARLY and CHRONC modules of the MACCS2 Code, and (ii) does not reduce any costs by use of a discount factor or probabilistic analysis.

I. INTRODUCTION

In the license renewal process, the Applicant is required under 10 CFR §51(c)(ii)(L) to perform a severe mitigation analysis if they had not previously done so. The purpose of a SAMA review is to ensure that any plant changes that have a potential for significantly improving severe accident safety performance are identified and addressed.

In the SAMA analysis process, the applicant analyzes costs of damages and costs of clean-up. However, NRC policy permits the Applicant to use a SAMA analysis in which the costs that are eventually weighed against the benefit of potential mitigation steps are far lower than the likely cost if a truly severe accident should occur. In particular, and as allowed by NRC policy, Entergy's PNPS SAMA analysis averaged potential consequence values, used mean (rather than 95th percentile) potential consequence values, and then further reduced potential consequence values using a probability analysis.¹

Nothing in the NRC policy places the responsibility for actual clean-up on the licensee; neither does it require the licensee to accomplish any mitigation steps that might reduce the risks of, and potential damage resulting from, a truly severe accident.

The only even potential justification for this NRC policy is the unspoken assumption that someone other than the licensee is responsible for cleanup. However, the Price Anderson Act does not cover cleanup costs, only damages. Most significant, Pilgrim Watch recently learned (1) that neither the NRC, nor EPA, nor FEMA is responsible for clean-up; (2) that the cleanup standards that will determine what clean-up is required (and hence its cost) have not been defined; and (c) that no funding source has been identified. In short, no one is responsible for cleaning up the radiation that will be dispersed into the surrounding areas if there is a serious accident; and Entergy is not required to take the mitigation steps that would reduce the risk of (and damage resulting) from any such serious accident.

¹ Probabilistic risk assessments are not required for the renewal of an operating license. Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 & 4), LBP-01-6, 53 NRC 138, 159-160 (2001). NRC Rule of Practice, January 2010, General Matters, Pg., 45

Under these circumstances, it is essential that the licensee take far more steps to mitigate the risks of, and potential damages resulting from, a serious accident.

Until and unless some third party assumes responsibility for cleanup after a severe nuclear reactor accident to pre-accident conditions, sets a cleanup standard, and identifies a funding source, Entergy should be required to take all of the mitigation steps that would be required by a SAMA analysis (i) based on a conservative source term using release fractions no lower than those specified in NUREG-1465 or used by the NRC in studies such as NUREG 1450, cleanup to a dose rate of not more than 15 millirem a year and at least the 95th percentile of the total consequences determined by the EARLY and CHRONC modules of the MACCS2 Code, and (ii) does not reduce any costs by use of a discount factor or probabilistic analysis.

II. THE CONTENTION IS WITHIN THE SCOPE OF THESE PROCEEDINGS

This contention addresses a defect or dispute regarding the Applicant's SAMA analysis, a Category 2 issue, and thus is within the scope of this proceeding.

The fundamental purpose of the National Environmental Policy Act, NEPA, 42 USC § 4332, is to "help public officials make decisions that are based on understanding of environmental consequences, and take decisions that protect, restore and enhance the environment." 40 CFR § 1500.1(c). (Emphasis added).

In its application for license renewal of Pilgrim, Entergy was required under 10 CFR § 51 to provide an analysis of the impacts on the environment that could result if it is allowed to continue beyond the initial license. The environmental impacts that must be considered in an EIS include those which are "reasonably foreseeable" and have "catastrophic consequences, even if their probability of occurrence is low." 40 CFR §1502.22(b)(1). The fact that the likelihood of an impact may not be easily quantifiable

is not an excuse for failing to address it in an EIS. NRC regulations require that “to the extent that there are important qualitative considerations or factors that cannot be quantified, these considerations or factors will be discussed in qualitative terms.” 10 CFR§51.71.

This new contentions seeks compliance with NEPA and is based on the applicant’s Environmental Report (ER). 10 CFR§2.309(f)(2).

III. THE ISSUE RAISED IN THE CONTENTION IS MATERIAL

The “ issue raised in th[is new] contention is material to the findings the NRC must make to support the action that is involved in the proceeding.” 10 CFR§2.309(f)(iv) In considering the license renewal for Millstone Nuclear Power Station, the ASLB stated that “[w]here a contention alleges a deficiency or error in the application, the deficiency or error must have some independent health and safety significance.” *In the Matter of Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Units 2 and 3) Docket Nos. 50-336-LR, 50-423-LR ASLBP No. 04-824-01-LR July 28, 2004, p. 7. See *Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation)*, LBP- 98-7, 47 NRC 142, 179-80 (1998), aff’d in part, CLI-98-13, 48 NRC 26 (1998). The deficiency highlighted in this contention has enormous independent health and safety significance.

Absent clear identification (and funding) of the authority responsible for cleanup after a severe accident at Pilgrim Station, the public’s health and safety are put at serious risk. Whether NRC or EPA, for example, is in charge of cleanup will significantly impact costs and public health. For example, EPA’s current 15 millirem a year cleanup levels (EPA, “Establishment of Cleanup Levels for CERCLA Sites with Radioactive Contamination) provides far more public protection that does the NRC’s “Standards for

Protection Against Radiation,” recommendation and established dose limit for workers of 5 rem/yr (10 CFR 20 Subpart C). If EPA assumes responsibility for cleanup; costs will be higher because EPA requires local and state involvement in the remediation’s decision making process resulting in an overall longer time period that increases overall costs. On the other hand, if NRC is in charge, local involvement in decision-making is not required. At least until such time as someone accepts responsibility, the minimum that must be required is that Entergy take all of the mitigation steps that would be required by a SAMA analysis (i) based on a conservative source term using release fractions no lower than those specified in NUREG-1465 or used by the NRC in studies such as NUREG 1450, and at least the 95th percentile of the total consequences determined by the EARLY and CHRONC modules of the MACC2 Code, and (ii) does not reduce any costs by use of a discount factor or probabilistic analysis.

IV. THERE IS A SUBSTANTIAL BASIS FOR THE CONTENTION

No third party has clear authority to cleanup offsite after a severe accident at Pilgrim; Cleanup Standards are not determined; and no funding source for cleanup is identified.

On November 10, 2010, Inside EPA released a report (published by Inside Washington, Inside EPA/s Superfund Report), *Agencies Struggle to Craft Offsite Cleanup Plan for Nuclear Power Accidents*, by Douglas Guarino, Associate Editor. The report is attached, along with its supporting FOIAs (Attachment A) and available on line.² The report says that:

EPA, the Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) are struggling to determine which

² <http://environmentalnewsstand.com/Environmental-NewsStand-General/Public-Content/agencies-struggle-to-craft-offsite-cleanup-plan-for-nuclear-power-accidents/menu-id-608.html>

agency -- and with what money and legal authority -- would oversee cleanup in the event of a large-scale accident at a nuclear power plant that disperses radiation off the reactor site and into the surrounding area.

The FOIA documents indicate that the agencies began discussions last year after NRC informed the other agencies that it does not plan to take the lead in overseeing such a cleanup; and significantly that money in the Price Anderson Act, an industry-funded insurance account for nuclear accidents, would likely not be available. See the documents obtained by *Inside EPA* ([Part 1](#) and [Part 2](#)) under the Freedom of Information Act (FOIA, Part 1, July 27, 2010 Draft White Paper, developed by Jeff Blizzard (USEPA)).

Until this is resolved -- who is in charge, who pays, and what are the cleanup standards - Pilgrim's license renewal should not go forward, unless Entergy is required to take all of the mitigation steps that would be required by a SAMA analysis (i) based on a conservative source term using release fractions no lower than those specified in NUREG-1465 or used by the NRC in studies such as NUREG 1450, cleanup to a dose rate of not more than 15 millirem a year, and at least the 95th percentile of the total consequences determined by the EARLY and CHRONC modules of the MACC2 Code, and (ii) does not reduce any costs by use of a discount factor or probabilistic analysis.

Disagreements Over What Government Agency Has Authority

EPA's Role: According to the Inside EPA investigative report, a July 27, 2010 white paper was never completed amid disagreements between EPA staff over what authority the agency may or may not have to clean up after a nuclear power plant accident. The paper cited Superfund as a possible source of cleanup funding -- either

through EPA's appropriation-driven Superfund trust fund or the agency's authority to sue parties responsible for contamination under Superfund law. But significantly EPA staff disagree on whether Superfund is applicable to cleanup after a nuclear power plant accident, calling into question its viability as both a source of funding and cleanup authority.

Some at EPA contend that "special nuclear material from a nuclear incident" is exempt from the types of toxic releases governed by Superfund, according to the documents. Others suggest that such material is typically commingled with chemicals and other radioactive materials that are covered by the law, meaning EPA would be able to assert its Superfund authority to conduct a cleanup.

In internal e-mails, other EPA staff provide examples of instances where the agency has been involved with cleanups at nuclear power plant sites due to the sites being contaminated with chemicals. But Jean Schumann, a lawyer in EPA's Office of Emergency Management (OEM), criticized suggestions that the presence of chemical contaminants gives the agency the authority to clean up after a nuclear power plant incident. In one August 5 e-mail, Schumann argues it is uncertain whether Superfund law gives EPA such authority when radioactive substances from the accident are commingled with other contaminants. "I think there is enough uncertainty still on what the 'release' exclusion means."

NRC's role: Some federal officials previously assumed NRC had authority and would be the lead agency. However, according to the FOIA documents attached, NRC said that it was not the lead agency and tried to "pass the ball" to EPA, suggesting EPA would be the appropriate agency to lead such an effort. But, as said above, in an August 5,

2010 email, EPA's Ms. Schumann said that it was uncertain whether Superfund Law gives EPA such authority when radioactive substances from the accident are commingled with other contaminants. In the draft white paper

FEMA's Role: While NRC and FEMA require nuclear plants to have emergency response plans, it is not clear these plans extend beyond the initial aftermath of an accident or apply to radiation dispersed over large areas, the documents say. The government's emergency response authorities under the Stafford Act, for instance, expire 60 days after an incident, the draft document notes.

U.S. President: A Presidential declaration of an emergency "leads to rather limited financial assistance being made available through FEMA" and a "potentially more useful Presidential declaration of a major disaster" appears limited to "natural events," the document said.

Price Anderson: the industry-funded account established under the Price Anderson Act -- which Congress passed in 1957 in an effort to limit the industry's liability -- would likely not be available to pay for such a cleanup. The account likely could only be used to provide compensation for damages incurred as the result of an accident, such as hotel stays, lost wages and property replacement costs, the documents show, leaving federal officials unsure where the money to pay for a cleanup would come from.

Determining Cleanup Standards

Currently it is not clear what cleanup standards would apply. If EPA had responsibility, it is not clear whether EPA would apply Superfund or other standards if it was cleaning up after a nuclear power plant incident.

EPA's standards range from 15 millirem a year (EPA, "Establishment of Cleanup Levels for CERCLA Sites With Radioactive Contamination" (e.g., Hanford Site) to 500 mrem/yr (EPA, "Manual of Protective Action Guides and Protective Actions for Nuclear Incidents," 400-R-92-001, ... "doses in any single year after the first will not exceed 0.5 rem); to 2 rem a year (EPA, "Manual of Protective Action Guides and Protective Actions for Nuclear Incidents," 400-R-92-001, ... "doses in first year will not exceed 2 rem.") However in the Draft PAG, NRC officials suggested cleanup standards as lax as 10,000 millirem, which equates to a cancer of one (1) in three (3) people. The final cleanup levels have not been determined. However, it is important to determine before license renewal is approved because the cleanup standard significantly affects the cost of cleanup- necessary for determining that the money will be there if needed. Absent a responsible third party, clean up standard and guarantee of monies there is no reasonable assurance that public health and safety will be protected in the event of a severe accident.

V. THE CONTENTION IS TIMELY

Under 10 C.F.R 2.309(c), the determination whether the filing of a contention is "nontimely" is "based on a balancing of eight factors, the most important of which is "good cause, if any, for the failure to file on time." Crow Butte Resources, Inc. (North Trend Expansion Project), LBP-08-6, 67 NRC 241 (2008)

The factors, and how each points to the conclusion that this contention should be accepted, are set forth below.

1. Good cause, if any, for failure to file on time.

The information upon which this contention is based did not become available to the public (including Pilgrim Watch) until November 17, 2010.³

“Good cause” has been consistently interpreted to mean that a proposed new contention be based on information that was not previously available, and was timely submitted in light of that new information. Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Unit 3), CLI-09-5, 69 N.R.C. 115, 125-26 (2009) citing Pacific Gas & Electric Co. (Diablo Canyon Power Plant Independent Spent Fuel Storage Installation), CLI-08-1, 67 N.R.C. 1, 6 (2008). See also, NRC Digest, Prehearing Matters, 29: “Newly arising information has long been recognized as providing “good cause” for acceptance of a late contention. Consumers Power Co. (Midland Plant, Units 1 and 2), LBP-82-63, 16 NRC 571, 577 (1982), citing Indiana and Michigan Electric Co. (Donald C. Cook Nuclear Plant, Units 1 and 2), CLI-72-75, 5 AEC 13, 14 (1972); Cincinnati Gas and Electric Co. (William H. Zimmer Nuclear Station), LBP-80-14, 11 NRC 570, 574 (1980), appeal dismissed, ALAB-595, 11 NRC 860 (1980).”

Here it is clear that (1) the information is new and could not have been presented earlier, and (2) Pilgrim Watch acted promptly after learning of the new information. See,

³ Chronology:

a. On November 10, 2010. Inside Washington, Inside EPA/s Superfund Report, published the report *Agencies Struggle to Craft Offsite Cleanup Plan for Nuclear Power Accidents*, written by Douglas Guarino, Associate Editor. Pilgrim Watch is not a subscriber to that online source.

b. On November 16th, Kevin Kamps (Beyond Nuclear, staff) attended the Blue Ribbon Commission meeting in Washington and was informed there of the article by its author; Mr Kamps in turn emailed Pilgrim Watch.

c. On November 17th, Pilgrim Watch emailed Mr. Kamps and asked if he had supporting documents. That same day, Mr. Kamps contacted the author and requested the documents, if available; and Douglas Guarino replied that “due to the heightened interest surrounding this story, my editor's have made it (and the corresponding documents) available to non subscribers. You should be able to get to it at the following link.” <http://environmentalnewsstand.com/Environmental-NewsStand-General/Public-Content/agencies-struggle-to-craft-offsite-cleanup-plan-for-nuclear-power-accidents/menu-id-608.html>

d. Pilgrim Watch obtained a copy of the report and FOIA documents from that website, on November 17th.

Texas Utilities Electric Co. (Comanche Peak Steam Electric Station, Units 1 and 2), CLI-92-12, 36 N.R.C. 62, 69-73 (1992).

2. The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding.

Pilgrim Watch is already a party, and thus clearly has the right under the Act to be, a party to this proceeding.

3. The nature and extent of the requestor's/petitioner's property, financial or other interest in the proceeding.

As said in Pilgrim Watch's originally filed petition (Request For Hearing And Petition To Intervene By Pilgrim Watch –May 25, 2006. Pg.1), and as remains the case, "Pilgrim Watch is a non-profit citizens' organization located at 148 Washington Street, Duxbury, Massachusetts, 02332. It is represented pro se by Mary Lampert who makes her residence and place of occupation and recreation within ten (10) miles of Pilgrim Nuclear Power Station. Under 10 CFR § 2.309 Petitioners have standing to intervene in the license renewal proceedings of Pilgrim because they live within 10 miles of the facility. For reactor construction and licensing proceedings, the NRC has recognized a presumption that people who live within close proximity of the facility (50 miles) have standing to intervene in the proceedings."

4. The possible effect of any order that may be entered in the proceeding on the requestor's/petitioner's interest.

Petitioners believe that if Pilgrim is allowed to operate for an additional twenty years without taking the mitigation steps required by virtue of this concern that there will be an unacceptable risk to the environment jeopardizing the health, safety, property and

finances of Petitioners' members who live, recreate, conduct business and own property within the vicinity of the Pilgrim Nuclear Power Station.

5. The availability of other means for protecting the petitioner's interests.

None of the factors suggesting "other means" referred to in Sec. 2,10.3.3.3E Factor #5 of the NRC Digest are present here. There is no state judicial forum or other NRC licensing procedure to which Pilgrim Watch can take its concerns regarding the fact that no government agency is willing to assume responsibility in the event of an accident at PNPS (See, Private Fuel Storage, L.L.C. (Independent Spent Fuel Storage Installation), LBP-00-23, 52 NRC 114, 121-122 (2000)). "The suggestion that an organization could adequately protect its interest by submitting a limited appearance statement gives insufficient regard to the value of participational rights enjoyed by parties - including the entitlement to present evidence. Similarly, assertions that the organization might adequately protect its interest by making witnesses available to a successful petitioner or by transmitting information in its possession to appropriate State and local officials are without merit." Duke Power Co. (Amendment to Materials License SNM-1773 -- Transportation of Spent Fuel from Oconee Nuclear Station for Storage at McGuire Nuclear Station), ALAB-528, 9 NRC 146, 150 n.7 (1979)." NRC Digest, Prehearing Matters, 38. And a "petition under 10 C.F.R. § 2.206 for a show cause proceeding is not an adequate alternative means of protecting a late petitioner's interests.... Washington Public Power Supply System (WPPSS Nuclear Project No. 3), ALAB-747, 18 NRC 1167, 1175-1176 (1983). See Florida Power and Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), LBP-90-5, 31 NRC 73, 81 (1990), aff'd, ALAB-950, 33 NRC 492, 495-96 (1991). After all, despite the long history of §2.206, the

number of successful petitions brought under that section is extremely small. Dominion Nuclear Connecticut, Inc. (Millstone Nuclear Power Station, Units 2 and 3), LBP-05-16, 62 NRC 56, 67 (2005). (Id.)

6. The extent to which the petitioner's interest will be represented by existing parties.

The other parties to this proceeding are Entergy and the NRC Staff. Throughout this proceeding both NRC Staff and Entergy (in concert with each other) have consistently opposed Pilgrim Watch's interests. There is no reasonable basis to expect that leopard will change its spots.

The NRC has accurately recognized that,

In weighing the [sixth] factor, a board will not assume that the interests of a late petitioner will be adequately represented by the NRC Staff. The general public interest, as interpreted by the Staff, may often conflict with a late petitioner's private interests or perceptions of the public interest. Washington Public Power Supply System (WPPSS Nuclear Project No. 3), ALAB-747, 18 NRC 1167, 1174-1175 n.22 (1983).

NRC Digest, Prehearing Matters, 35; see also NRC Practice Digest, Prehearing Matters, 33: "Participation of the NRC Staff in a licensing proceeding is not equivalent to participation by a private intervenor.

The Board accurately summarized the realities in Turkey Point (NRC Practice Digest, Prehearing Matters, 34-35):

"To what extent will Petitioners' interest be represented by existing parties?" must be answered, "None."

7. The extent to which petitioner's participation will broaden the issues or delay the proceeding.

This issue presented by this contention - that further mitigation steps are required since neither the NRC nor any other agency will take responsibility for cleanup costs - is related to, but somewhat broader than, issues that Pilgrim Watch has sought previously to present.

However, this "factor includes only that delay which can be attributed directly to the tardiness of the petition. Jamesport, supra, ALAB-292, 2 NRC at 631; South Carolina Electric and Gas Co. (Virgil C. Summer Nuclear Station, Unit 1), LBP-81-11, 13 NRC 420, 425 (1981). Here, there is nothing "tardy" about Pilgrim Watch's petition to add this new petition. It is based on information that became public only a short time ago, and then only in response to a request to its author for the background FOIA documents.

8. The extent to which petitioner's participation might reasonably assist in developing a sound record.

Absent Pilgrim Watch's participation, it is apparent that neither any other party nor the Board will develop any record whatever regarding the subject of this contention.

Pilgrim Watch intends to cover the inadequacies in Entergy's SAMA analysis and show that, until and unless some third party assumes responsibility for cleanup after a severe nuclear reactor accident to pre-accident conditions, sets a cleanup standard, and identifies a funding source, Entergy should be required to take all of the mitigation steps that would be required by a SAMA analysis (i) based on a conservative source term using release fractions no lower than those specified in NUREG-1465 or used by the NRC in studies such as NUREG 1450, cleanup to a dose rate of not more than 15 millirem a year,

and at least the 95th percentile of the total consequences determined by the EARLY and CHRONC modules of the MACC2 Code, and (ii) does not reduce any costs by use of a discount factor or probabilistic analysis.

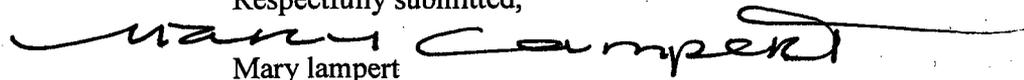
Pilgrim Watch intends principally to rely upon government documents and testimony from David I. Chanin and Dr. Edwin Lyman. It would be unreasonable at this date to expect a totally unfunded group to provide testimony from these experts at this time. If it were so required, most members of the public, non-profit public interest groups, and local governments would be unable to file due to lack of resources. Resources for these groups necessarily must be preserved for expert witnesses required at the summary disposition and hearing stage of these proceedings. We trust that it is not the intent of the Commission to restrict participation only to insiders with deep pockets.

The Petitioner satisfies 10 C.F.R 2.309(d), Standing: The Petitioner already is a party to this hearing and has satisfied the requirements.

VI. CONCLUSION

Because of the importance of the absence of some third party assuming responsibility for cleanup after a severe nuclear reactor accident to pre-accident conditions, and setting a cleanup standard protective of public health, and identifying a funding source, it is clear that the Applicant must be required to be more conservative so that public health and safety will be properly protected.

Respectfully submitted,



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ATTACHMENT A

The information upon which this contention is based did not become public, or available until Wed, Nov 17, 2010 at 2:10 PM, Doug Guarino <doug.guarino@iwpnews.com> wrote:

-- Due to the heightened interest surrounding this story, my editor's have made it (and the corresponding documents) available to non subscribers. You should be able to get to it at the following link. Let me know if you have any problems:

<http://environmentalnewsstand.com/Environmental-NewsStand-General/Public-Content/agencies-struggle-to-craft-offsite-cleanup-plan-for-nuclear-power-accidents/menu-id-608.html>

Agencies Struggle To Craft Offsite Cleanup Plan For Nuclear Power Accidents Monday, November 22, 2010

EPA, the Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) are struggling to determine which agency -- and with what money and legal authority -- would oversee cleanup in the event of a large-scale accident at a nuclear power plant that disperses radiation off the reactor site and into the surrounding area.

The effort, which the agencies have not acknowledged publicly, was sparked when NRC recently informed the other agencies that it does not plan to take the lead in overseeing such a cleanup and that money in an industry-funded insurance account for nuclear accidents would likely not be available, according to documents obtained by *Inside EPA* ([Part 1](#) and [Part 2](#)) under the Freedom of Information Act (FOIA).

Environmentalists concerned with nuclear safety and cleanup issues say indications in the FOIA documents that the government has no long-term cleanup plan in the event of an emergency casts doubt on the nuclear power industry's ongoing efforts to revive itself. The industry currently has 22 applications to build new nuclear power plants pending before NRC and is marketing itself as a source of carbon-free emissions.

"This is a revelation that should call into question efforts to revive the industry," one environmentalist says. "Certainly there should be no new [power plant] construction if this issue can't be resolved." The activist adds that the lack of a cleanup plan is "pretty ironic because nuclear energy is not a new technology or issue. The first nuclear reactor was built in 1942 -- that's 68 years ago."

A spokesman for the Nuclear Energy Institute (NEI), which represents the nuclear power industry, says officials believe such cleanups would be handled by the insurance fund despite assertions in the documents to the contrary. The NEI spokesman also downplays the likelihood of such a cleanup being necessary, saying accidents are "highly unlikely to occur."

Staff for the three agencies began meeting to discuss the issue last year, when NRC officials indicated to the other agencies that they do not, as some federal officials had previously assumed, plan on leading cleanup oversight in the event an accident at a nuclear power plant dispersed radioactive contamination off the reactor site and into the surrounding area. NRC suggested EPA would be the appropriate agency to lead such an effort, according to the documents. While NRC and FEMA require nuclear plants to have emergency response plans, it is not clear these plans extend beyond the initial aftermath of an accident or apply to radiation dispersed over large areas, the documents say.

However, the NRC officials also indicated during the meetings that the industry-funded account established under the Price Anderson Act -- which Congress passed in 1957 in an effort to limit the industry's liability -- would likely not be available to pay for such a cleanup. The account likely could only be used to provide compensation for damages incurred as the result of an accident, such as hotel stays, lost wages and property replacement costs, the documents show, leaving federal officials unsure where the money to pay for a cleanup would come from.

This summer, EPA staff began drafting a white paper on the issue in preparation for emergency drills the agencies were planning for August that documents say were expected to involve high-level administration officials, including either President Obama or Vice President Biden.

Disagreements Over EPA Authority

The white paper was never completed amid disagreements between EPA staff over what authority the agency may or may not have to clean up after a power plant accident.

A July 27 draft of the white paper cites Superfund as a possible source of cleanup funding -- either through EPA's appropriation-driven Superfund trust fund or the agency's authority to sue parties responsible for contamination under Superfund law. But EPA staff disagree on whether Superfund is applicable to cleanup after a nuclear power plant accident, calling into question its viability as both a source of funding and cleanup authority.

Some EPA staffers argue that "special nuclear material from a nuclear incident" is exempt from the types of toxic releases governed by Superfund, according to the documents. Others suggest that such material is typically commingled with chemicals and other radioactive materials that are covered by the law, meaning EPA would be able to assert its Superfund authority to conduct a cleanup.

In internal e-mails, EPA staff provide examples of instances where the agency has been involved with cleanups at nuclear power plant sites due to the sites being contaminated with chemicals. For example, Mary Ballew, of EPA Region I, on Aug. 18 forwarded examples of EPA involvement with power plant decommissioning due to chemical contamination to Stuart Walker, of EPA's Office of Superfund Remediation and Technology Innovation (OSRTI). Ballew offered to talk to any lawyers in EPA headquarters "that say that the nuke plants don't have chemicals."

According to the information Ballew provided, Region I has been involved with decommissioning at three nuclear power plants -- Maine Yankee, Connecticut Yankee

and Yankee Rowe, MA -- and all all three required cleanups under the Resource Conservation & Recovery Act (RCRA) due to chemical contamination.

But Jean Schumann, a lawyer in EPA's Office of Emergency Management (OEM), criticizes suggestions that the presence of chemical contaminants gives the agency the authority to clean up after a nuclear power plant incident. In one Aug. 5 e-mail, Schumann argues it is uncertain whether Superfund law gives EPA such authority when radioactive substances from the accident are commingled with other contaminants. "I think there is enough uncertainty still on what the 'release' exclusion means that we're better off staying at a higher level of detail" in the draft white paper, she writes.

But the ability of other laws to provide funding and authority for cleanup are also severely limited, the draft white paper says. The government's emergency response authorities under the Stafford Act, for instance, expire 60 days after an incident, the draft document notes. A Presidential declaration of an emergency "leads to rather limited financial assistance being made available through FEMA" and a "potentially more useful Presidential declaration of a major disaster" appears limited to "natural events," the document says.

Determining Cleanup Standards

Whether EPA can assert its Superfund authorities over a cleanup after a nuclear power plant accident is significant not just from the standpoint of securing funding for the cleanup, but also in determining what cleanup standards would apply to the situation, Walker, of OSRTI, writes in a June 11 e-mail to Elizabeth Southerland, director of OSRTI's assessment and remediation division.

Walker tells Southerland that if EPA appears to be endorsing non-Superfund cleanup approaches in discussions with the other agencies, policy concerns similar to those surrounding EPA's controversial draft guide for responding to all nuclear emergencies -- known as the protective action guidance (PAG) for radiological incidents -- would arise. With the PAG, officials in EPA's Superfund, water and legal offices raised concerns that the document could set a negative precedent weakening the agency's cleanup and drinking water standards because it included guidelines dramatically less stringent than traditional EPA regulations.

The BP oil spill in the Gulf of Mexico, which prompted some Republicans in Congress to suggest the Price Anderson Act be used as model for oil cleanups, also highlights the significance of the issue, Walker argues.

"Given the current circumstances dealing with the Gulf [oil] spill (e.g., questions about who is in charge, is the federal government in control, etc) not inhibiting our flexibility under [Superfund] is a key issue," Walker adds. "Although possibly not the first choice to take a response action during a [nuclear power plant] incident, EPA should not agree to language that appears to be a legal interpretation that inhibits [the Superfund] option."

In addition, despite the expectations of the other federal agencies that EPA "would be heavily involved in the environmental response work, possibly as the lead technical agency," EPA cleanup officials have "not previously been major players in NRC" led

drills meant to simulate the government's response to a power plant accident, Walker says.

Confusion Amongst Agencies

Attempts by EPA and NRC officials to answer requests for comment on the issue also highlight confusion within EPA and amongst the agencies over who is responsible for overseeing cleanup. An NRC spokesman told *Inside EPA* that the "best information" he had was "that EPA would oversee cleanup, based on that agency's" PAGs, which the agency has yet to complete due to the controversy they have generated.

But when EPA spokeswoman Latisha Pettaway was asked to confirm that EPA would in fact take the lead on such a cleanup and to explain what legal authorities the agency would use, Randy Deitz, a liaison between EPA's waste and government affairs offices, called the inquiry "an odd-ball request" that "does not fit well with any particular office. . . Why doesn't [*Inside EPA*] ask NRC?" Deitz asked. "They regulate the cleanup of NRC regulated facilities. We don't get involved at all."

Jeff Maurer of EPA's Innovation, Partnerships and Communication Office (IPCO) sent Pettaway a similar e-mail about the request for comment, calling it "an inquiry that will not be able to be responded to in a clear cut fashion. . . . This will take awhile," Maurer said.

Asked by Maurer to provide information on whether EPA would apply Superfund or other standards if it was cleaning up after a nuclear power plant incident, Walker explained that EPA has never "spelled this out anywhere" and that final cleanup levels have not "been discussed by the FEMA, NRC, EPA workgroup looking at Price Anderson Act issues. . . . So I don't have a clear answer." Walker did express his personal opinion that EPA should not endorse cleanup standards less stringent than Superfund -- such as NRC's power plant decommissioning standards that allow exposure to radiation as high as 25 and 100 millirems -- however. In other e-mails, Walker expressed concerns that, during the development of the draft PAG, NRC officials suggested cleanup standards as lax as 10,000 millirem, which activists argue equates to a cancer risk of one in three people.

In her response to *Inside EPA*, Pettaway did not include any of this information or acknowledge that the three agencies were actively studying the issue, however. Pettaway said only that questions regarding whether and how EPA would cleanup after a nuclear power plant incident were "based on hypothetical situations/scenarios" and that EPA could not "give an assessment on something that [was] hypothetical."

A FEMA spokeswoman deferred a request for comment to EPA. The White House did not respond to a request for comment. -- *Douglas P. Guarino*

Mary Lampert

From: Mary Lampert [mary.lampert@comcast.net]
Sent: Wednesday, December 01, 2010 9:27 AM
To: 'Andrea Jones'; Ann Young(NRC); Brian Newell; David Lewis; Harris, Brian; 'heaingdocket'; 'Jason Parker'; Katie Tucker (NRC) (katie.tucker@nrc.gov); Kevin Nord; Lisa Regner (NRC PNPS) (Lisa.Regner@nrc.gov); Mark Stankiewicz (Plymouth) (MStankiewicz@townhall.plymouth.ma.us); Matthew Brock; OCAAMail NRC; Paul Abramson (Paul.Abramson@nrc.gov); paul.gaukler@Pillsburylaw.com; Richard Cole; Richard MacDonald; Sheila Hollis(PlyAttorney); Susan Uttal; 'Terence Burke'
Cc: Emile Julian
Subject: Pilgrim Watch Request for Hearing on a New Contention, Certificate of Service and discussion regarding (2) attachments
Attachments: Pilgrim Watch Request For Hearing on a New Contention 11.29.pdf; Certificate Service Motion PW Request for Hearing on New Contention 11.29.10.doc

Hello:

On Monday, November 29, 2010, I emailed to the service list *Pilgrim Watch Request for Hearing on a New Contention*, Certificate of Service and (2) attachments (Inside EPA FOIAs - part 1 and part 2).

The System Administrator indicated that they were "Undeliverable." I tried sending the attachments one at a time but with no success.

I was out of town for two days and upon returning home learned that the problem was with my system – limited to 10 MB whereas Inside EPA Part 1 is 15.6 MB and EPA Part 2 19.7 MB. Unfortunately, it will take a few days to upgrade my system.

I propose a potential alternative- The Motion (Pilgrim Watch Request for Hearing on a New Contention) on page 5, footnote No. 2, has a live hyper-link to the attachments. The link is pasted again for your convenience. The hyperlinks are located in the EPA article on paragraph 2 – identified as "Part 1" and "Part 2."

<http://environmentalnewsstand.com/Environmental-NewsStand-General/Public-Content/agencies-struggle-to-craft-offsite-cleanup-plan-for-nuclear-power-accidents/menu-id-608.html>

If you would like a paper copy by mail, please contact me. The total number of pages is about 140; it would run to a considerable expense (out of my pocket) to copy and mail; however, I am certainly most happy to comply with your wishes.

The Hearing Docket will receive paper copies of the attachments, naturally.

I apologize for the inconvenience. I did not appreciate the MB limit on my email system.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

Docket # 50-293-LR

Entergy Corporation

Pilgrim Nuclear Power Station

License Renewal Application

November 29, 2010

CERTIFICATE OF SERVICE

I hereby certify that *Pilgrim Watch Request for Hearing on a New Contention* was served November 29, 2010 in the above captioned proceeding to the following persons by electronic mail this date, followed by deposit of paper copies in the U.S. mail, first class.

Secretary of the Commission
Attn: Rulemakings and Adjudications
Staff
Mail Stop 0-16 C1
United States Nuclear Regulatory
Commission [2 copies]

Administrative Judge
Richard F. Cole
Atomic Safety and Licensing Board
Mail Stop –T-3-F23
US NRC
Washington, DC 20555-0001

Administrative Judge
Ann Marshall Young, Chair
Atomic Safety and Licensing Board
Mail Stop – T-3 F23
US NRC
Washington, DC 20555-0001

Office of Commission Appellate
Adjudication
Mail Stop 0-16 C1
United States Nuclear Regulatory
Commission
Washington, DC 20555-0001

Administrative Judge
Paul B. Abramson
Atomic Safety and Licensing Board
Mail Stop T-3 F23
US NRC
Washington, DC 20555-0001

Atomic Safety and Licensing Board
Mail Stop T-3 F23
United States Nuclear Regulatory
Commission
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of Commission Appellate
Adjudication
Mail Stop: 0-16C1
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of General Counsel
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Washington DC 20555-0001
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Andrea Jones, Esq.
Brian Harris, Esq.
Michael Dreher, Esq.
Brian Newell, Paralegal

U.S. Nuclear Regulatory Commission
Office of Nuclear Reactor Regulation
Mail Stop: 011-F1
Washington, DC 20555-0001

Lisa Regner, Project Mgr. Plant Lic.
Branch 1-1, Operator Reactor Licensing
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Town of Duxbury
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P.O. Box 2824
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Law Clerk, Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
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Rockville, MD 20852



Mary Lampert
Pilgrim Watch, pro se
148 Washington St.
Duxbury, MA 02332
November 29, 2010

Agencies Struggle To Craft Offsite Cleanup Plan For Nuclear Power Accidents Monday, November 22, 2010

EPA, the Nuclear Regulatory Commission (NRC) and the Federal Emergency Management Agency (FEMA) are struggling to determine which agency -- and with what money and legal authority -- would oversee cleanup in the event of a large-scale accident at a nuclear power plant that disperses radiation off the reactor site and into the surrounding area.

The effort, which the agencies have not acknowledged publicly, was sparked when NRC recently informed the other agencies that it does not plan to take the lead in overseeing such a cleanup and that money in an industry-funded insurance account for nuclear accidents would likely not be available, according to documents obtained by *Inside EPA* ([Part 1](#) and [Part 2](#)) under the Freedom of Information Act (FOIA).

Environmentalists concerned with nuclear safety and cleanup issues say indications in the FOIA documents that the government has no long-term cleanup plan in the event of an emergency casts doubt on the nuclear power industry's ongoing efforts to revive itself. The industry currently has 22 applications to build new nuclear power plants pending before NRC and is marketing itself as a source of carbon-free emissions.

"This is a revelation that should call into question efforts to revive the industry," one environmentalist says. "Certainly there should be no new [power plant] construction if this issue can't be resolved." The activist adds that the lack of a cleanup plan is "pretty ironic because nuclear energy is not a new technology or issue. The first nuclear reactor was built in 1942 -- that's 68 years ago."

A spokesman for the Nuclear Energy Institute (NEI), which represents the nuclear power industry, says officials believe such cleanups would be handled by the insurance fund despite assertions in the documents to the contrary. The NEI spokesman also downplays the likelihood of such a cleanup being necessary, saying accidents are "highly unlikely to occur."

Staff for the three agencies began meeting to discuss the issue last year, when NRC officials indicated to the other agencies that they do not, as some federal officials had previously assumed, plan on leading cleanup oversight in the event an accident at a nuclear power plant dispersed radioactive contamination off the reactor site and into the surrounding area. NRC suggested EPA would be the appropriate agency to lead such an effort, according to the documents. While NRC and FEMA require nuclear plants to have emergency response plans, it is not clear these plans extend beyond the initial aftermath of an accident or apply to radiation dispersed over large areas, the documents say.

However, the NRC officials also indicated during the meetings that the industry-funded account established under the Price Anderson Act -- which Congress passed in 1957 in an effort to limit the industry's liability -- would likely not be available to pay for such a cleanup. The account likely could only be used to provide compensation for damages incurred as the result of an accident, such as hotel stays, lost wages and property

replacement costs, the documents show, leaving federal officials unsure where the money to pay for a cleanup would come from.

This summer, EPA staff began drafting a white paper on the issue in preparation for emergency drills the agencies were planning for August that documents say were expected to involve high-level administration officials, including either President Obama or Vice President Biden.

Disagreements Over EPA Authority

The white paper was never completed amid disagreements between EPA staff over what authority the agency may or may not have to clean up after a power plant accident.

A July 27 draft of the white paper cites Superfund as a possible source of cleanup funding -- either through EPA's appropriation-driven Superfund trust fund or the agency's authority to sue parties responsible for contamination under Superfund law. But EPA staff disagree on whether Superfund is applicable to cleanup after a nuclear power plant accident, calling into question its viability as both a source of funding and cleanup authority.

Some EPA staffers argue that "special nuclear material from a nuclear incident" is exempt from the types of toxic releases governed by Superfund, according to the documents. Others suggest that such material is typically commingled with chemicals and other radioactive materials that are covered by the law, meaning EPA would be able to assert its Superfund authority to conduct a cleanup.

In internal e-mails, EPA staff provide examples of instances where the agency has been involved with cleanups at nuclear power plant sites due to the sites being contaminated with chemicals. For example, Mary Ballew, of EPA Region I, on Aug. 18 forwarded examples of EPA involvement with power plant decommissioning due to chemical contamination to Stuart Walker, of EPA's Office of Superfund Remediation and Technology Innovation (OSRTI). Ballew offered to talk to any lawyers in EPA headquarters "that say that the nuke plants don't have chemicals."

According to the information Ballew provided, Region I has been involved with decommissioning at three nuclear power plants -- Maine Yankee, Connecticut Yankee and Yankee Rowe, MA -- and all three required cleanups under the Resource Conservation & Recovery Act (RCRA) due to chemical contamination.

But Jean Schumann, a lawyer in EPA's Office of Emergency Management (OEM), criticizes suggestions that the presence of chemical contaminants gives the agency the authority to clean up after a nuclear power plant incident. In one Aug. 5 e-mail, Schumann argues it is uncertain whether Superfund law gives EPA such authority when radioactive substances from the accident are commingled with other contaminants. "I think there is enough uncertainty still on what the 'release' exclusion means that we're better off staying at a higher level of detail" in the draft white paper, she writes.

But the ability of other laws to provide funding and authority for cleanup are also severely limited, the draft white paper says. The government's emergency response

authorities under the Stafford Act, for instance, expire 60 days after an incident, the draft document notes. A Presidential declaration of an emergency "leads to rather limited financial assistance being made available through FEMA" and a "potentially more useful Presidential declaration of a major disaster" appears limited to "natural events," the document says.

Determining Cleanup Standards

Whether EPA can assert its Superfund authorities over a cleanup after a nuclear power plant accident is significant not just from the standpoint of securing funding for the cleanup, but also in determining what cleanup standards would apply to the situation, Walker, of OSRTI, writes in a June 11 e-mail to Elizabeth Southerland, director of OSRTI's assessment and remediation division.

Walker tells Southerland that if EPA appears to be endorsing non-Superfund cleanup approaches in discussions with the other agencies, policy concerns similar to those surrounding EPA's controversial draft guide for responding to all nuclear emergencies -- known as the protective action guidance (PAG) for radiological incidents -- would arise. With the PAG, officials in EPA's Superfund, water and legal offices raised concerns that the document could set a negative precedent weakening the agency's cleanup and drinking water standards because it included guidelines dramatically less stringent than traditional EPA regulations.

The BP oil spill in the Gulf of Mexico, which prompted some Republicans in Congress to suggest the Price Anderson Act be used as model for oil cleanups, also highlights the significance of the issue, Walker argues.

"Given the current circumstances dealing with the Gulf [oil] spill (e.g., questions about who is in charge, is the federal government in control, etc) not inhibiting our flexibility under [Superfund] is a key issue," Walker adds. "Although possibly not the first choice to take a response action during a [nuclear power plant] incident, EPA should not agree to language that appears to be a legal interpretation that inhibits [the Superfund] option."

In addition, despite the expectations of the other federal agencies that EPA "would be heavily involved in the environmental response work, possibly as the lead technical agency," EPA cleanup officials have "not previously been major players in NRC" led drills meant to simulate the government's response to a power plant accident, Walker says.

Confusion Amongst Agencies

Attempts by EPA and NRC officials to answer requests for comment on the issue also highlight confusion within EPA and amongst the agencies over who is responsible for overseeing cleanup. An NRC spokesman told *Inside EPA* that the "best information" he had was "that EPA would oversee cleanup, based on that agency's" PAGs, which the agency has yet to complete due to the controversy they have generated.

But when EPA spokeswoman Latisha Pettaway was asked to confirm that EPA would in fact take the lead on such a cleanup and to explain what legal authorities the agency would use, Randy Deitz, a liaison between EPA's waste and government affairs offices,

called the inquiry "an odd-ball request" that "does not fit well with any particular office. . . Why doesn't [*Inside EPA*] ask NRC?" Deitz asked. "They regulate the cleanup of NRC regulated facilities. We don't get involved at all."

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A FEMA spokeswoman deferred a request for comment to EPA. The White House did not respond to a request for comment. -- *Douglas P. Guarino*

2. Capabilities and Resources

- a The NRC has trained personnel who can assess the nature and extent of the radiological emergency and its potential offsite effects on public health and safety and provide advice, when requested, to the State and local agencies with jurisdiction based on this assessment.
- b The NRC can assess the facility operator's recommendations and, if needed, develop Federal recommendations on protective actions for State and local governments with jurisdiction that consider, as required, all substantive views of other Federal agencies.
- c The NRC has a system of thermoluminescent dosimeters (TLD) established around every commercial nuclear power reactor in the country. The NRC can retrieve and exchange these TLDs promptly and obtain immediate readings onscene.

Jean Schumann
Office of Emergency Management
U.S. Environmental Protection Agency
Phone: (202) 564-1977
schumann.jean@epa.gov

Kathryn Snead

To all: Please find attached a draft white paper o...

07/27/2010 03:51:39 PM



Re: Fw: Upcoming political level (AA, Administrator, maybe Obama/Biden) exercises emergency and late phase cleanup exercises on Nuclear Power Plant Incident

Stuart Walker to: Charles Openchowski

08/05/2010 05:31 PM

No idea. I only know what was in the email FEMA sent around.

Charles Openchowski Stuart, do you know if the dates below are sti... 08/05/2010 05:13:28 PM

From: Charles Openchowski/DC/USEPA/US
 To: Stuart Walker/DC/USEPA/US@EPA
 Date: 08/05/2010 05:13 PM
 Subject: Re: Fw: Upcoming political level (AA, Administrator, maybe Obama/Biden) exercises emergency and late phase cleanup exercises on Nuclear Power Plant Incident

Stuart, do you know if the dates below are still accurate? Scott heard that this is going to happen in September -- thanks

Stuart Walker tyj --- Forwarded by Stuart Walker/DC/USEPA/ 07/30/2010 07:14:13 PM

--- Forwarded by Stuart Walker/DC/USEPA/US on 07/30/2010 06:04 PM ---

From: "Greten, Timothy" <Timothy.Greten@dhs.gov>
 To: Kathryn Sneed/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, "Simmons, Anneliese" <Anneliese.Simmons@nrc.gov>, "DeFelice, Anthony" <anthony.defelice@dhs.gov>, Charles Openchowski/DC/USEPA/US@EPA, "Donley, Diane" <diane.donley@dhs.gov>, "Kim, Grace" <Grace.Kim@nrc.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, Jeffrey Blizzard/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, "Blunt, Kenyetta" <kenyetta.blunt@dhs.gov>, Lee Tyner/DC/USEPA/US@EPA, "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, Sara DeCair/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>
 Cc: "Kish, James" <James.Kish@dhs.gov>, "Eberst, William" <William.Eberst@dhs.gov>, "Wierman, Kenneth" <kenneth.wierman@dhs.gov>
 Date: 07/08/2010 04:26 PM
 Subject: RE: Draft White Paper on Offsite Cleanup Funding following a Nuclear Power Plant Incident

Good afternoon!

Attached are the minutes from the last planning meeting from the exercise. The SOE exercise (dress rehearsal w/assistant secretary level folks) is scheduled for August 6th, and the PLE exercise is scheduled for August 18th.

Object #2 for the exercise talks about \$\$ issues. I think the major fault line will be who pays for what (and what is property damage vice environmental cleanup), along with who CAN'T pay for what (i.e. by law, Superfund cannot cover most expenses associated with this kind of incident). I think they will also get into how funds are distributed.

Assuming this white paper is a long-term product (and will be informed by the exercise), I'd suggest assembling a small package of the documents we've gathered (excerpt from the 1991 Presidential commission, the 1996 NRC document on what Price-Anderson covers vs. the Stafford Act, etc) for the planners. A list of unresolved issues might be

useful, too -- if nothing else, it will make the principles acutely aware of legal/policy limitations.

Thanks!

Tim

-----Original Message-----

From: Snead.Kathryn@epamail.epa.gov
[mailto:Snead.Kathryn@epamail.epa.gov]
Sent: Thursday, July 08, 2010 4:13 PM
To: Schumann.Jean@epamail.epa.gov; Simmons, Anneliese; DeFelice, Anthony; openchowski.charles@epamail.epa.gov; diane.donley@dhs.gov; Kim, Grace; Benowitz, Howard; Blizzard.Jeffrey@epamail.epa.gov; Mosser.Jennifer@epamail.epa.gov; Blunt, Kenyetta; tyner.lee@epamail.epa.gov; Milligan, Patricia; DeCair.Sara@epamail.epa.gov; Walker.Stuart@epamail.epa.gov; Stahle.Susan@epamail.epa.gov; Gréten, Timothy
Subject: Draft White Paper on Offsite Cleanup following a Nuclear Power Plant Incident

To all,

To follow up on one of its action items from the last EPA-FEMA-NRC meeting on nuclear power plant recovery, EPA asked one of its Program Assistants, Jeff Blizzard, to work on a draft white paper on offsite cleanup following a nuclear power plant incident. It is our hope to have a preliminary draft available next week for comment. Ultimately, we'd like to have some sort of non-final working draft ready for the August Nuclear Power Plant Incident exercise; however, we'll see how feasible this is given the short deadline.

If you have any additional references or sources you would recommend for Jeff to use in putting together this White Paper, please send them on. Jeff's contact info. is blizzard.jeffrey@epa.gov or 202-343-9470.
Thanks.

Kathryn K. Snead
Center for Radiological Emergency Management
Office of Radiation and Indoor Air
Environmental Protection Agency
Mail Code: 6608J
1200 Pennsylvania Avenue NW
Washington, D.C. 20460-1000
202-343-9228



Re: Upcoming political level (AA, Administrator, maybe Obama/Biden) exercises emergency and late phase cleanup exercises on Nuclear Power Plant Incident

Stuart Walker to: Charles Openchowski

08/02/2010 08:04 PM

Principal Level Exercise for Agency Heads

Charles Openchowski thanks so much, Stuart, what is PLE?? 08/02/2010 10:32:34 AM

From: Charles Openchowski/DC/USEPA/US
 To: Stuart Walker/DC/USEPA/US@EPA
 Date: 08/02/2010 10:32 AM
 Subject: Re: Upcoming political level (AA, Administrator, maybe Obama/Biden) exercises emergency and late phase cleanup exercises on Nuclear Power Plant Incident

thanks so much, Stuart, what is PLE??

Stuart Walker Charles, here is the paper which describes the u... 07/30/2010 06:54:50 PM

From: Stuart Walker/DC/USEPA/US
 To: Charles Openchowski/DC/USEPA/US@EPA
 Date: 07/30/2010 06:54 PM
 Subject: Upcoming political level (AA, Administrator, maybe Obama/Biden) exercises emergency and late phase cleanup exercises on Nuclear Power Plant Incident

Charles, here is the paper which describes the upcoming AA and agency head/President level exercises on responding to Nuclear Power Plant exercises

[attachment "SOE 3-10 IPC Minutes - 070710.doc" deleted by Charles Openchowski/DC/USEPA/US]

The file is password protected, when prompted enter this password -- SOEprogram

I also converted the DHS Wordfile into a pdf file, and yellow highlighted some of the text that relates to the concerns we have been discussing regarding authorities available under CERCLA

[attachment "SOE 3-10 IPC Minutes - 070710.pdf" deleted by Charles Openchowski/DC/USEPA/US]

Below I have copied excerpts from the paper that I believe are probably of particular interest for you.

Dr. Holtermann continued by stating that the activity will consist of two exercises: an Assistant Secretary-level tabletop exercise (AS TTX) and a PLE. As with SOE 2-10, State and local (and possibly private sector) officials will be invited to participate in the AS TTX, and possibly, the PLE. The AS TTX will be much more expansive and will look at issues such as authorities,

boundaries, and tools to be used when making decisions. The PLE will be much more restrictive in terms of content and will include a limited number of attendees—similar to PLE 1-10—and may include participation by the President and Vice President of the United States and be facilitated by the Assistant to the President for Homeland Security and Counterterrorism.

Gottfried stated that based on discussions with FEMA and NNS, there is a great opportunity with this exercise to test the lessons learned from the Deepwater Horizon oil spill, such as the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The AS TTX and the PLE, he noted, should focus on preparedness, response, and recovery while also utilizing the National Response Framework (NRF).

SOE 3-10 Draft Objectives

The facilitator reviewed the draft objectives, which were as follows:

1. *Examine Federal, State, local, tribal, and private sector authorities, roles, responsibilities, and capabilities relevant for mitigating, responding to, and recovering from an incident at a domestic nuclear power plant.*
2. *Identify responsible parties and funding streams for mitigating, responding to, and recovering from a nuclear power plant incident.*
3. *Examine senior leader public information requirements, procedures, and strategies.*
4. *Identify necessary technical tools for managing the incident.*

A representative from the Environmental Protection Agency (EPA) asked if the scenario will focus mainly on off-site events. The facilitator responded that the exercise will test both on-site and off-site events but that more emphasis will be placed on off-site issues.

A representative asked if the scenario will be testing other hazards besides radiation. An NRC planner responded that the scenario will only be a radiation event.

An NRC planner stated that a lot of scenarios regarding nuclear power plants have already been tested. In fact, each state is required to develop emergency preparedness plans in order to gain a license. One aspect that has not been thoroughly exercised, however, is that of the legal construct of what happens to people after the fact—long-term response issues such as contaminated farms, etc. These types of issues have never been worked through in a practical way.

Dr. Steve Landry, SOE Support Team, reviewed the draft scenario. Dr. Landry explained that the intent of the scenario is to have significant damage that exceeds the cap of the \$10 billion Price-Anderson Act (PAA). Additionally, the location chosen for the scenario event should be neither "worst case" nor "best case," but somewhere in the middle.

An NRC representative stated that the PAA actually has a \$12 billion cap, but that it is not really the issue. The PAA is an insurance policy for displaced persons damage in the event of a nuclear power plant incident. Once the \$12 billion has been exceeded, the U.S. Treasury will cover costs for displaced people. However, the insurance funds are not used to cover cleanup costs associated with the incident. The NRC representative also noted that each licensee is insured for over \$300 million. Whether or not DAs could recover the costs allocated towards the cleanup is an open question and would be decided by the courts, but PAA is designed to support the people affected by the accident.

InsideEPA

Forwarded by Stuart Walker/DC/USEPA/US on 07/30/2010 06:04 PM

From: "Greten, Timothy" <Timothy.Greten@dhs.gov>
To: Kathryn Snead/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, "Simmons, Anneliese" <Anneliese.Simmons@nrc.gov>, "DeFelice, Anthony" <anthony.defelice@dhs.gov>, Charles Openchowski/DC/USEPA/US@EPA, "Donley, Diane" <diane.donley@dhs.gov>, "Kim, Grace" <Grace.Kim@nrc.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, Jeffrey Blizzard/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, "Blunt, Kenyetta" <kenyetta.blunt@dhs.gov>, Lee Tyner/DC/USEPA/US@EPA, "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, Sara DeCair/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>
Cc: "Kish, James" <James.Kish@dhs.gov>, "Eberst, William" <William.Eberst@dhs.gov>, "Wierman, Kenneth" <kenneth.wierman@dhs.gov>
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Sent: Thursday, July 08, 2010 4:13 PM
To: Schumann.Jean@epamail.epa.gov; Simmons, Anneliese, DeFelice,
Anthony; openchowski.charles@epamail.epa.gov; diane.donley@dhs.gov; Kim,
Grace; Benowitz, Howard; Blizzard.Jeffrey@epamail.epa.gov;
Mosser.Jennifer@epamail.epa.gov; Blunt, Kenyetta;
tyner.lee@epamail.epa.gov; Milligan, Patricia;
DeCair.Sara@epamail.epa.gov; Walker.Stuart@epamail.epa.gov;
Stahle.Susan@epamail.epa.gov; Greten, Timothy
Subject: Draft White Paper on Offsite Cleanup following a Nuclear Power
Plant Incident

To all,

To follow up on one of its action items from the last EPA-FEMA-NRC meeting on nuclear power plant recovery, EPA asked one of its Program Assistants, Jeff Blizzard, to work on a draft white paper on offsite cleanup following a nuclear power plant incident. It is our hope to have a preliminary draft available next week for comment. Ultimately, we'd like to have some sort of non-final working draft ready for the August Nuclear Power Plant Incident exercise; however, we'll see how feasible this is given the short deadline.

If you have any additional references or sources you would recommend for Jeff to use in putting together this White Paper, please send them on. Jeff's contact info. is blizzard.jeffrey@epa.gov or 202-343-9470.
Thanks.

Kathryn K. Snead
Center for Radiological Emergency Management
Office of Radiation and Indoor Air
Environmental Protection Agency
Mail Code: 6608J
1200 Pennsylvania Avenue NW
Washington, D.C. 20460-1000
202-343-9228



Fw: White Paper on Off-Site Cleanup Following a Nuclear Power Plant Incident

Stuart Walker to: Elizabeth Southerland, Helen Dawson
Bcc: Charles Openchowski

07/30/2010 07:14 PM

fyi, this is our comments on a staff paper ORIA was developing in support of the exercise. OEM and ORIA staff still seem to be trying to interpret CERCLA authority in a more limited manner than we have. Charles has discussed this with his management.

— Forwarded by Stuart Walker/DC/USEPA/US on 07/30/2010 07:07 PM —

From: Stuart Walker/DC/USEPA/US
To: Kathryn Snead/DC/USEPA/US@EPA
Cc: Charles Openchowski/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Jeffrey Blizzard/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Lee Veal/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA
Date: 07/28/2010 05:37 PM
Subject: Re: White Paper on Off-Site Cleanup Following a Nuclear Power Plant Incident

Hi Kathryn,

I made some redline/strikeout suggested changes that I ran by Charles. Please see attached our comments.



epafemanrcwhitepaper072710_stuart.doc

Kathryn Snead

To all, Please find attached a draft white paper o...

07/27/2010 03:51:39 PM

From: Kathryn Snead/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA
Cc: Lee Veal/DC/USEPA/US@EPA, Jeffrey Blizzard/DC/USEPA/US@EPA
Date: 07/27/2010 03:51 PM
Subject: White Paper on Off-Site Cleanup Following a Nuclear Power Plant Incident

To all,

Please find attached a draft white paper on Off-Site Cleanup Following a Nuclear Power Plant Incident, developed by Jeff Blizzard of my office. Jeff and I would like some initial feedback on this white paper, to see if it covers the right issues and concerns:

I know many of you are deeply embroiled in the Gulf Oil Spill (I've spent many days chatting with Lee down at the EOC!) so I recognize that getting feedback may be challenging at this time. However, we also have a Senior Officials Exercise and a Principals Level Exercise coming up on a nuclear power plant incident in August and September, so it may be worth taking a look at this fairly soon. If possible, try to get comments back to Jeff and me by **August 6, 2010**, so he has time to make changes and share this with NRC and FEMA in advance of the exercises. If you're too busy, just let us know when you'll have time to look at this.

[attachment "epafemanrcwhitepaper072710.doc" deleted by Stuart Walker/DC/USEPA/US]

As always, thanks for your help and expertise. Let either Jeff or me know if you have any questions.

Kathryn K. Snead

Center for Radiological Emergency Management
Office of Radiation and Indoor Air
Environmental Protection Agency
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1200 Pennsylvania Avenue NW
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202-343-9228

Obtained by
InsideEPA.com

**NRC-FEMA-EPA White Paper:
Potential Authorities and/or Funding Sources for Off-site Cleanup Following a
Nuclear Power Plant Incident**

Background:

- The Environmental Protection Agency (EPA), the Nuclear Regulatory Commission (NRC), and the Federal Emergency Management Agency (FEMA) began a series of quarterly meetings in 2009 to discuss unresolved concerns regarding off-site environmental cleanup following a nuclear power plant incident. Deleted: an
- NRC recently indicated to FEMA that they would not be taking the lead for off-site environmental cleanup after a nuclear power plant incident. NRC suggested EPA would be the appropriate agency to lead such efforts. Formatted: Bullets and Numbering
- NRC also indicated the Price Anderson Act would be unable to pay for environmental cleanup after a nuclear power plant incident, only for compensation for damages incurred (e.g., hotel stays, replacement costs for property and personnel items, lost wages, etc). Deleted: the
- FEMA convened a workgroup to discuss the following issues related to nuclear power plant incidents: potential Agency roles (e.g., who would lead cleanup efforts); cleanup authorities; and fund sources.
- Evaluation of language from the *Price-Anderson Act*, the *Stafford Act*, and EPA's previous policies and expectation that the *CERCLA* (Comprehensive Environmental Response, Compensation, and Liability Act) would generally not be used for response actions to address releases from NRC-licensed sites including nuclear power plants, may indicate a potential gap in authority to perform or oversee and fund off-site cleanup following a nuclear power plant incident, depending on the circumstances of the incident and the subsequent declarations of the federal government. Deleted: CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act), and
- The Report to Congress from the Presidential Commission on Catastrophic Nuclear Accidents (See Attachment D)¹: outlines a number of concerns regarding nuclear power plant incidents. The report covers the sourcing of funds under a "Major Disaster," a "Catastrophe," and how to prepare and respond to a "catastrophic disaster."
 - Current plans do not cover "long-duration accidents that have impacts over large land areas".
 - The authority of the Court to award damages does not extend to executive branch powers.
- The following are questions and concerns are unresolved:

¹ "Report to the Congress from the Presidential Commission on Catastrophic Nuclear Accident." State of Nevada, n.d. Web. 1 Jul 2010.

- Under what authority will off-site cleanup following a nuclear power plant be conducted?
- What is the funding source for off-site cleanup following a nuclear power plant incident?

Objective:

- Provide current understanding on potential authorities and sources of funding for off-site cleanup following a nuclear power plant incident.

obtained from
InsideEPA.com

Potential Cleanup Authority and/or Funding Source #1: *Price-Anderson Act*

- Examples of Potential Circumstances Where It May Be Appropriate to Use the *Price-Anderson Act*: In addition to an accident, the nuclear power plant incident may be the result of: theft or sabotage; the transportation of nuclear fuel to a reactor site; or the storage of nuclear fuel at a reactor site.
- Possible Actions under the *Price-Anderson Act*:
 - Provide financial assistance to utilities operating nuclear power plants that have experienced an incident.
 - For individuals who have suffered damages:
 - Those who suffered bodily harm, sickness, or disease will receive financial assistance.
 - Evacuees receive property damage and loss expenses as well as living expenses.
 - Local and State governments can receive financial assistance to assist with evacuations, sheltering, and other immediate response activities.
- Funding Source for the *Price-Anderson Act*²:
 - Under the *Price-Anderson Act*, American Nuclear Insurers (ANI) provides nuclear power plants with financial assurance by creating insurance funding pools under both a primary and a secondary insurance policy.
 - **Primary Insurance Policy**: Each year, a premium is paid by utilities that operate nuclear power plants – this premium provides offsite private insurance of \$300 million.
 - **Secondary Insurance Policy**: If an incident exceeds the \$300 million, each reactor would pay a prorated share of up to \$95.8 million. This secondary pool contains approximately \$8.6 billion.
- Potential Gap in Covering Off-site Cleanup under the *Price-Anderson Act*:
 - These funding pools can only be accessed by a federal agency if the federal agency itself has property that has suffered damages during an incident.
 - ANI does not cover environmental cleanup costs under their primary insurance policy. While not explicitly stated, there is no expectation that the secondary insurance policy will differ in coverage from the primary insurance policy.

² "U.S. NRC Office of Public Affairs." *Fact Sheet: Nuclear Insurance and Disaster Relief Funds*. Nuclear Regulatory Council, February 2008.

Potential Cleanup Authority and/or Funding Source # 2: CERCLA

- Examples of Potential Circumstances Where It May Be Appropriate to Use CERCLA:
 EPA has a policy for regions to consult with Headquarters before taking CERCLA response actions to address NRC-licensed facilities. For further information see page 8 of "Interim Final Evaluation of Facilities Currently or Previously Licensed NRC Sites under CERCLA" at <http://www.epa.gov/superfund/health/contaminants/radiation/pdfs/nrc.pdf> and pages 7-8 of "Distribution of Memorandum of Understanding between EPA and the Nuclear Regulatory Commission" at <http://www.epa.gov/superfund/health/contaminants/radiation/pdfs/transmou2fin.pdf>.

Deleted: The nuclear power plant incident may include substances that are not excluded from CERCLA (e.g., Polychlorinated Biphenyls (PCBs) from transformers, or commingled material (known to include at least some non-excluded substances)).

Field Code Changed

Field Code Changed

Field Code Changed

- Possible Actions under CERCLA:
 - CERCLA investigative authorities may be used to determine the nature and scope of the release during the early phase of the incident.
 - CERCLA response authorities may be utilized for off-site cleanup on privately- and publicly-owned property.
- Funding Source for CERCLA:
 - CERCLA trust funds, or funding provided by a Potentially Responsible Party (PRP).

obtained by
 InsideEPA.com

- Potential Gap in Covering Off-site Cleanup under CERCLA:
 - The definition of "release" under CERCLA excludes "source, byproduct, or special nuclear material from a nuclear incident" (See Attachment A) under certain conditions as set forth in the statute. If the nuclear power plant incident meets those conditions (and there is no commingling of other substances such as chemicals or even radionuclides from a previous release), then CERCLA may not be the most appropriate authority for this situation.

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Deleted: applicable for paying for compensation for damages caused by the nuclear incident

Deleted: to the release or a portion of the release. During the early phase of an incident, EPA On-Scene Coordinators will perform a CERCLA investigation to determine what portion of the release, if any, is excluded from CERCLA.

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Attachment D
Report to the Congress
Presidential Commission on Catastrophic Nuclear Accidents
Section II & Section III – Commission Assumptions & Observations

This attachment is a report given to Congress by the Presidential Commission on Catastrophic Nuclear Accidents. It provides insight and guidance to important funding and assistance questions during a recovery phase. The report states (boldtype added for emphasis):

II. Commission Assumptions:

B. Source of funds

"As noted earlier, the commitment to provide additional funds if the ceiling on liability is exceeded has been a fundamental premise of Price-Anderson since its enactment. A decision as to the source of funds beyond the amount of aggregate public liability currently provided for in the Act will have to be made by Congress if it is ever called upon to discharge this commitment. The task of the Commission did not include the identification of sources of funds. Indeed, there is no special expertise in the Commission membership to address this essentially political question. The Commission simply notes that it has not come upon any new source of funds not already considered in the Congressional deliberations related to the last extension of the Act."

III. Observations

"While Radiological Emergency Response Plans are prepared for every nuclear power station in accordance with requirements of the Federal Emergency Management Agency (FEMA) and the NRC, it is not clear that these plans extend to long-duration accidents that have impacts over large land areas or involve large populations. The Commission was not able to draw any conclusions, based on the testimony it received, as to how large numbers of citizens could be sheltered over an extended period of time or permanently relocated. Even large natural disasters in the United States offer little help in postulating a response in the United States equivalent to the need at Chernobyl of evacuating over 135,000 people, most of them permanently. And no planning for such a possibility was brought to the Commission's attention."

"While an accident at a nuclear power plant would initiate the response of the utility, state and local government, federal government, volunteer organizations, and insurance groups, it is not at all clear what organization would be in charge of prolonged, extensive evacuations, and of restoration of governmental infrastructures and overwhelmed state and local response capabilities that might follow a large nuclear accident. While the court would take charge of the payment of claims, its authority to act could not extend to executive branch powers. The Presidential declaration of an emergency leads to rather limited financial assistance being made available through FEMA, and the FEMA representative who addressed the Commission believed the potentially more useful Presidential declaration of a major disaster was limited to natural events."

Pilgrim Watch Request for Hearing on a New Contention, November 29, 2010, EPA Part 2, attachment

<http://environmentalnewsstand.com/Environmental-NewsStand-General/Public-Content/agencies-struggle-to-craft-offsite-cleanup-plan-for-nuclear-power-accidents/menu-id-608.html>



Re: Fw: White Paper on Off-Site Cleanup Following a Nuclear Power Plant Incident

Stuart Walker to: Charles Openchowski

07/28/2010 12:22 AM

I took a quick stab at a rewrite. Take a look and lets discuss.



epafemanrcwhitepaper072710_stuart.doc

Charles Openchowski

page 3 needs major work

Forwarded

07/27/2010 04:38:38 PM

From: Charles Openchowski/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA
Date: 07/27/2010 04:38 PM
Subject: Fw: White Paper on Off-Site Cleanup Following a Nuclear Power Plant Incident

page 3 needs major work

Forwarded by Charles Openchowski/DC/USEPA/US on 07/27/2010 04:38 PM

From: Kathryn Snead/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA
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Subject: White Paper on Off-Site Cleanup Following a Nuclear Power Plant Incident

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Kathryn K. Snead
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obtained by
InsideEPA.com

Potential Cleanup Authority and/or Funding Source # 1: *Price-Anderson Act*

- Examples of Potential Circumstances Where It May Be Appropriate to Use the *Price-Anderson Act*: In addition to an accident, the nuclear power plant incident may be the result of theft or sabotage; the transportation of nuclear fuel to a reactor site; or the storage of nuclear fuel at a reactor site.
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² "U.S. NRC Office of Public Affairs." *Fact Sheet: Nuclear Insurance and Disaster Relief Funds*. Nuclear Regulatory Council, February 2008.

Potential Cleanup Authority and/or Funding Source # 2: CERCLA

- Examples of Potential Circumstances Where It May Be Appropriate to Use CERCLA:
EPA has a policy for regions to consult with Headquarters before taking CERCLA response actions to address NRC-licensed facilities. For further information see page 8 of "Interim Final Evaluation of Facilities Currently or Previously Licensed NRC Sites under CERCLA" at <http://www.epa.gov/superfund/health/contaminants/radiation/pdfs/nrc.pdf> and pages 7-8 of "Distribution of Memorandum of Understanding between EPA and the Nuclear Regulatory Commission" at <http://www.epa.gov/superfund/health/contaminants/radiation/pdfs/transmou2fin.pdf>

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- Possible Actions under CERCLA:
 - CERCLA investigative authorities may be used to determine the nature and scope of the release during the early phase of the incident.
 - CERCLA response authorities may be utilized for off-site cleanup on privately- and publicly-owned property.

- Funding Source for CERCLA:
 - CERCLA trust funds, or funding provided by a Potentially Responsible Party (PRP).

- Potential Gap in Covering Off-site Cleanup under CERCLA:
 - The definition of "release" under CERCLA excludes "source, byproduct, or special nuclear material from a nuclear incident" (See Attachment A) meeting certain conditions. If the nuclear power plant incident meets those conditions (there is no commingling of other substances such as chemicals or even radionuclides from a previous release), then CERCLA may not be applicable for paying for compensation for damages caused by the nuclear incident.

Deleted: to the release or a portion of the release. During the early phase of an incident, EPA On-Scene Coordinators will perform a CERCLA investigation to determine what portion of the release, if any, is excluded from CERCLA.

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Potential Cleanup Authority and/or Funding Source # 3: *Stafford Act*

- Examples of Potential Circumstances Where It May Be Appropriate to Use the *Stafford Act*: If the President declares the incident an "emergency" or a "major disaster" (See Attachment B), then a federal agency may utilize its resources to support incident response efforts.
- Possible Actions under the *Stafford Act* (See Attachment C):
 - If the President declares the incident a "major disaster," then the President may direct a federal agency to assist with support efforts with or without reimbursement.
 - Deploy personnel, equipment, and supplies
 - Coordinate disaster relief with other agencies
 - If the President declares an "emergency," the process is similar to a "major disaster." The only important difference is that the President may "provide emergency assistance through Federal agencies".
- Funding Source for the *Stafford Act*:
 - The funding source is specified via Mission Assignments provided to federal agencies under the *Stafford Act*.
 - If the Mission Assignment provides funding, then *Stafford Act* funds will be used for financial assistance and reimbursement to the designated federal agency for a period of up to 60 days.
 - If the Mission Assignment does not provide funding, then the designated federal agency may utilize funding from existing authorities (e.g. *CERCLA*), particularly if there is no congressional funding.
- Potential Gap in Covering Off-site Cleanup under the *Stafford Act*:
 - Under certain provisions, the *Stafford Act* may cover cleanup activities incurred during the early phases of a nuclear power plant incident response regardless of the authorities of the federal agency performing or overseeing the cleanup, under Section 502b of the Act; however, this section is limited to a timeframe of 60 days following the incident.

Deleted: must

3 Bazan, Elizabeth. "Robert T. Stafford Disaster Relief and Emergency Assistance Act: Legal Requirements for Federal and State Roles in Declarations of an Emergency or a Major Disaster." *Congressional Research Service*. The Library of Congress, 16/Sep/2005. Web. 9 Jul 2010. <<http://www.au.af.mil/au/awc/awcgate/crs/r133090.pdf>>.

Findings:

Potential Authorities and/or Funding Sources for Off-Site Cleanup Following a Nuclear Power Plant Incident

- *Price-Anderson Act:*
 - ANI does not cover environmental cleanup costs under their primary insurance policy. It is anticipated that the secondary insurance policy will behave in a similar manner.
- *CERCLA:*
 - ~~In consultation with Headquarters, EPA On-Scene Coordinators may perform a CERCLA investigation to determine the nature and scope of the release from the nuclear power plant incident. This will determine if the is excluded from CERCLA.~~
 - If the release is not excluded from CERCLA, then CERCLA cleanup actions can be performed at on-site and off-site properties.
 - The funding source for CERCLA cleanup actions would be the CERCLA trust fund or PRP funds unless there was not a separate congressional appropriation.
- *Stafford Act:*
 - If the President declares the incident an "emergency," then designated federal agencies may perform cleanup actions regardless of existing authority as specified in Mission Assignments under Section 502b of the *Stafford Act* for up to 60 days following the incident.
 - The funding source of *Stafford Act* Mission Assignments under Section 502b is the *Stafford Act*.

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Deleted: or a portion of the release

Gap in Authority and Funding Source for Off-Site Cleanup Following a Nuclear Power Plant Incident

- If the release, or a portion of the release is excluded from *CERCLA*, and the response is beyond the initial 60-day timeframe for Mission Assignments under Section 502b of the *Stafford Act*.

Attachment A
CERCLA Section 101(22)
Definition of "Release"

CERCLA section 101(22)'s definition of "release" potentially excludes some releases that could occur during certain NPP incidents; depending on the circumstances, these excluded releases might not be subject to CERCLA response authority. For example, if there was no current or previous release of chemical contamination and there was no previous release of radioactive contamination at the site, CERCLA may not be able to pay for damages resulting from the release. The definition states (boldtype added for emphasis):

"(22) The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant), but **excludes (A) any release which results in exposure to persons solely within a workplace, with respect to a claim which such persons may assert against the employer of such persons, (B) emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine, (C) release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if such release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under section 170 of such Act, or, for the purposes of section 104 of this title or any other response action, any release of source byproduct, or special nuclear material from any processing site designated under section 102(a)(1) or 302(a) of the Uranium Mill Tailings Radiation Control Act of 1978, and (D) the normal application of fertilizer.** [**§101(22) amended by PL 99-499**]

Attachment B
Stafford Act Section 102 (5122)
Definitions

The Stafford Act section 102 (5122) defines "Emergency" and "Major Disaster." This section explains the role of the federal government in an "Emergency" and a "Major Disaster." The definition states (boldtype added for emphasis):

Sec. 102. Definitions (42 U.S.C. 5122)*

"As used in this Act -

(1) **"Emergency"** means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.

(2) **"Major disaster"** means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought) or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby."

Attachment C
Stafford Act
Subchapter IV – Major Disaster Assistance Programs

Subchapter IV – Major Disaster Assistance Programs of the *Stafford Act* outlines the Federal Government's role if the President declares a major disaster.

§ 5170a. GENERAL FEDERAL ASSISTANCE (Sec. 402)

"In any major disaster, the President may--

1. Direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts;
2. Coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;
3. Provide technical and advisory assistance to affected State and local governments for
 - A. the performance of essential community services;
 - B. issuance of warnings of risks and hazards;
 - C. public health and safety information, including dissemination of such information;
 - D. provision of health and safety measures; and
 - E. management, control, and reduction of immediate threats to public health and safety; and
4. Assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance."

§ 5192. Federal emergency assistance (Sec. 502)

a. Specified

"In any emergency, the President may--

1. direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe;
2. coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;
3. provide technical and advisory assistance to affected State and local governments for--
 - A. the performance of essential community services;
 - B. issuance of warnings of risks or hazards;
 - C. public health and safety information, including dissemination of such information;
 - D. provision of health and safety measures; and
 - E. management, control, and reduction of immediate threats to public health and safety;
4. provide emergency assistance through Federal agencies;
5. remove debris in accordance with the terms and conditions of section 407 [42 U.S.C. § 5173];
6. provide assistance in accordance with section 408 [42 U.S.C. § 5174]; and [(Pub.L. 106-390, § 206(b), October 30, 2000)]
7. assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

b. General

Whenever the Federal assistance provided under subsection (a) with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe."

Attachment D
Report to the Congress
Presidential Commission on Catastrophic Nuclear Accidents
Section II & Section III – Commission Assumptions & Observations

This attachment is a report given to Congress by the Presidential Commission on Catastrophic Nuclear Accidents. It provides insight and guidance to important funding and assistance questions during a recovery phase. The report states (boldtype added for emphasis):

II. Commission Assumptions

B. Source of funds

"As noted earlier, the commitment to provide additional funds if the ceiling on liability is exceeded has been a fundamental premise of Price-Anderson since its enactment. A decision as to the source of funds beyond the amount of aggregate public liability currently provided for in the Act will have to be made by Congress if it is ever called upon to discharge this commitment. The task of the Commission did not include the identification of sources of funds. Indeed, there is no special expertise in the Commission membership to address this essentially political question. The Commission simply notes that it has not come upon any new source of funds not already considered in the Congressional deliberations related to the last extension of the Act."

III. Observations

"While Radiological Emergency Response Plans are prepared for every nuclear power station in accordance with requirements of the Federal Emergency Management Agency (FEMA) and the NRC, it is not clear that these plans extend to long-duration accidents that have impacts over large land areas or involve large populations. The Commission was not able to draw any conclusions, based on the testimony it received, as to how large numbers of citizens could be sheltered over an extended period of time or permanently relocated. Even large natural disasters in the United States offer little help in postulating a response in the United States equivalent to the need at Chernobyl of evacuating over 135,000 people, most of them permanently. And no planning for such a possibility was brought to the Commission's attention."

"While an accident at a nuclear power plant would initiate the response of the utility, state and local government, federal government, volunteer organizations, and insurance groups, it is not at all clear what organization would be in charge of prolonged, extensive evacuations, and of restoration of governmental infrastructures and overwhelmed state and local response capabilities that might follow a large nuclear accident. While the court would take charge of the payment of claims, its authority to act could not extend to executive branch powers. The Presidential declaration of an emergency leads to rather limited financial assistance being made available through FEMA, and the FEMA representative who addressed the Commission believed the potentially more useful Presidential declaration of a major disaster was limited to natural events."



Fw: Possible Responses to Jean's Comments - OSC NPP Authorities White Paper

Stuart Walker to: Charles Openchowski

07/27/2010 06:21 PM

what the heck is the latest version of this paper?

— Forwarded by Stuart Walker/DC/USEPA/US on 07/27/2010 06:20 PM —

From: Kathryn Snead/DC/USEPA/US
To: Charles Openchowski/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Colby Stanton/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA
Date: 02/28/2008 12:15 PM
Subject: Possible Responses to Jean's Comments - OSC NPP Authorities White Paper

To all,

Last week, Jean sent in comments resulting from her in-depth review of the white paper. I've taken some time to pull out those comments that weren't simply editorial in nature, and put them into the attached spreadsheet. Next to each comment, I have made an attempt to provide a possible solution to the comment or suggested additional discussion. Some of her comments will need to be addressed either by the individual who suggested the text concerned, or by an OGC representative. For those comments, I've tried to indicate who I thought would be able to provide an answer next to the comment.

Please feel free to let me know if you have any questions or suggestions for me, or you can bring them to the call this afternoon. Until the call, I can be reached at 703-517-5428. Thanks.

Kathryn K. Snead
Center for Radiological Emergency Management
Office of Radiation and Indoor Air
Environmental Protection Agency
Mail Code: 6608J
1200 Pennsylvania Avenue NW
Washington, D.C. 20460-1000



202-343-9228 oscnppschumann022108.doc schumanncomments022108.xls



Re: Fw: White Paper on Off-Site Cleanup Following a Nuclear Power Plant Incident

Stuart Walker to: Charles Openchowski

07/27/2010 05:44 PM

great, I'll try and find something from the past we can cut and paste from our previous 5 years of discussing this topic.

Charles Openchowski page 3 needs major work Forwarded 07/27/2010 04:38:38 PM

From: Charles Openchowski/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA
Date: 07/27/2010 04:38 PM
Subject: Fw: White Paper on Off-Site Cleanup Following a Nuclear Power Plant Incident

page 3 needs major work
Forwarded by Charles Openchowski/DC/USEPA/US on 07/27/2010 04:38 PM

From: Kathryn Snead/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA
Cc: Lee Veal/DC/USEPA/US@EPA, Jeffrey Blizzard/DC/USEPA/US@EPA
Date: 07/27/2010 03:51 PM
Subject: White Paper on Off-Site Cleanup Following a Nuclear Power Plant Incident

To: all,

Please find attached a draft white paper on Off-Site Cleanup Following a Nuclear Power Plant Incident, developed by Jeff Blizzard of my office. Jeff and I would like some initial feedback on this white paper, to see if it covers the right issues and concerns.

I know many of you are deeply embroiled in the Gulf Oil Spill (I've spent many days chatting with Lee down at the EOC!) so I recognize that getting feedback may be challenging at this time. However, we also have a Senior Officials Exercise and a Principals Level Exercise coming up on a nuclear power plant incident in August and September, so it may be worth taking a look at this fairly soon. If possible, try to get comments back to Jeff and me by August 6, 2010, so he has time to make changes and share this with NRC and FEMA in advance of the exercises. If you're too busy, just let us know when you'll have time to look at this.

[attachment "epafemanrcwhitepaper072710.doc" deleted by Stuart Walker/DC/USEPA/US]

As always, thanks for your help and expertise. Let either Jeff or me know if you have any questions.

Kathryn K. Snead
Center for Radiological Emergency Management
Office of Radiation and Indoor Air
Environmental Protection Agency
Mail Code: 6608J
1200 Pennsylvania Avenue NW
Washington, D.C. 20460-1000
202-343-9228



Re: Fw: FOLLOW UP: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

Stuart Walker to: Elizabeth Southerland
Cc: Helen Dawson

07/22/2010 03:49 PM

fyi, we have not yet seen the white paper. So this may take a while. OGC will also be involved.

Elizabeth Southerland

Forwarded by Elizabeth Southerland/DC

07/22/2010 02:52:18 PM

From: Elizabeth Southerland/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA, Helen Dawson/DC/USEPA/US@EPA
Date: 07/22/2010 02:52 PM
Subject: Fw: FOLLOW UP: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

Forwarded by Elizabeth Southerland/DC/USEPA/US on 07/22/2010 02:52 PM

From: Thea Williams/DC/USEPA/US
To: Barnes Johnson/DC/USEPA/US@EPA, James Woolford/DC/USEPA/US@EPA, Elizabeth Southerland/DC/USEPA/US@EPA
Cc: Jennifer Wilbur/DC/USEPA/US@EPA
Date: 07/22/2010 01:44 PM
Subject: FOLLOW UP: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

This is a follow up:

I spoke Jean Schumann in OEM and they would like to wait the speak to this topic because the workgroup (consisting of OEM, OIRA and OSRTI) is developing a white paper. The paper is not ready for management, yet. It is still at the staff level.

I will add this to the next OEM monthly. I expect the monthly to happen some time October because of OEM's attention is and has been on the Gulf activity.

Thanks,

Thea Johnson Williams
Special Assistant
Office of Superfund Remediation and Technology Innovation
U.S. Environmental Protection Agency
Phone: 703-603-8801 Fax: 703-603-9146
williams.thea@epa.gov

Forwarded by Thea Williams/DC/USEPA/US on 07/22/2010 01:36 PM

From: Thea Williams/DC/USEPA/US
To: Jennifer Wilbur/DC/USEPA/US@EPA
Date: 06/14/2010 04:26 PM
Subject: Re: Fw: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

Got it but the monthly may not happen until Oct.

Thea Johnson Williams
Special Assistant
Office of Superfund Remediation and Technology Innovation
U.S. Environmental Protection Agency
Phone: 703-603-8801 Fax: 703-603-9146
williams.thea@epa.gov

Jennifer Wilbur For the next OEM monthly agenda Jennifer Mille 06/14/2010 07:43:57 AM

From: Jennifer Wilbur/DC/USEPA/US
To: Thea Williams/DC/USEPA/US@EPA
Date: 06/14/2010 07:43 AM
Subject: Fw: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

For the next OEM monthly agenda

Jennifer Millett Wilbur
Special Assistant
Office of Superfund Remediation and Technology Innovation
Office of Solid Waste and Emergency Response
US Environmental Protection Agency
1200 Pennsylvania Ave., NW MC 5201P
Washington, DC 20460
(703) 603-8778

Forwarded by Jennifer Wilbur/DC/USEPA/US on 06/14/2010 07:43 AM

From: James Woolford/DC/USEPA/US
To: Elizabeth Southerland/DC/USEPA/US@EPA, Barnes Johnson/DC/USEPA/US@EPA
Cc: Jennifer Wilbur/DC/USEPA/US@EPA
Date: 06/11/2010 03:58 PM
Subject: Re: Fw: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

I have seen Dana only 3 times since Debbie left. We have not discussed. We can bring up on our monthly.

James Woolford, Director
Office of Superfund Remediation and Technology Innovation, OSWER
US EPA

703-603-8960 (office)

Elizabeth Southerland I talked to Stuart about this last night and he... 06/11/2010 12:20:33 PM

From: Elizabeth Southerland/DC/USEPA/US
To: James Woolford/DC/USEPA/US@EPA, Barnes Johnson/DC/USEPA/US@EPA
Date: 06/11/2010 12:20 PM
Subject: Fw: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

I talked to Stuart about this last night and heard that Debbie Dietrich appears to be comfortable with EPA taking the lead for cleanup in these situations. Have you guys had any discussions with Debbie or Dana about OSRTI vs. OEM role in this? I don't know if we have any ability to affect the outcome here, but we must have a role if this is about long term cleanup, not just emergency actions. I know Debbie and Dana are going nuts over the Gulf oil spill, but EPA needs to speak with one voice in these NRC discussions. We need to know if EPA is going to willingly assume the lead and handle long term cleanup at these sites in hopes a supplemental appropriation.

--- Forwarded by Elizabeth Southerland/DC/USEPA/US on 06/11/2010 12:13 PM ---

From: Stuart Walker/DC/USEPA/US
To: Elizabeth Southerland/DC/USEPA/US@EPA, David Charters/ERT/R2/USEPA/US@EPA, Helen Dawson/DC/USEPA/US@EPA
Cc: Charles Openchowski/DC/USEPA/US@EPA
Date: 06/11/2010 11:57 AM
Subject: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

Hi Betsy,

See attached email from Colby Stanton that began EPA's involvement with NRC/FEMA efforts to clarify how response to a significant release (e.g., Three Mile Island, Chernobyl) from a commercial nuclear power plant (NPP) would be handled.

After 3 meetings with the other Agencies at the programmatic and general counsel staff, both Charles Openchowski and I believe that we need to have a senior level management meeting to discuss EPA's strategy for these efforts.

There are numerous issues that have arisen during these meetings since Colby's initial note, including:

1. Monies collected from nuclear industry to pay out in the event of a "nuclear incident" go to an insurance company for disbursement. It appears the monies may only go for compensating damages (e.g., cost of temporary or permanent relocation, pay for policemen, personal property replacement, etc) and not environmental cleanup.
2. There appears to not be pre-identified source of funding for environmental cleanup. NRC staff anticipates this would be handled by some type of supplemental appropriation.
3. There is a FEMA expectation that EPA would be heavily involved in the environmental response work, possibly as the lead technical agency (think OSC, RPM role). EPA has not previously been major players in NRC exercises for NPP releases.

Charles and I believe we need a senior level management meeting (OSRTI, OEM, ORIA, OGC, and OHS) to discuss:

1. What would be proper role for EPA in these types of events, including the role of each of our primary offices and respective regional counterparts.
 - There are of resource (FTEs and \$'s) implications for EPA's level of involvement both during a real event and during exercises.
 - There are also policy implications if EPA appears to be endorsing other cleanup approaches even in a remedial contractor role for NPP events, similar to concerns raised regarding the PAGs.
2. Given the current circumstances dealing with the Gulf spill (e.g., questions about who is in charge, is the federal government in control, etc) not inhibiting our flexibility under CERCLA is a key issue. Although possibly not the first choice to take a response action during a NPP incident, EPA should not agree to language that appears to a legal interpretation that inhibits this option.

— Forwarded by Stuart Walker/DC/USEPA/US on 06/10/2010 09:24 PM —

From: Colby Stanton/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA
Cc: Elizabeth Southerland/DC/USEPA/US@EPA, Mark Mjones/DC/USEPA/US@EPA, Jonathan Edwards/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Sara DeCair/DC/USEPA/US@EPA
Date: 09/30/2009 10:49 AM
Subject: Work with Nuclear Regulatory Commission and FEMA to resolve responsibilities for intermediate and long-term response to nuclear power plant incidents?

Yesterday, Kathryn Snead and I visited NRC to discuss the outcomes of our discussions regarding use of CERCLA to respond to the immediate impacts of an incident at a nuclear power plant. The NRC staff responded very positively, and actually moved very quickly to the lack of clarity regarding authorities and responsibilities for longer-term responses to nuclear power plant incidents. The National Response Framework's Nuclear/Radiological Incident Annex states that:

"The coordinating agency [In this case, NRC] maintains responsibility for managing the Federal technical radiological cleanup activities in accordance with its statutory authorities, responsibilities and NRF mechanisms.... While retaining technical lead for these activities, the coordinating agency may request support from a cooperating agency that has cleanup/recovery experience and capabilities (e.g., EPA, USACE)."

However, to my knowledge, we have not discussed the potential for EPA's role in a cleanup since this language was inserted in the last draft. We have also seen an expectation among state and local agencies that EPA will perform the cleanup, and have generally simply indicated thus far that the NRC is the coordinating agency throughout.

Unfortunately, a great deal of historical knowledge about the interaction of the Price-Anderson Act and Stafford Act appears to have been lost. We're thinking that the first step should be an educational meeting in which the responsible agencies discuss the potential applicability of the Price-Anderson Act, Stafford Act, and CERCLA to nuclear power plant incidents. The questions we envision being answered are:

- What are the various agencies' responsibilities under the Nuclear/Radiological Incident Annex (EPA ORIA)
- How does your Act apply to nuclear power plant incidents? (FEMA, NRC, EPA OSWER)
- What resources are available, and when would they become available, under your Act? (FEMA, NRC, EPA OSWER)
- What is the mechanism, if any, for providing resources to Federal, State, and Local responders and the public? (FEMA, NRC, EPA OSWER)

At the meeting yesterday, we proposed a first meeting in early November, to allow time to find the right parties in FEMA and to develop the information needed.

I hope that OSWER will support this effort. Please let me know if you have any questions or concerns, or if you'll be available to support this effort.

Thanks,

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection Division
phone: (202) 343-9448
email: stanton.colby@epa.gov



RE: Draft White Paper on Offsite Cleanup Funding following a Nuclear Power Plant Incident

Stuart Walker to: Greten, Timothy

07/20/2010 07:51 PM

"Simmons, Anneliese", "DeFelice, Anthony", Charles Openchowski, "Donley, Diane", "Kim, Grace", "Benowitz, Howard", "Kish, James", Jean Schumann, Jeffrey Blizzard, Jennifer Mosser, Kathryn Snead, Cc: "Wierman, Kenneth", "Blunt, Kenyetta", Lee Tyner, "Milligan, Patricia", Sara DeCair, Susan Stahle, "Greten, Timothy", "Eberst, William"

Tim, sorry I was rushing off to a NAS meeting.

We don't really see it that way, but it is probably better a discussion point if you need more information when Charles and Lee are around.

"Greten, Timothy"

Stuart- I'm oversimplifying somewhat but doesn't

07/20/2010 01:55:28 PM

From: "Greten, Timothy" <Timothy.Greten@dhs.gov>
To: Stuart Walker/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>
Cc: "Simmons, Anneliese" <Anneliese.Simmons@nrc.gov>, "DeFelice, Anthony" <anthony.defelice@dhs.gov>, Charles Openchowski/DC/USEPA/US@EPA, "Donley, Diane" <diane.donley@dhs.gov>, "Kim, Grace" <Grace.Kim@nrc.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, "Kish, James" <James.Kish@dhs.gov>, Jean Schumann/DC/USEPA/US@EPA, Jeffrey Blizzard/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, "Wierman, Kenneth" <kenneth.wierman@dhs.gov>, "Blunt, Kenyetta" <kenyetta.blunt@dhs.gov>, Lee Tyner/DC/USEPA/US@EPA, "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, Sara DeCair/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>, "Eberst, William" <William.Eberst@dhs.gov>
Date: 07/20/2010 01:55 PM
Subject: RE: Draft White Paper on Offsite Cleanup Funding following a Nuclear Power Plant Incident

Stuart-

I'm oversimplifying somewhat, but doesn't CERCLA specifically exempt a "release" from a commercial nuclear power plant license under the Atomic Energy Act? (i.e. as opposed to government nuclear power plant, IND, RDD, etc?).

-----Original Message-----

From: Walker.Stuart@epamail.epa.gov
[mailto:Walker.Stuart@epamail.epa.gov]
Sent: Tuesday, July 20, 2010 12:43 PM
To: Greten, Timothy
Cc: Simmons, Anneliese; DeFelice, Anthony;
openchowski.charles@epamail.epa.gov; Donley, Diane; Kim, Grace;
Benowitz, Howard; Kish, James; Schumann.Jean@epamail.epa.gov;
Blizzard.Jeffrey@epamail.epa.gov; Mosser.Jennifer@epamail.epa.gov;
Snead.Kathryn@epamail.epa.gov; Wierman, Kenneth; Blunt, Kenyetta;
tyner.lee@epamail.epa.gov; Milligan, Patricia;
DeCair.Sara@epamail.epa.gov; Stahle.Susan@epamail.epa.gov; Greten,
Timothy; Eberst, William
Subject: RE: Draft White Paper on Offsite Cleanup Funding following a
Nuclear Power Plant Incident

Hi Tim

That is NOT what I have been saying

Stuart

From:

"Greten, Timothy" <Timothy.Greten@dhs.gov>

To:

Charles Openchowski/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>

Cc:

"Simmons, Anneliese" <Anneliese.Simmons@nrc.gov>, "DeFelice, Anthony" <anthony.defelice@dhs.gov>, "Donley, Diane" <diane.donley@dhs.gov>, "Kim, Grace" <Grace.Kim@nrc.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, "Kish, James" <James.Kish@dhs.gov>, Jean Schumann/DC/USEPA/US@EPA, Jeffrey Blizzard/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, "Wierman, Kenneth" <kenneth.wierman@dhs.gov>, "Blunt, Kenyetta" <kenyetta.blunt@dhs.gov>, Lee Tyner/DC/USEPA/US@EPA, "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, Sara DeCair/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>, "Eberst, William" <William.Eberst@dhs.gov>

Date:

07/20/2010 12:32 PM

>----->
| Subject: |
>----->

>----->
| RE: Draft White Paper on Offsite Cleanup Funding following a Nuclear
Power Plant Incident |
>----->

Charles-
Just want to be sure I understand you--at the meetings we've had, EPA
has said that CERCLA is specifically prohibited from paying from
expenses associated with nuclear power plant accidents (i.e. per EPA,
CERCLA points out those are supposed to be covered by Price Anderson
Act). This is incorrect?

Thanks
Tim

-----Original Message-----
From: openchowski.charles@epamail.epa.gov
[mailto:openchowski.charles@epamail.epa.gov]
Sent: Friday, July 09, 2010 2:25 PM
To: Greten, Timothy
Cc: Simmons, Anneliese; DeFelice, Anthony; Donley, Diane; Kim, Grace;
Benowitz, Howard; Kish, James; Schumann.Jean@epamail.epa.gov;
Blizzard.Jeffrey@epamail.epa.gov; Mosser.Jennifer@epamail.epa.gov;
Snead.Kathryn@epamail.epa.gov; Wierman, Kenneth; Blunt, Kenyetta;
tyner.lee@epamail.epa.gov; Milligan, Patricia;
DeCair.Sara@epamail.epa.gov; Walker.Stuart@epamail.epa.gov;
Stahle.Susan@epamail.epa.gov; Greten, Timothy; Eberst, William
Subject: RE: Draft White Paper on Offsite Cleanup Funding following a
Nuclear Power Plant Incident

Tim, just a quick note to clarify that as a legal matter, the
parenthetical below -- (i.e. by law, Superfund cannot cover most
expenses associated with this kind of incident)-- is not a required
result under CERCLA and therefore is not necessarily legally accurate.
thanks

>----->
| From: |
>----->

>----->
| "Greten, Timothy" <Timothy.Greten@dhs.gov> |
>----->

To: >

"Eberst, William" <William.Eberst@dhs.gov>

Cc: >

"Kish, James" <James.Kish@dhs.gov>, "Eberst, William" <William.Eberst@dhs.gov>, "Wierman, Kenneth" <kenneth.wierman@dhs.gov>, "Greten, Timothy" <Timothy.Greten@dhs.gov>, Kathryn Snead/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, "Simmons, Anneliese"

<Anneliese.Simmons@nrc.gov>, "DeFelice, Anthony" <anthony.defelice@dhs.gov>, Charles Openchowski/DC/USEPA/US@EPA, "Donley, Diane"

<diane.donley@dhs.gov>, "Kim, Grace" <Grace.Kim@nrc.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, Jeffrey Blizzard/DC/USEPA/US@EPA, | Jennifer Mosser/DC/USEPA/US@EPA, "Blunt, Kenyetta" <kenyetta.blunt@dhs.gov>, Lee Tyner/DC/USEPA/US@EPA, "Milligan, Patricia"

<Patricia.Milligan@nrc.gov>, Sara DeCair/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, "Greten, Timothy"

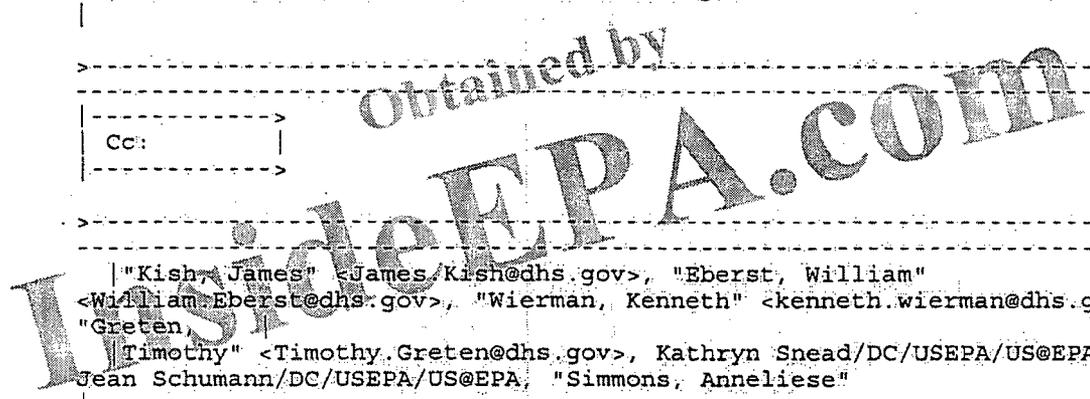
<Timothy.Greten@dhs.gov>

Date: >

07/08/2010 04:36 PM

Subject: >

RE: Draft White Paper on Offsite Cleanup Funding following a Nuclear Power Plant Incident



-----|
Bill--please reply to all with the exercise minutes password. Thanks!

-----Original Message-----

From: Greten, Timothy
Sent: Thursday, July 08, 2010 4:25 PM
To: Snead.Kathryn@epamail.epa.gov; Schumann.Jean@epamail.epa.gov;
Simmons, Anneliese; DeFelice, Anthony;
openchowski.charles@epamail.epa.gov; diane.donley@dhs.gov; Kim, Grace;
Benowitz, Howard; Blizzard.Jeffrey@epamail.epa.gov;
Mosser.Jennifer@epamail.epa.gov; Blunt, Kenyetta;
tyner.lee@epamail.epa.gov; Milligan, Patricia;
DeCair.Sara@epamail.epa.gov; Walker.Stuart@epamail.epa.gov;
Stahle.Susan@epamail.epa.gov; Greten, Timothy
Cc: Kish, James; Eberst, William; Wierman, Kenneth
Subject: RE: Draft White Paper on Offsite Cleanup Funding following a
Nuclear Power Plant Incident

Good afternoon!

Attached are the minutes from the last planning meeting from the exercise. The SOE exercise (dress rehearsal w/assistant secretary level folks) is scheduled for August 6th, and the PLE exercise is scheduled for August 18th.

Object #2 for the exercise talks about \$\$ issues. I think the major fault line will be who pays for what (and what is property damage vice environmental cleanup), along with who CAN'T pay for what (i.e. by law, Superfund cannot cover most expenses associated with this kind of incident). I think they will also get into how funds are distributed.

Assuming this white paper is a long-term product (and will be informed by the exercise), I'd suggest assembling a small package of the documents we've gathered (excerpt from the 1991 Presidential commission, the 1996 NRC document on what Price-Anderson covers vs. the Stafford Act, etc) for the planners. A list of unresolved issues might be useful, too -- if nothing else, it will make the principles acutely aware of legal/policy limitations.

Thanks!

Tim

-----Original Message-----

From: Snead.Kathryn@epamail.epa.gov
[mailto:Snead.Kathryn@epamail.epa.gov]
Sent: Thursday, July 08, 2010 4:13 PM
To: Schumann.Jean@epamail.epa.gov; Simmons, Anneliese; DeFelice,
Anthony; openchowski.charles@epamail.epa.gov; diane.donley@dhs.gov; Kim,
Grace; Benowitz, Howard; Blizzard.Jeffrey@epamail.epa.gov;

Mosser.Jennifer@epamail.epa.gov; Blunt, Kenyetta;
tyner.lee@epamail.epa.gov; Milligan, Patricia;
DeCair.Sara@epamail.epa.gov; Walker.Stuart@epamail.epa.gov;
Stahle.Susan@epamail.epa.gov; Greten, Timothy
Subject: Draft White Paper on Offsite Cleanup following a Nuclear Power
Plant Incident

To all,

To follow up on one of its action items from the last EPA-FEMA-NRC meeting on nuclear power plant recovery, EPA asked one of its Program Assistants, Jeff Blizzard, to work on a draft white paper on offsite cleanup following a nuclear power plant incident. It is our hope to have a preliminary draft available next week for comment. Ultimately, we'd like to have some sort of non-final working draft ready for the August Nuclear Power Plant Incident exercise; however, we'll see how feasible this is given the short deadline.

If you have any additional references or sources you would recommend for Jeff to use in putting together this White Paper, please send them on. Jeff's contact info. is blizzard.jeffrey@epa.gov or 202-343-9470.
Thanks.

Kathryn K. Snead
Center for Radiological Emergency Management Office of Radiation and
Indoor Air Environmental Protection Agency Mail Code: 6608J 1200
Pennsylvania Avenue NW Washington, D.C. 20460-1000
202-343-9228



RE: Draft White Paper on Offsite Cleanup Funding following a Nuclear Power Plant Incident

Stuart Walker to: Greten, Timothy

07/20/2010 12:42 PM

"Simmons, Anneliese", "DeFelice, Anthony", Charles Openchowski, "Donley, Diane", "Kim, Grace", "Benowitz, Howard", "Kish, James", Jean Schumann, Jeffrey Blizzard, Jennifer Mosser, Kathryn Snead,
Cc: "Wierman, Kenneth", "Blunt, Kenyetta", Lee Tyner, "Milligan, Patricia", Sara DeCair, Susan Stahle, "Greten, Timothy", "Eberst, William"

Hi Tim

That is NOT what I have been saying

Stuart

"Greten, Timothy" Charles- Just want to be sure I understand you--

07/20/2010 12:32:37 PM

From: "Greten, Timothy" <Timothy.Greten@dhs.gov>
To: Charles Openchowski/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>
Cc: "Simmons, Anneliese" <Anneliese.Simmons@nrc.gov>, "DeFelice, Anthony" <anthony.defelice@dhs.gov>, "Donley, Diane" <diane.donley@dhs.gov>, "Kim, Grace" <Grace.Kim@nrc.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, "Kish, James" <James.Kish@dhs.gov>, Jean Schumann/DC/USEPA/US@EPA, Jeffrey Blizzard/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, "Wierman, Kenneth" <kenneth.wierman@dhs.gov>, "Blunt, Kenyetta" <kenyetta.blunt@dhs.gov>, Lee Tyner/DC/USEPA/US@EPA, "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, Sara DeCair/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>, "Eberst, William" <William.Eberst@dhs.gov>

Date: 07/20/2010 12:32 PM

Subject: RE: Draft White Paper on Offsite Cleanup Funding following a Nuclear Power Plant Incident

Charles-

Just want to be sure I understand you--at the meetings we've had, EPA has said that CERCLA is specifically prohibited from paying from expenses associated with nuclear power plant accidents (i.e. per EPA, CERCLA points out those are supposed to be covered by Price Anderson Act). This is incorrect?

Thanks
Tim

-----Original Message-----

From: openchowski.charles@epamail.epa.gov
[mailto:openchowski.charles@epamail.epa.gov]
Sent: Friday, July 09, 2010 2:25 PM
To: Greten, Timothy
Cc: Simmons, Anneliese; DeFelice, Anthony; Donley, Diane; Kim, Grace; Benowitz, Howard; Kish, James; Schumann.Jean@epamail.epa.gov; Blizzard.Jeffrey@epamail.epa.gov; Mosser.Jennifer@epamail.epa.gov; Snead.Kathryn@epamail.epa.gov; Wierman, Kenneth; Blunt, Kenyetta; tyner.lee@epamail.epa.gov; Milligan, Patricia; DeCair.Sara@epamail.epa.gov; Walker.Stuart@epamail.epa.gov; Stahle.Susan@epamail.epa.gov; Greten, Timothy; Eberst, William
Subject: RE: Draft White Paper on Offsite Cleanup Funding following a

|----->
>-----|
| 07/08/2010 04:36 PM
|

|----->
| Subject: |
|----->

|----->
| RE: Draft White Paper on Offsite Cleanup Funding following a Nuclear
| Power Plant Incident
|----->

Bill--please reply to all with the exercise minutes password. Thanks!

-----Original Message-----

From: Greten, Timothy
Sent: Thursday, July 08, 2010 4:25 PM
To: Snead.Kathryn@epamail.epa.gov; Schumann.Jean@epamail.epa.gov;
Simmons, Anneliese; DeFelice, Anthony;
openchowski.charles@epamail.epa.gov; diane.donley@dhs.gov; Kim, Grace;
Benowitz, Howard; Blizzard.Jeffrey@epamail.epa.gov;
Mosser.Jennifer@epamail.epa.gov; Blunt, Kenyetta;
tyner.lee@epamail.epa.gov; Milligan, Patricia;
DeCair.Sara@epamail.epa.gov; Walker.Stuart@epamail.epa.gov;
Stahle.Susan@epamail.epa.gov; Greten, Timothy
Cc: Kish, James; Eberst, William; Wierman, Kenneth
Subject: RE: Draft White Paper on Offsite Cleanup Funding following a
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Good afternoon!

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exercise. The SOE exercise (dress rehearsal w/assistant secretary level
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the 1996 NRC document on what Price-Anderson covers vs. the Stafford Act, etc) for the planners. A list of unresolved issues might be useful, too -- if nothing else, it will make the principles acutely aware of legal/policy limitations.

Thanks!

Tim

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Sent: Thursday, July 08, 2010 4:13 PM
To: Schumann.Jean@epamail.epa.gov; Simmons, Anneliese; DeFelice, Anthony; openchowski.charles@epamail.epa.gov; diane.donley@dhs.gov; Kim, Grace; Benowitz, Howard; Blizzard.Jeffrey@epamail.epa.gov; Mosser.Jennifer@epamail.epa.gov; Blunt, Kenyetta; tyner.lee@epamail.epa.gov; Milligan, Patricia; DeCair.Sara@epamail.epa.gov; Walker.Stuart@epamail.epa.gov; Stahle.Susan@epamail.epa.gov; Greten, Timothy
Subject: Draft White Paper on Offsite Cleanup following a Nuclear Power Plant Incident

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Kathryn K. Snead
Center for Radiological Emergency Management Office of Radiation and
Indoor Air Environmental Protection Agency Mail Code: 6608J 1200
Pennsylvania Avenue NW Washington, D.C. 20460-1000
202-343-9228



Re: Draft White Paper on Offsite Cleanup following a Nuclear Power Plant Incident

Stuart Walker to: Kathryn Snead

07/09/2010 02:15 PM

Cc: Charles Openchowski, Jean Schumann, Jeffrey Blizzard, Jennifer Mosser, Lee Tyner, Sara DeCair, Susan Stahle

Hi Kathryn,

Due to the sensitive nature of this topic and some of our offices relationships with some of the other agencies, I would recommend we all take a quick look at the issue paper before it gets sent over to the external workgroup.

Kathryn Snead

To all, To follow up on one of its action items fro

07/08/2010 04:13:15 PM

From: Kathryn Snead/DC/USEPA/US
To: Jean Schumann/DC/USEPA/US@EPA, "Simmons, Anneliese" <Anneliese.Simmons@nrc.gov>, "DeFelice, Anthony" <anthony.defelice@dhs.gov>, Charles Openchowski/DC/USEPA/US@EPA, "diane.donley@dhs.gov" <diane.donley@dhs.gov>, "Kim, Grace" <Grace.Kim@nrc.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, Jeffrey Blizzard/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, "Blunt, Kenyetta" <kenyetta.blunt@dhs.gov>, Lee Tyner/DC/USEPA/US@EPA, "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, Sara DeCair/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>
Date: 07/08/2010 04:13 PM
Subject: Draft White Paper on Offsite Cleanup following a Nuclear Power Plant Incident

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Center for Radiological Emergency Management
Office of Radiation and Indoor Air
Environmental Protection Agency
Mail Code: 6608J
1200 Pennsylvania Avenue NW
Washington, D.C. 20460-1000
202-343-9228



Fw: Draft White Paper on Offsite Cleanup Funding following a Nuclear Power Plant Incident

Stuart Walker to: Charles Openchowski

07/08/2010 06:03 PM

per my voicemail, lets discuss FRIDAY yellow highlighted text below.

----- Forwarded by Stuart Walker/DC/USEPA/US on 07/08/2010 06:01 PM -----

From: "Greten, Timothy" <Timothy.Greten@dhs.gov>
To: Kathryn Snead/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, "Simmons, Anneliese" <Anneliese.Simmons@nrc.gov>, "DeFelice, Anthony" <anthony.defelice@dhs.gov>, Charles Openchowski/DC/USEPA/US@EPA, "Donley, Diane" <diane.donley@dhs.gov>, "Kim, Grace" <Grace.Kim@nrc.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, Jeffrey Blizzard/DC/USEPA/US@EPA, Jennifer Mosser/DC/USEPA/US@EPA, "Blunt, Kenyetta" <kenyetta.blunt@dhs.gov>, Lee Tyner/DC/USEPA/US@EPA, "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, Sara DeCair/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>
Cc: "Kish, James" <James.Kish@dhs.gov>, "Eberst, William" <William.Eberst@dhs.gov>, "Wierman, Kenneth" <kenneth.wierman@dhs.gov>
Date: 07/08/2010 04:26 PM
Subject: RE: Draft White Paper on Offsite Cleanup Funding following a Nuclear Power Plant Incident

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Thanks!

Tim

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Sent: Thursday, July 08, 2010 4:13 PM
To: Schumann.Jean@epamail.epa.gov; Simmons, Anneliese; DeFelice, Anthony; openchowski.charles@epamail.epa.gov; diane.donley@dhs.gov; Kim,

Grace; Benowitz, Howard; Blizzard.Jeffrey@epamail.epa.gov;
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Stahle.Susan@epamail.epa.gov; Greten, Timothy
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Kathryn K. Snead
Center for Radiological Emergency Management
Office of Radiation and Indoor Air
Environmental Protection Agency
Mail Code: 6608J
1200 Pennsylvania Avenue NW
Washington, D.C. 20460-1000
202-343-9228

[attachment "SOE 3-10 IPC Minutes - 070710.doc" deleted by Stuart Walker/DC/USEPA/US]



Re: Fw: Fw: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

Stuart Walker to: Elizabeth Southerland

06/15/2010 01:08 PM

Cc: dawson.helen; walker.stuart

fyi, I don't think OSCs are RPMs are involved in these exercises. Although NRC is called the lead, it appears they are the lead like DHS is the lead for dirty bombs, they still need another agency to be the technical lead for early, intermediate, and late phase. They have indicated in these meetings they thought it would be EPA.

Elizabeth Southerland

Looks like we will bring this up at the next ge

06/15/2010 07:22:40 AM

From: Elizabeth Southerland/DC/USEPA/US
 To: dawson.helen@epa.gov, walker.stuart@epa.gov
 Date: 06/15/2010 07:22 AM
 Subject: Fw: Fw: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

Looks like we will bring this up at the next general with OEM. As soon as that is scheduled, I will let you know.

Barnes Johnson

----- Original Message -----

From: Barnes Johnson
 Sent: 06/14/2010 05:39 PM EDT
 To: James Woolford
 Cc: Elizabeth Southerland; Jennifer Wilbur
 Subject: Re: Fw: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents
 From what I know I would agree that some discussion would be helpful.

I will also point out that there is a tremendous amount of preparedness and exercise work that goes on regularly wrt nuclear power plants - the states that have reactors are heavily keyed in etc (e.g., folks that live within x miles of each reactor have been issued iodine pills, etc.). There is a national system of exercises, roles are played out, etc. FRPCC and especially DOE, FEMA and NRC play prominently and ORIA participates in some of the exercises. The rad nuc incident annex says NRC is the lead.

Point well taken, I would however suspect and I dont recall that there has been much attention paid to long term cleanup. I do know ORIA had a remote field office at three mile island for nearly 10 years doing rad monitoring at a site that in the larger scheme of things had only a minor release and no cleanup to speak of.

Barnes Johnson | U.S. Environmental Protection Agency | Superfund | Tel 703 603 8960 | Fax 703 603 9146 | johnson.barnes@epa.gov

James Woolford

I have seen Dana only 3 times since Debbie left

06/11/2010 03:58:45 PM

From: James Woolford/DC/USEPA/US
 To: Elizabeth Southerland/DC/USEPA/US@EPA, Barnes Johnson/DC/USEPA/US@EPA
 Cc: Jennifer Wilbur/DC/USEPA/US@EPA
 Date: 06/11/2010 03:58 PM

Subject: Re: Fw: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

I have seen Dana only 3 times since Debbie left. We have not discussed. We can bring up on our monthly.

James Woolford, Director
Office of Superfund Remediation and Technology Innovation, OSWER
US EPA

703-603-8960 (office)

Elizabeth Southerland

I talked to Stuart about this last night and he

06/11/2010 12:20:33 PM

From: Elizabeth Southerland/DC/USEPA/US
To: James Woolford/DC/USEPA/US@EPA, Barnes Johnson/DC/USEPA/US@EPA
Date: 06/11/2010 12:20 PM
Subject: Fw: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

I talked to Stuart about this last night and heard that Debbie Dietrich appears to be comfortable with EPA taking the lead for cleanup in these situations. Have you guys had any discussions with Debbie or Dana about OSRTI vs. OEM role in this? I don't know if we have any ability to affect the outcome here, but we must have a role if this is about long term cleanup, not just emergency actions. I know Debbie and Dana are going nuts over the Gulf oil spill, but EPA needs to speak with one voice in these NRC discussions. We need to know if EPA is going to willingly assume the lead and handle long term cleanup at these sites in hopes a supplemental appropriation.

— Forwarded by Elizabeth Southerland/DC/USEPA/US on 06/11/2010 12:13 PM —

From: Stuart Walker/DC/USEPA/US
To: Elizabeth Southerland/DC/USEPA/US@EPA, Davidw Charters/ERT/R2/USEPA/US@EPA, Helen Dawson/DC/USEPA/US@EPA
Cc: Charles Openchowski/DC/USEPA/US@EPA
Date: 06/11/2010 11:57 AM
Subject: Senior management meeting needed to discuss ongoing staff meetings with NRC and FEMA to resolve responsibilities for early, intermediate, and long-term response to nuclear power plant incidents

Hi Betsy,

See attached email from Colby Stanton that began EPA's involvement with NRC/FEMA efforts to clarify how response to a significant release (e.g., Three Mile Island, Chernobyl) from a commercial nuclear power plant (NPP) would be handled.

After 3 meetings with the other Agencies at the programmatic and general counsel staff, both Charles Openchowski and I believe that we need to have a senior level management meeting to discuss EPA's strategy for these efforts.

There are numerous issues that have arisen during these meetings since Colby's initial note, including:

1. Monies collected from nuclear industry to pay out in the event of a "nuclear incident" go to an insurance company for disbursement. It appears the monies may only go for compensating damages (e.g., cost of temporary or permanent relocation, pay for policemen, personal property replacement, etc) and not environmental cleanup.
2. There appears to not be pre-identified source of funding for environmental cleanup. NRC staff

anticipates this would be handled by some type of supplemental appropriation.

3. There is a FEMA expectation that EPA would be heavily involved in the environmental response work, possibly as the lead technical agency (think OSC, RPM role). EPA has not previously been major players in NRC exercises for NPP releases.

Charles and I believe we need a senior level management meeting (OSRTI, OEM, ORIA, OGC, and OHS) to discuss:

1. What would be proper role for EPA in these types of events, including the role of each of our primary offices and respective regional counterparts.
 - There are of resource (FTEs and \$'s) implications for EPA's level of involvement both during a real event and during exercises.
 - There are also policy implications if EPA appears to be endorsing other cleanup approaches even in a remedial contractor role for NPP events, similar to concerns raised regarding the PAGs.
2. Given the current circumstances dealing with the Gulf spill (e.g., questions about who is in charge, is the federal government in control, etc) not inhibiting our flexibility under CERCLA is a key issue. Although possibly not the first choice to take a response action during a NPP incident, EPA should not agree to language that appears to a legal interpretation that inhibits this option.

— Forwarded by Stuart Walker/DC/USEPA/US on 06/10/2010 09:24 PM —

From: Colby Stanton/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA
Cc: Elizabeth Southerland/DC/USEPA/US@EPA, Mark Mjoness/DC/USEPA/US@EPA, Jonathan Edwards/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Sara DeCair/DC/USEPA/US@EPA
Date: 09/30/2009 10:49 AM
Subject: Work with Nuclear Regulatory Commission and FEMA to resolve responsibilities for intermediate and long-term response to nuclear power plant incidents?

Yesterday, Kathryn Snead and I visited NRC to discuss the outcomes of our discussions regarding use of CERCLA to respond to the immediate impacts of an incident at a nuclear power plant. The NRC staff responded very positively, and actually moved very quickly to the lack of clarity regarding authorities and responsibilities for longer-term responses to nuclear power plant incidents. The National Response Framework's Nuclear/Radiological Incident Annex states that:

"The coordinating agency [in this case, NRC] maintains responsibility for managing the Federal technical radiological cleanup activities in accordance with its statutory authorities, responsibilities and NRF mechanisms....While retaining technical lead for these activities, the coordinating agency may request support from a cooperating agency that has cleanup/recovery experience and capabilities (e.g., EPA, USACE). "

However, to my knowledge, we have not discussed the potential for EPA's role in a cleanup since this language was inserted in the last draft. We have also seen an expectation among state and local agencies that EPA will perform the cleanup, and have generally simply indicated thus far that the NRC is the coordinating agency throughout.

Unfortunately, a great deal of historical knowledge about the interaction of the Price-Anderson Act and Stafford Act appears to have been lost. We're thinking that the first step should be an educational meeting in which the responsible agencies discuss the potential applicability of the Price-Anderson Act, Stafford Act, and CERCLA to nuclear power plant incidents. The questions we envision being answered are:

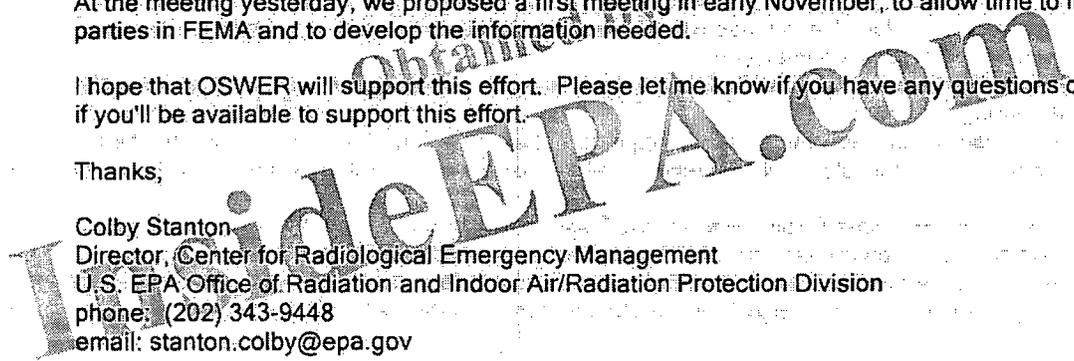
- What are the various agencies' responsibilities under the Nuclear/Radiological Incident Annex (EPA ORIA)
- How does your Act apply to nuclear power plant incidents? (FEMA, NRC, EPA OSWER)
- What resources are available, and when would they become available, under your Act? (FEMA, NRC, EPA OSWER)
- What is the mechanism, if any, for providing resources to Federal, State, and Local responders and the public? (FEMA, NRC, EPA OSWER)

At the meeting yesterday, we proposed a first meeting in early November, to allow time to find the right parties in FEMA and to develop the information needed.

I hope that OSWER will support this effort. Please let me know if you have any questions or concerns, or if you'll be available to support this effort.

Thanks;

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection Division
phone: (202) 343-9448
email: stanton.colby@epa.gov





Re: Fw: EPA-NRC-FEMA Recovery Discussion on Nuclear Power Plant Incidents

Stuart Walker to: Lee Tyner
Cc: Charles Openchowski

06/02/2010 01:44 PM

I am. I think Charles is out on leave

Lee Tyner

Are you folks going to this? — Forwarded by Lee Tyner on 06/01/2010 02:34:10 PM

From: Lee Tyner/DC/USEPA/US
To: Charles Openchowski/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA
Date: 06/01/2010 02:34 PM
Subject: Fw: EPA-NRC-FEMA Recovery Discussion on Nuclear Power Plant Incidents

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— Forwarded by Lee Tyner/DC/USEPA/US on 06/01/2010 02:33 PM —

From: Kathryn Sneed/DC/USEPA/US
To: "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, "Blunt, Kenyetta" <kenyetta.blunt@dhs.gov>, Sara DeCair/DC/USEPA/US@EPA, "DeFelice, Anthony" <anthony.defelice@dhs.gov>, diane.donley@dhs.gov, "Greten, Timothy" <Timothy.Greten@dhs.gov>, grace.kim@nrc.gov, "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, Jennifer Mosser/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, anneliese.simmons@nrc.gov, Susan Stahle/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Jeffrey Blizzard/DC/USEPA/US@EPA
Cc: Lee Veal/DC/USEPA/US@EPA
Date: 05/25/2010 09:57 AM
Subject: EPA-NRC-FEMA Recovery Discussion on Nuclear Power Plant Incidents

To all,

I apologize about the short notice - my fault for taking so long to send this out:

Our next inter-agency discussion on Recovery from Nuclear Power Plant Incidents:

June 3, 2010 from 1 PM - 3 PM

Follows the FRPCC Meeting (with a break for lunch 11:30 AM - 1 PM)

Crystal City Courtyard Marriott

Blue Ridge Shenandoah Conference Room

2899 Jefferson Davis Highway

Arlington, VA 22202

A few action items that were identified during the last meeting:

- Anneliese Simmons, NRC, agreed to provide example text on the insurance exclusion language on cleanup.
- Anneliese Simmons, NRC, agreed to check on what was meant by "clearly identifiable accidents".
- Trish Milligan, NRC, agreed to check on planned revisions to RCM-96 or NUREG-1457.
- Anthony DeFelice, FEMA, agreed to provide a copy of this House Subcommittee Report:

Subcommittee on Economic Development, Public Buildings, and Emergency Management, July 2009. "Post Katrina: What it Takes to Cut the Bureaucracy".

http://transportation.house.gov/Media/file/Economic%20Development/20090727/SSM_E D.pdf

- The Group agreed to consider whether to create an FRPCC Work Product on NPP Incident Recovery.

- The Group agreed to consider whether to create a brochure or website on NPP Incident Recovery.

Let me know if you have questions or concerns. Thanks.

Kathryn K. Snead
Center for Radiological Emergency Management
Office of Radiation and Indoor Air
Environmental Protection Agency
Mail Code: 6608J
1200 Pennsylvania Avenue NW
Washington, D.C. 20460-1000
202-343-9228

Obtained by
InsideEPA.com



Re: EPA review of Minnesota SOP for Nuclear Power Plant cleanup - please RSVP

Colby Stanton to: Jean Schumann

12/14/2009 10:59 AM

Cc: Charles Openchowski, James Mitchell, Kathryn Snead, Lee Tyner, Stuart Walker, Susan Stahle

History: This message has been forwarded.

Definitely agree with Stuart's comment - the statement of responsibility doesn't reflect the NRIA. In general, the SOP seems to reflect a misunderstanding of the boundaries between FRMAC responsibility and Coordinating Agency responsibility.

Also, "Federal Radiation Monitoring and Assessment (FRMAC) Recovery Level Team" - the FRMAC is the Federal *Radiological* Monitoring and Assessment *Center* - and more importantly, to my knowledge, "FRMAC Recovery Level Team" is not a FRMAC-defined entity, I've never heard the phrase before.

"Presumption is that as the incident moves from plume and ingestion/intermediate phase to the recovery phase that the FRMC will evolve to a FRMC Recovery Level Team with EPA in the federal lead and HSEM or MDH in the state lead." This is true for the FRMAC leadership (ignoring the Team language), but may falsely give the impression that EPA takes over leadership of everything.

From the same table Stuart cited:

"Assist FRMAC with identifying possible Minnesota treatment or disposal facilities" - I don't believe this is a FRMAC task, though I will check before we provide official comments....

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection Division
phone: (202) 343-9448
email: stanton.colby@epa.gov

Jean Schumann

Hi everyone, Well, timing is everything. I recei...

12/10/2009 03:05:39 PM

From: Jean Schumann/DC/USEPA/US
To: Colby Stanton/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA
Cc: James Mitchell/R5/USEPA/US@EPA
Date: 12/10/2009 03:05 PM
Subject: EPA review of Minnesota SOP for Nuclear Power Plant cleanup - please RSVP

Hi everyone,

Well, timing is everything. I received the attached request from EPA Region 5 to help with HQ review of a 5-page draft outline SOP that was prepared by the Minnesota Pollution Control Agency (MPCA - their state EPA) that would describe its role (and that of other agencies, including EPA) in a nuclear power plant incident that involves the need for off-site cleanup - from a small cleanup to a large cleanup. This will require us to determine how to describe EPA's role within the uncertainties we now have regarding our authorities and funding sources. I'd like to suggest we have a conference call to discuss our overall strategy first, but I'm not sure I'll be able to catch everyone before you leave for the holidays.

Please let me know if you'd be available for a call:

Tues Dec 15 at 11 am or 4 pm

Wed Dec 16 at 3:30 pm

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Tues Dec 22 at 9 am or 10 am

You'll see this initial draft doesn't appear to assume a Stafford Act declaration. You'll also see they misunderstand the role of FRMAC -- they seem to assume that FRMAC will lead the cleanup.

P.S. "HSEM" is Minnesota's Homeland Security and Emergency Management agency (looks like the state FEMA) and MDH is the state dept of health (which I assume has its radiation program).

Jean Schumann
Office of Emergency Management
U.S. Environmental Protection Agency
Phone: (202) 564-1977
schumann.jean@epa.gov

----- Forwarded by Jean Schumann/DC/USEPA/US on 12/10/2009 02:44 PM -----

From: James Mitchell/R5/USEPA/US
To: Jean Schumann/DC/USEPA/US@EPA
Cc: Mark Durno/R5/USEPA/US@EPA, Jason El-Zein/R5/USEPA/US@EPA
Date: 12/10/2009 11:32 AM
Subject: Fw: Nuclear Power Plant Incident, Recovery Phase

Jean,

As we discussed, attached is the request we received from the Minnesota Pollution Control Agency (MPCA), to review and provide comments on a draft Standard Operating Guidance document for response to Nuclear Power Plant incidents. This planning document is focused on recovery issues and discusses EPA Superfund involvement in that process. The document is silent on authorities, policy and funding, it does assume that we lead the recovery/cleanup for offsite releases to Nuclear Power Plant incidents. I know that as an agency we are still not clear on this mechanism and would like your input so we can address any potential policy issues in our comments back to MPCA. We would like to respond back to MPCA by mid-January. If you have any questions, please call me.

Jim Mitchell
Health Physicist/On-Scene Coordinator
U.S. EPA Region 5 Emergency Response Branch
77 W. Jackson Blvd
Chicago IL 60604
Office (312) 353-9537
Fax (312) 353-9176
24 hr Emergency (312) 353-2318

----- Forwarded by James Mitchell/R5/USEPA/US on 12/10/2009 10:07 AM -----

From: "Lee, Stephen (MPCA)" <Stephen.Lee@state.mn.us>
To: James Mitchell/R5/USEPA/US@EPA
Date: 11/25/2009 10:25 AM
Subject: FW: Nuclear Power Plant Incident, Recovery Phase

Jim, sorry, I had your email name backwards
Steve Lee

From: Lee, Stephen (MPCA)

Sent: Wednesday, November 25, 2009 10:21 AM

To: 'brennen.brunner@state.mn.us'; 'El-Zein.Jason@epamail.epa.gov'; 'durno.mark@epa.gov'; 'McLaughlin, Patrick'; Kevin.Leuer@state.mn.us; George.Johns@state.mn.us; 'vega.sonia@epa.gov'; 'james.mitchell@epa.gov'

Cc: Fier-Tucker, Dorene (MPCA); Rose, Mike V (MPCA)

Subject: Nuclear Power Plant Incident, Recovery Phase

HSEM, MDH, and EPA folk-

As you know, MPCA has been exploring its role in nuclear power plant incident response. It has become clear that MPCA has no or little role in the plume or ingestion/intermediate phases of an incident response. I would appreciate your review of draft guidance to our MPCA emergency response staff. Let me know if my assumptions are way out of whack or if you disagree on what our MPCA role might be.

Sampling in the plume or intermediate/ingestion phase of a nuclear power generating plant release may identify radioactive residues on ground, structures, vegetation, contents, and water outside the plant boundary. Recommendations and decisions will be needed on how to remove, treat, or isolate those residues. The actions will need to be carried out by some entity (not MPCA), with technical and regulatory oversight by other entities. Some of the residues or materials may be proposed for treatment or disposal at facilities regulated by MPCA.

The overall incident will be commanded/managed via the SEOC. Presumption is that as the incident moves from plume and ingestion/intermediate phase to the recovery phase that the FRMC will evolve to a FRMC Recovery Level Team with EPA in the federal lead and HSEM or MDH in the state lead. The federal FRMC Recovery Level Team will have formal participation from MDH, MPCA, and affected city and county. Presumption is that the utility will be a participant. The unified FRMAC Recovery Level Team will

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Set strategies for achieving objectives and assign them

Make assignments for planning, operations, logistics, etc.

Set safety rules, assign safety plan

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Tasks to be initiated in the first week of an incident

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Thanks, we're looking forward to your view on if the recovery phase roles are accurately described.

Steve Lee, Manager
MPCA Emergency Response and Preparedness

[attachment "Steve Lee's DRAFT -SOG for MPCA EOP basic outline.doc" deleted by Colby Stanton/DC/USEPA/US]

Obtained by
InsideEPA.com



Re: EPA review of Minnesota SOP for Nuclear Power Plant cleanup - please RSVP

Stuart Walker to: Jean Schumann

12/11/2009 02:52 PM

Cc: Charles Openchowski, Colby Stanton, James Mitchell, Kathryn Snead, Lee Tyner, Susan Stahle

I can make a conf call on
 Tuesday Dec 15 4pm
 Wednesday Dec 3:30 pm

I had one question/comment from the table in the SOP

<p>RP identification and oversight [the power plant operator will be the responsible party and main actor within the plant boundaries. Outside the boundaries the government will be the main actor]</p>	<ul style="list-style-type: none"> • Request facility O/O to provide staff to assist setting up the planning • Facility O/O and insurer identified, told of waste disposal re wastes, soils, etc generated within the plant boundaries • Assistance given to O/O for their logistics and decisions as needed • Oversight of O/O as they are taking the action if it involves regulated by MPCA • O/O monitored and warned of noncompliance if it happens
<p>Containment</p>	<p>Not applicable to MPCA for this incident type</p>

Jean Schumann

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12/10/2009 03:05:40 PM

From: Jean Schumann/DC/USEPA/US
 To: Colby Stanton/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA
 Cc: James Mitchell/R5/USEPA/US@EPA
 Date: 12/10/2009 03:05 PM
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Steve Lee

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To: 'brennen.brunner@state.mn.us'; 'El-Zein.Jason@epamail.epa.gov'; 'durno.mark@epa.gov'; 'McLaughlin, Patrick'; Kevin.Leuer@state.mn.us; George.Johns@state.mn.us; 'vega.sonia@epa.gov'; 'james.mitchell@epa.gov'
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Steve Lee, Manager
MPCA Emergency Response and Preparedness

[attachment "Steve Lee's DRAFT - SOG for MPCA EOP basic outline.doc" deleted by Stuart Walker/DC/USEPA/US]



Potential Issue - FEMA looking for someone (e.g., EPA, Corps) to run cleanup of public property after nuclear power plant accident

Stuart Walker to: Elizabeth Southerland, Helen Dawson
Cc: RobinM Anderson

12/08/2009 02:17 PM

Betsy, this is a follow-up email about what I mentioned to you in the hall. Last week I, OEM, ORIA, and OGC staff (including Charles) met with FEMA and NRC policy and general counsel staff.

We were meeting to discuss the role of NRC, EPA, and FEMA after a catastrophic release from a nuclear power plant, and how the compensation clauses of the Price Anderson Act might come into play because of the CERCLA definition of "release" (which makes a reference to Price-Anderson in excluding some releases from CERCLA jurisdiction). In Price-Anderson Congress in essence set up a federally-backed insurance scheme to compensate victims of a nuclear reactor accident (e.g., Three Mile Island).

I had thought that EPA was there to explain why previous policy from the removal program was incorrect in stating EPA could not respond to such releases under CERCLA authority, but rather EPA had authority but generally expected NRC to have authority over such incidents and did not expect to be involved except for possible help requested by NRC and/or state.

I was surprised to find out that NRC did not intend to be involved in the cleanup or Price-Anderson compensation decisions for contamination that was outside the fence line of the facility. NRC said that the authority for spending the \$10 billion insurance dollars that could become available when the Price Anderson Act is triggered would be lie with an Insurance Company. After those funds were gone, they thought EPA might handle the site cleanup.

NRC does not currently know if the \$10 billion can only be used for compensation for damages suffered by members of the public, or if it can be used for site cleanup. Also they have not asked the insurance company if they have any plans/guidance on how they will decide to distribute the monies, whether they have contractors lined up to do the cleanup work or would they expect each affected property owner to do the cleanup after getting a claim paid, or how they will answer the question of "how clean is clean" for purposes of either cleanup or determining what is considered contaminated for the purposes of compensation.

We will be meeting together again as a group. NRC intends on finding out answers to the groups question either prior to that meeting or possibly inviting the insurance company to the next meeting.

fyi, attached is the agenda for the meeting. Below is an email from FEMA the night before the meeting that lays out some of the issues.



recoverydiscussionagenda120109.doc

— Forwarded by Stuart Walker/DC/USEPA/US on 12/04/2009 08:57 PM —

From: "Greten, Timothy" <Timothy.Greten@dhs.gov>
To: Stuart Walker/DC/USEPA/US@EPA, Kathryn Sneed/DC/USEPA/US@EPA
Cc: Charles Openchowski/DC/USEPA/US@EPA, Colby Stanton/DC/USEPA/US@EPA, <grace.kim@nrc.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, Jean Schumann/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, Sara DeCair/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>
Date: 11/30/2009 07:16 PM
Subject: RE: Agenda: EPA-NRC-FEMA Recovery Discussion

Good evening!

I hope everyone had a good Thanksgiving and made it through Monday.

After reading through the agenda and other notes, I ask that we move the discussion of the Stafford Act to after both Price Anderson and CERCLA have been discussed. Both of the other funding mechanisms should be discussed before we get to the Stafford Act, as both are the appropriate funding avenues before a Stafford Act declaration is made.

That said, I also have a suggestion about what our outcome might be, based on my discussing w/Diane Donnelly today. Please also excuse me if I'm missing key nuances or information here--I might be the newest player in this game.

I'm not sure how much cleaning up after a respectably-size nuclear power plant incident would cost. \$50bil? The mechanisms set up by Price Anderson have set up a \$10bil pool to pay for certain expenses. After that is exhausted, and for those expenses not covered, what vehicles are available? This is covered under Superfund language...yet my understanding is Superfund is essentially broke, as industry hasn't paid in since the mid 1990s. Likewise, Stafford Act funds are not available until a declaration is issued--and then only in line with what the declaration covers.

The one thing I'm reasonably sure about is the cost for a major long-term cleanup would be in excess of \$10bil. If either Stafford Act or Superfund are tapped for \$\$, the bill is going to be so high that Congress will have to appropriate funds--there is no other way this bill will be paid. And getting those funds will be a political decision negotiated the heads of EPA, FEMA/DHS, NRC, Congress, and the White House.

The first deliverable this group should put together is a memo/paper that reads as a guide through this decision making process, explaining the steps and the different decision points. I think it should shy away from trying to toss the funding burden over the fence and say "superfund must do this" or "Stafford act must do this", and stick to a neutral explanation of what the consequences of each funding action would be (i.e. "[blank] could be funded by CERCLA--the language allows it. However, CERCLA is incredibly underfunded for something like this). A political tool-kit, if you will, that lays out options and tradeoffs.

The second deliverable would be a memo simply explaining the how of administering a long-range cleanup...that is, no matter who pays for it, it will be a join effort. Each of the agencies has a key ability they bring to the table--EPA understands environmental cleanup/remediation, NRC understands the nuclear power industry, and FEMA has longstanding relationships with state/local government, law enforcement, etc. Both in distributing funding and administering a cleanup, all of these skills would be needed (one agency doesn't have the manpower, either in skill sets or sheer numbers, to pull it off). Also, all of the agencies would essentially be robbing peter to pay paul during a cleanup--they simply don't have standby resources for this beyond a thin bench.

See all of you tomorrow morning!

Tim

-----Original Message-----

From: Walker.Stuart@epamail.epa.gov
[mailto:Walker.Stuart@epamail.epa.gov]
Sent: Tuesday, November 24, 2009 3:17 PM
To: Snead.Kathryn@epamail.epa.gov
Cc: openchowski.charles@epamail.epa.gov; Stanton.Colby@epamail.epa.gov;
grace.kim@nrc.gov; Benowitz, Howard; Schumann.Jean@epamail.epa.gov;
tyner.lee@epamail.epa.gov; Milligan, Patricia;
DeCair.Sara@epamail.epa.gov; Stahle.Susan@epamail.epa.gov; Greten,
Timothy
Subject: Re: Agenda: EPA-NRC-FEMA Recovery Discussion

One comment on the agenda, since my discussion ties into the same subject as everyone else.

(Embedded image moved to file: pic23614.jpg)

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From: |
----->

>----->
| Kathryn Snead/DC/USEPA/US
|

>----->
To: |
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>----->
| Sara DeCair/DC/USEPA/US@EPA, grace.kim@nrc.gov, "Milligan, Patricia"
<Patricia.Milligan@nrc.gov>, "Benowitz, Howard"
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Schumann/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>
|

>----->
Date: |
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>----->
| 11/24/2009 12:42 PM
|

>----->
>----->
| Subject: |
>----->
>----->

| Agenda: EPA-NRC-FEMA Recovery Discussion
>----->
>----->

To all,

Please find attached an agenda for our meeting next Tuesday, December 1, 2009 at EPA's Ariel Rios Building, Room B526, from 10 AM to 1 PM. Directions and an attendee list are included.

Let me know if you have any questions. We look forward to seeing everyone there.

[attachment "recoverydiscussionagenda120109.doc" deleted by Stuart Walker/DC/USEPA/US]

Kathryn K. Snead
Center for Radiological Emergency Management
Office of Radiation and Indoor Air
Environmental Protection Agency
Mail Code: 6608J
1200 Pennsylvania Avenue NW
Washington, D.C. 20460-1000
202-343-9228



Re: Fw: Agenda: EPA-NRC-FEMA Recovery Discussion

Colby Stanton to: Jean Schumann

Cc: Kathryn Snead, Stuart Walker

11/24/2009 04:56 PM

History: This message has been forwarded.

Yes, it was. Thanks for the catch!

Jean Schumann

Colby, I see that Stuart only has 5 minutes on th.

11/24/2009 04:33:38 PM

From: Jean Schumann/DC/USEPA/US
To: Colby Stanton/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA
Date: 11/24/2009 04:33 PM
Subject: Fw: Agenda: EPA-NRC-FEMA Recovery Discussion

Colby, I see that Stuart only has 5 minutes on the agenda, while I have 15. Was it going to be the other way around?

Jean Schumann
Office of Emergency Management
U.S. Environmental Protection Agency
Phone: (202) 564-1977
schumann.jean@epa.gov

----- Forwarded by Jean Schumann/DC/USEPA/US on 11/24/2009 04:31 PM -----

From: Kathryn Snead/DC/USEPA/US
To: Sara DeCair/DC/USEPA/US@EPA, grace.kim@nrc.gov, "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Colby Stanton/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>
Date: 11/24/2009 12:42 PM
Subject: Agenda: EPA-NRC-FEMA Recovery Discussion

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Re: Agenda: EPA-NRC-FEMA Recovery Discussion

Colby Stanton to: Kathryn Snead

11/24/2009 12:50 PM

Charles Openchowski, grace.kim, "Benowitz, Howard", Jean
Cc: Schumann, Lee Tyner, "Milligan, Patricia", Sara DeCair, Stuart
Walker, Susan Stahle, "Greten, Timothy"

Sorry, quick correction. I hadn't informed Kathryn, but we were able to get the Emergency Operations Center Executive Conference room for the meeting. The directions attached are still good, except that we'll be using the room immediately to your right after you enter the EOC through the glass doors.

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection Division
phone: (202) 343-9448
email: stanton.colby@epa.gov

Kathryn Snead To all, Please find attached an agenda for our m... 11/24/2009 12:42:53 PM

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To: Sara DeCair/DC/USEPA/US@EPA, grace.kim@nrc.gov, "Milligan, Patricia"
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EPA-NRC-FEMA Recovery Discussion
On Nuclear Power Plant Incidents

Tuesday, December 1, 2009

10 AM – 1 PM

Ariel Rios Building

Room B526 (EOC Executive Conference Room)

1200 Pennsylvania Avenue, NW

Washington, DC 20001

Agenda

10:00 AM	Introductions	All Participants
10:20 AM	Overview of NRIA Responsibilities for NPP Incidents	Colby Stanton, EPA
10:40 AM	Overview of Stafford Act as Applied to NPP Incidents	Tim Greten, FEMA
11:00 AM	Overview of Price-Anderson Act as Applied to NPP Incidents	Trish Milligan, NRC
11:20 AM	Overview of CERCLA as Applied to Emergency Response To NPP Incidents	Jean Schumann, EPA
11:35 AM	Overview of CERCLA as Applied to Remedial Actions At NRC-licensed Facilities	Stuart Walker, EPA
11:40 AM	Open Discussion – What Resources Are Available When?	All Participants
12:10 PM	Open Discussion – What Mechanism Is Available for Getting Resources to Responders and Public?	All Participants
12:40 PM	Next Steps and Action Items	All Participants
1:00 PM	Adjourn	

Call for Discussion

Yesterday, Kathryn Snead and I [Colby Stanton, EPA] visited NRC to discuss the outcomes of our discussions regarding use of CERCLA to respond to the immediate impacts of an incident at a nuclear power plant. The NRC staff responded very positively, and actually moved very quickly to the lack of clarity regarding authorities and responsibilities for longer-term responses to nuclear power plant incidents. The National Response Framework's Nuclear/Radiological Incident Annex states that:

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Directions

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Or call my cell, 202-841-6196, and we'll have someone meet you at the guard's desk.

Invitees

Howard Benowitz	NRC	howard.benowitz@nrc.gov
Sara DeCair	EPA	decair.sara@epa.gov
Tim Greten	FEMA	timothy.greten@nrc.gov
Grace Kim	NRC	grace.kim@nrc.gov
Patricia Milligan	NRC	patricia.milligan@nrc.gov
Charles Openchowski	EPA	openchowski.charles@epa.gov
Jean Schumann	EPA	schumann.jean@epa.gov
Kathryn Snead	EPA	snead.kathryn@epa.gov
Sue Stahle	EPA	stahle.susan@epa.gov
Colby Stanton	EPA	stanton.colby@epa.gov
Lee Tyner	EPA	tyner.lee@epa.gov
Stuart Walker	EPA	walker.stuart@epa.gov



RE: EPA-NRC-FEMA Recovery Discussion--new date

Colby Stanton to: Kathryn Snead, Greten, Timothy;
Charles Openchowski, "Kim, Grace", "Benowitz, Howard", Jean
Cc: Schumann, Lee, Tyner, "Milligan, Patricia", Sara DeCair, Stuart
Walker, Susan Stahle

11/10/2009 06:41 PM

December 1 would be fine with me. Kathryn, my calendar is booked, but it's a reminder about a meeting I won't be attending....

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection Division
phone: (202) 343-9448
email: stanton.colby@epa.gov

"Greten, Timothy" After seeing everyone's conflicts, it looks like De... 11/10/2009 06:39:20 PM

From: "Greten, Timothy" <Timothy.Greten@dhs.gov>
To: "Milligan, Patricia" <Patricia.Milligan@nrc.gov>, Colby Stanton/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>, "Benowitz, Howard" <Howard.Benowitz@nrc.gov>
Cc: Charles Openchowski/DC/USEPA/US@EPA, "Kim, Grace" <Grace.Kim@nrc.gov>, Jean Schumann/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Sara DeCair/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>
Date: 11/10/2009 06:39 PM
Subject: RE: EPA-NRC-FEMA Recovery Discussion--new date

After seeing everyone's conflicts, it looks like Dec 2/3/4 are all bad. I can meet on Dec 1st. Does that work?

If the week after thanksgiving is no good, the FRPCC is on December 9th. We could just meet at FEMA's 800k street facility immediately after the FRPCC meeting (2pm? Let folks get lunch first?)

-----Original Message-----

From: prvs=5583e8fcd=Patricia.Milligan@nrc.gov
[mailto:prvs=5583e8fcd=Patricia.Milligan@nrc.gov] On Behalf Of Milligan, Patricia
Sent: Tuesday, November 10, 2009 12:27 PM
To: Stanton.Colby@epamail.epa.gov; Greten, Timothy; Benowitz, Howard
Cc: openchowski.charles@epamail.epa.gov; Kim, Grace;
Schumann.Jean@epamail.epa.gov; Snead.Kathryn@epamail.epa.gov;
tyner.lee@epamail.epa.gov; DeCair.Sara@epamail.epa.gov;
Walker.Stuart@epamail.epa.gov; Stahle.Susan@epamail.epa.gov; Greten, Timothy
Subject: RE: EPA-NRC-FEMA Recovery Discussion

is it possible to reschedule this meeting? I need to be at the Hostile action exercise at Indian point. I could call in if we can't reschedule... the best time for me for a reschedule is the first week of december except that Dec 2 and 4th are not good.

I didn't realise the conflict until just recently.

Trish

-----Original Message-----

From: Stanton.Colby@epamail.epa.gov
[mailto:Stanton.Colby@epamail.epa.gov]
Sent: Friday, October 09, 2009 10:40 AM
To: Greten, Timothy
Cc: openchowski.charles@epamail.epa.gov; Kim, Grace;
Schumann.Jean@epamail.epa.gov; Snead.Kathryn@epamail.epa.gov;
tyner.lee@epamail.epa.gov; Milligan, Patricia;
DeCair.Sara@epamail.epa.gov; Walker.Stuart@epamail.epa.gov;
Stahle.Susan@epamail.epa.gov; Greten, Timothy
Subject: RE: EPA-NRC-FEMA Recovery Discussion

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From: |
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>
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|"Greten, Timothy" <Timothy.Greten@dhs.gov>
|

>
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To: |
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>
----->
|Colby Stanton/DC/USEPA/US@EPA, "Greten, Timothy"
<Timothy.Greten@dhs.gov>, Charles Openchowski/DC/USEPA/US@EPA, Jean
|Schumann/DC/USEPA/US@EPA, <Patricia.Milligan@nrc.gov>,
<grace.kim@nrc.gov>, Jean Schumann/DC/USEPA/US@EPA, Lee
Tyner/DC/USEPA/US@EPA, |
|Susan Stahle/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA
|

>
----->
Cc: |
----->

>
----->

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection
Division
phone: (202) 343-9448
email: stanton.colby@epa.gov

Obtained by
InsideEPA.com



Re: Work with Nuclear Regulatory Commission and FEMA -- Question

Colby Stanton to: Jean Schumann

10/09/2009 06:55 PM

Cc: Kathryn Snead, Charles Openchowski, Lee Tyner, Sara DeCair,
Stuart Walker, Susan Stahle

To be honest, given that Debbie doesn't want to use those authorities for the OSCs unless she has to, I'd rather not raise them at this point. The first meeting is educational, and I'd like to focus it on the three authorities that have funding associated with them.

Jean Schumann

What is the expectation for discussing with NRC.

10/06/2009 03:42:52 PM

From: Jean Schumann/DC/USEPA/US
To: Colby Stanton/DC/USEPA/US@EPA
Cc: Charles Openchowski/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Sara DeCair/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA

Date: 10/06/2009 03:42 PM

Subject: Re: Work with Nuclear Regulatory Commission and FEMA -- Question

What is the expectation for discussing with NRC/FEMA our internal EPA fall-back option of using Public Health Service Act/AEA authorities?

Jean Schumann
Office of Emergency Management
U.S. Environmental Protection Agency
Phone: (202) 564-1977
schumann.jean@epa.gov

Colby Stanton

Yesterday, Kathryn Snead and I visited NRC to...

09/30/2009 10:49:34 AM

From: Colby Stanton/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA
Cc: Elizabeth Southerland/DC/USEPA/US@EPA, Mark Mjones/DC/USEPA/US@EPA, Jonathan Edwards/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Sara DeCair/DC/USEPA/US@EPA
Date: 09/30/2009 10:49 AM
Subject: Work with Nuclear Regulatory Commission and FEMA to resolve responsibilities for intermediate and long-term response to nuclear power plant incidents?

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I hope that OSWER will support this effort. Please let me know if you have any questions or concerns, or if you'll be available to support this effort.

Thanks,

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection Division
phone: (202) 343-9448
email: stanton.colby@epa.gov



RE: EPA-NRC-FEMA Recovery Discussion

Colby Stanton to: Greten, Timothy

10/09/2009 10:40 AM

Charles Openchowski, grace.kim, Jean Schumann, Kathryn Snead,
Cc: Lee Tyner, Patricia.Milligan, Sara DeCair, Stuart Walker, Susan
Stahle, "Greten, Timothy"

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Or call my cell, 202-841-6196, and we'll have someone meet you at the guard's desk.

"Greten, Timothy" I think we can pencil this in--do we have a "where" 10/08/2009 05:09:07 PM

From: "Greten, Timothy" <Timothy.Greten@dhs.gov>
To: Colby Stanton/DC/USEPA/US@EPA, "Greten, Timothy" <Timothy.Greten@dhs.gov>, Charles Openchowski/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, <Patricia.Milligan@nrc.gov>, <grace.kim@nrc.gov>, Jean Schumann/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA
Cc: Kathryn Snead/DC/USEPA/US@EPA, Sara DeCair/DC/USEPA/US@EPA
Date: 10/08/2009 05:09 PM
Subject: RE: EPA-NRC-FEMA Recovery Discussion

I think we can pencil this in--do we have a "where"?

Timothy A. Greten, PMP
FRPCC Executive Secretariat
FEMA National Preparedness Directorate
Department of Homeland Security
1800 South Bell St.
Arlington, VA, 22202
office: (202) 646-3907
cell: (202) 657-2300

-----Original Message-----

From: Stanton.Colby@epamail.epa.gov
[mailto:Stanton.Colby@epamail.epa.gov]
Sent: Wednesday, October 07, 2009 12:34 PM
To: Greten, Timothy; openchowski.charles@epamail.epa.gov;
Schumann.Jean@epamail.epa.gov; Patricia.Milligan@nrc.gov;
grace.kim@nrc.gov; Schumann.Jean@epamail.epa.gov;
tyner.lee@epamail.epa.gov; Stahle.Susan@epamail.epa.gov;
Walker.Stuart@epamail.epa.gov
Cc: Snead.Kathryn@epamail.epa.gov; DeCair.Sara@epamail.epa.gov
Subject: EPA-NRC-FEMA Recovery Discussion

Right now, 11/17 1 PM - 4 PM looks like the only time all EPA participants can attend (some attendees may have to leave at 3 PM). Could we pencil this in?

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection
Division
phone: (202) 343-9448
email: stanton.colby@epa.gov

Obtained by
InsideEPA.com

Re: Work with Nuclear Regulatory Commission and FEMA to resolve responsibilities for intermediate and long-term response to nuclear power plant incidents?

Colby Stanton to: Stuart Walker

10/02/2009 02:36 PM

Cc: Charles Openchowski, Elizabeth Southerland, Jean Schumann, Jonathan Edwards, Kathryn Snead, Lee Tyner, Mark Mjones, Sara DeCair, Susan Stahle

History: This message has been replied to.

Great to hear OSRTI's on board! Agreed about keeping this at lower levels at this point, and that OSRTI and SWERLO will be important to this effort. Could you provide some suggested dates that might work for you and Charles?

Kathryn Snead will be the point person over here, so please work with her.

Sent by EPA Wireless E-Mail Services
Stuart Walker

Original Message

From: Stuart Walker

Sent: 10/02/2009 02:30 PM EDT

To: Colby Stanton

Cc: Charles Openchowski, Elizabeth Southerland, Jean Schumann, Jonathan Edwards, Kathryn Snead, Lee Tyner, Mark Mjones, Sara DeCair, Susan Stahle

Subject: Re: Work with Nuclear Regulatory Commission and FEMA to resolve responsibilities for intermediate and long-term response to nuclear power plant incidents?

Hi Colby,

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I am out the first week of November at another meeting. I think Charles is out the following week. We would both need to be at this meeting.

As always, we are concerned about the resource implications for regions that still have to work on remediating our own sites.

Thanks,
Stuart

Colby Stanton

Yesterday, Kathryn Snead and I visited NRC to

09/30/2009 10:49:34 AM

From: Colby Stanton/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA
Cc: Elizabeth Southerland/DC/USEPA/US@EPA, Mark Mjones/DC/USEPA/US@EPA, Jonathan Edwards/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Sara DeCair/DC/USEPA/US@EPA
Date: 09/30/2009 10:49 AM
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Thanks,

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection Division
phone: (202) 343-9448
email: stanton.colby@epa.gov



Re: Work with Nuclear Regulatory Commission and FEMA to resolve responsibilities for intermediate and long-term response to nuclear power plant incidents?

Stuart Walker to: Colby Stanton

10/02/2009 02:30 PM

Charles Openchowski, Elizabeth Southerland, Jean Schumann,
Cc: Jonathan Edwards, Kathryn Snead, Lee Tyner, Mark Mjones, Sara DeCair, Susan Stahle

Hi Colby,

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Colby Stanton

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From: Colby Stanton/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA
Cc: Elizabeth Southerland/DC/USEPA/US@EPA, Mark Mjones/DC/USEPA/US@EPA, Jonathan Edwards/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Sara DeCair/DC/USEPA/US@EPA
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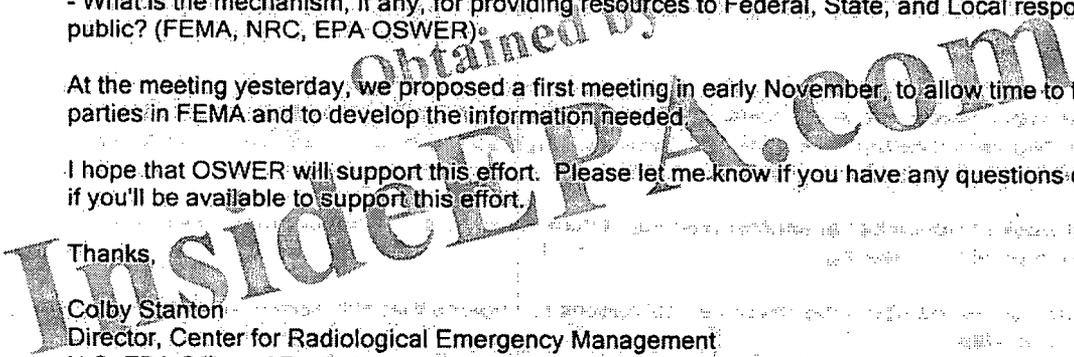
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Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection Division
phone: (202) 343-9448
email: stanton.colby@epa.gov





DRAFT Response to ORIA Fw: Work with Nuclear Regulatory Commission and FEMA to resolve responsibilities for intermediate and long-term response to nuclear power plant incidents?

Stuart Walker to: Elizabeth Southerland
Cc: Helen Dawson

10/01/2009 06:07 PM

Hi Betsy, this email is about another continuing ORIA/OEM issue. I would suggest we meet prior to the meeting to discuss strategy, possibly with OGC/Charles. As we discussed before, we would not want to give up any authority to take action, but we would continue to expect to defer to NRC overseeing the cleanup. I don't think we want to commit to providing lots of technical support to NRC since this would significantly impact our regions' workload, but I would rather not go into any detail in the email.

My draft email to ORIA is below, short and sweet.

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--- Forwarded by Stuart Walker/DC/USEPA/US on 10/01/2009 04:01 PM ---

From: Colby Stanton/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Susan Stahe/DC/USEPA/US@EPA, Charles Openchowski/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA
Cc: Elizabeth Southerland/DC/USEPA/US@EPA, Mark Mjones/DC/USEPA/US@EPA, Jonathan Edwards/DC/USEPA/US@EPA, Kathryn Snead/DC/USEPA/US@EPA, Sara DeCair/DC/USEPA/US@EPA
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- What is the mechanism, if any, for providing resources to Federal, State, and Local responders and the public? (FEMA, NRC, EPA OSWER)

At the meeting yesterday, we proposed a first meeting in early November, to allow time to find the right parties in FEMA and to develop the information needed.

I hope that OSWER will support this effort. Please let me know if you have any questions or concerns, or if you'll be available to support this effort.

Thanks,

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection Division
phone: (202) 343-9448
email: stanton.colby@epa.gov



Work with Nuclear Regulatory Commission and FEMA to resolve responsibilities for intermediate and long-term response to nuclear power plant incidents?

Colby Stanton. to: Stuart Walker, Jean Schumann, Susan Stahle,
Charles Openchowski, Lee Tyner

09/30/2009 10:49 AM

Cc: Elizabeth Southerland, Mark Mjones, Jonathan Edwards, Kathryn
Snead, Sara DeCair

History: This message has been replied to and forwarded.

Yesterday, Kathryn Snead and I visited NRC to discuss the outcomes of our discussions regarding use of CERCLA to respond to the immediate impacts of an incident at a nuclear power plant. The NRC staff responded very positively, and actually moved very quickly to the lack of clarity regarding authorities and responsibilities for longer-term responses to nuclear power plant incidents. The National Response Framework's Nuclear/Radiological Incident Annex states that:

"The coordinating agency [in this case, NRC] maintains responsibility for managing the Federal technical radiological cleanup activities in accordance with its statutory authorities, responsibilities and NRF mechanisms....While retaining technical lead for these activities, the coordinating agency may request support from a cooperating agency that has cleanup/recovery experience and capabilities (e.g., EPA, USACE)."

However, to my knowledge, we have not discussed the potential for EPA's role in a cleanup since this language was inserted in the last draft. We have also seen an expectation among state and local agencies that EPA will perform the cleanup, and have generally simply indicated thus far that the NRC is the coordinating agency throughout.

Unfortunately, a great deal of historical knowledge about the interaction of the Price-Anderson Act and Stafford Act appears to have been lost. We're thinking that the first step should be an educational meeting in which the responsible agencies discuss the potential applicability of the Price-Anderson Act, Stafford Act, and CERCLA to nuclear power plant incidents. The questions we envision being answered are:

- What are the various agencies' responsibilities under the Nuclear/Radiological Incident Annex (EPA ORIA)
- How does your Act apply to nuclear power plant incidents? (FEMA, NRC, EPA OSWER)
- What resources are available, and when would they become available, under your Act? (FEMA, NRC, EPA OSWER)
- What is the mechanism, if any, for providing resources to Federal, State, and Local responders and the public? (FEMA, NRC, EPA OSWER)

At the meeting yesterday, we proposed a first meeting in early November, to allow time to find the right parties in FEMA and to develop the information needed.

I hope that OSWER will support this effort. Please let me know if you have any questions or concerns, or if you'll be available to support this effort.

Thanks,

Colby Stanton
Director, Center for Radiological Emergency Management
U.S. EPA Office of Radiation and Indoor Air/Radiation Protection Division
phone: (202) 343-9448
email: stanton.colby@epa.gov



Re: Fw: NRC statement on using 1 to 10 rem for final cleanup numbers after NPP catastrophic failure

Stuart Walker to: Charles Openchowski

08/22/2009 04:27 PM

This helps too. I'm thinking there is at least one email (probably 2 or 3) where I explained to everyone why 10 rem a year leads to acute effects.

Fw: NRC statement on using 1 to 10 rem for final cleanup numbers after NPP catastrophic failure



Fw: NRC statement on using 1 to 10 rem for final cleanup numbers after NPP catastrophic failure

Charles Openchowski to: Stuart Walker

08/21/2009 02:51 PM

is this it?

Forwarded by Charles Openchowski/DC/USEPA/US on 08/21/2009 02:45 PM

From: Stuart Walker/DC/USEPA/US
 To: Charles Openchowski/DC/USEPA/US@EPA, Colby Stanton/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Kathryn Sneed/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA
 Date: 02/24/2009 03:55 PM
 Subject: NRC statement on using 1 to 10 rem for final cleanup numbers after NPP catastrophic failure

On page C-30 of the attached paper at the bottom of the email chain is NRC's recommendations for final cleanup after an RDD/IND that states they would also like to apply this after a nuclear power plant accident. I cut and pasted the same language below

The late phase PAG should be based on International Commission on Radiation Protection Report 82 (ICRP-82), "Protection of the Public in Situations of Prolonged Radiation Exposure", or International Atomic Energy Agency (IAEA) Safety Series DS-162, "Remediation of Areas Contaminated by Past Activities and Accidents." ICRP-82 and IAEA DS-162 state that if contamination results in doses below 10 mSv (1 rem) remedial activities are not likely justifiable and if contamination results in doses above 100 mSv (10 rem) remedial activities are almost always justifiable. In addition, because the level of protection should be based on sound health and safety principles, the late phase PAG should be consistent for all types of radiological events, regardless of location or whether it is a catastrophic failure at a reactor facility, or an RDD/IND.

Forwarded by Stuart Walker/DC/USEPA/US on 02/17/2009 10:34 PM



Final Draft of Work Products for Phase I Progress Report

Edward Tupin, Al Abadir, Bill Greer (bill.greer@hq.doe.gov), Brian Liddell (brian.liddell@osha.gov), Colby Stanton, 'Craig.conklin@fema.gov', Ed Feltcorn, Jonathan Edwards, Eric Penner (eric.penner@usda.gov),



Dickson, Howard to:

Fritz Sturz (fcs@nrc.gov), Gary
Purdy (gwp1@nrc.gov), Jean
Schumann, Jesse Majkowski
(jesse.majkowski@usda.gov),
John Mackinney, Kenneth Inn
(kenneth.inn@nist.gov),
'Kwall@ovp.eop.gov', Larry
Camper (lwc@nrc.gov), Nick
Orlando (dao@nrc.gov), Paula
Davidson
(paula.davidson@noaa.gov),
Phillip Newkirk, Stan Morton
(mortonjs@id.doe.gov), Steve
Danielczyk
(sdanielczyk@comdt.uscg.mil),
Stuart Walker, Tom Black
(thomas.black@hq.doe.gov)

03/08/2003 02:50 PM

obtain
A.com
Inside

Jon/Craig/Ken et al,

Here is the package of work products from the CMS subgroup that went into the final draft of the RDD/IND Working Group Phase I Progress Report as Attachment C in Volume 3 Attachments.

I believe that CMS holds the record as the most productive (measured in number of pages of text) subgroup.

I have enjoyed working with all of you and hope that the Working Group effort will continue under new management in the near future.

Howard W. Dickson
EG&G, Suite 900
2341 Jefferson Davis Hwy
Arlington, VA 22202
Phone (703) 418-3224
Fax (703) 418-0248
Cell (925) 382-3761
Email - hwdickson@egginc.com

[attachment "ATTACHMENT C - CMS Work Products.doc" deleted by Stuart Walker/DC/USEPA/US]



Re: Fw: Modified Proposed Language for the Responses at NRCCom-licensed NPPs Management Briefing Paper

Stuart Walker to: Charles Openchowski

08/21/2009 01:02 PM

I think this is most of it. I think I may have another one right around the same time frame explaining the 1 to 10 rem language in the White House OHS paper.

I thought I sent it around to everyone working on the nuke power plant issue

Fw: Modified Proposed Language for the Responses at NRCCom-licensed NPPs Management Briefing Paper



Fw: Modified Proposed Language for the Responses at NRCCom-licensed NPPs Management Briefing Paper

Charles Openchowski to: Stuart Walker

08/21/2009 09:41 AM

Stuart, is this it?

— Forwarded by Charles Openchowski/DC/USEPA/US on 08/21/2009 09:40 AM —

From: Stuart Walker/DC/USEPA/US
 To: Charles Openchowski/DC/USEPA/US@EPA
 Date: 03/20/2009 07:33 PM
 Subject: Fw: Modified Proposed Language for the Responses at NRCCom-licensed NPPs Management Briefing Paper

fyi, I agreed to drop for this briefing the earlier language that 10 rem a year caused acute effects, and ORIA agreed that NRC really has asked for a 1 to 10 rem range a few times.

ORIA and I will have a later conversation with the scientist at Oak Ridge National Laboratory (who develops the US and International health effects information that are used risk assessment modeling) to discuss what are the potential acute effects of 10 rem a year

I will come up with a sentence on why this is important for the remedial program, run it by you, and when happy, send it to the group.

— Forwarded by Stuart Walker/DC/USEPA/US on 03/20/2009 07:29 PM —

From: Stuart Walker/DC/USEPA/US
 To: Kathryn Sneed/DC/USEPA/US@EPA
 Date: 03/18/2009 08:47 PM
 Subject: Re: Modified Proposed Language for the Responses at NRCCom-licensed NPPs Management Briefing Paper

Hi Katherine,

We should talk.

The first 2 sentences seem alright. The third is misleading. NRC as a compromise agreed to optimization. NRC never said that they would not want to consider the 1 to 10 rem range in the international guidance. Keep in mind that most of NRC's risk management approach is predicated on the international radiation protection approach. That scheme in IAEA and ICRP guidance calls for 1 to 10 rem dose limits for intervention, rather than the 25 to 100 mrem/yr used for practices. During Superfund's joint conference with IAEA back in 1999, it was pretty clear that a number of the ICRP/IAEA representatives thought we (Superfund) should be using 1 to 10 rem as a cleanup level range instead of 10-4 to 10-6.

Since the third sentence should be deleted, the rest of the language I had previously regarding the potential acute effects of 10 rem per year as a cleanup level should be put back into the paragraph.

fyi, in the draft ORIA PAG document before OMB chopped out most of the substance, NRC agreed not to put the international numbers a table of potential benchmarks only because we (EPA) was arguing if they included those recommendations and other non-governmental recommendations like the HPS, CRCRD 100 to 500 mrem/yr, then we should include recommendations from other non-governmental organizations like enviro groups.

So we agreed to limit the table to just governmental cleanup standards that are used in the US. See the title of the table on page 290

Table H-1. Examples of U.S. Benchmarks of Potential Use in Evaluating Long-Term Cleanup Options

Example Organizations or Cleanup Programs	Summary of selected program-specific human health protection the cleanup of radiological contamination.
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On pages 287 and 288 in the section on NRC's approach, NRC still was providing language that was still referring to 1 to 10 rem per year as benchmarks for optimization. See some selected language below with some of my highlights.

H.1.2 NRC's Decommissioning Process (Non-Emergency)

5 The NRC has established (1997) 25 mrem (250 mSv) Total Effective Dose Equ pathways as the dose constraint below NRC's public dose limit that is appropriate for licensed nuclear facilities. NRC's decommissioning process applies to licensed facilities that have ceased. NRC's decommissioning process and the cleanup levels required under this process are for non-emergency situations and would not be appropriate for the types of immediate actions required to protect life and property in the event of an attack using an RDD/IND. The NRC decommissioning process and achieving the cleanup levels required under this process are cost prohibitive.

10

For further clarification, the following text is taken directly from chapters 2 and 3 of "Remediation of Areas Contaminated by Past Activities and Accidents." "Protection of Man from Prolonged Radiation Exposure" (ICRP 1982) contains similar text and the same approach to remediation.

15

2. OBJECTIVES IN THE REMEDIATION OF CONTAMINATED AREAS

20

Remedial measures shall do more good than harm and shall provide arrangements to maximize the net benefit to society.

15

3.2. A generic reference level for aiding decisions on remediation is an effective dose of 10 mSv (1 rem) from all sources including natural sources. Remedial measures normally be assessed as the mean dose in an appropriately defined area. Remedial measures would often be justified below the generic reference level and define a lower level for identifying sites that might need remediation. The levels shall not encourage a 'trade-off' of remedial measures among the v existing annual dose.

20

3.4. Situations in which the annual equivalent dose thresholds for determining when remedial restrictions on access. An existing annual equivalent dose of 100 mSv (existing contributions, including doses due to the natural background) shall be an indication for intervention under almost any conceivable circumstances, unless national authorities determine that such measures are not justified.

35

If you read the IAEA and ICRP documents that NRC likes to reference, I think you will see that there is a framework appears worse the more you read. For example, here are some quotes from publication 1176, which is the final version of DS-162

² An intervention is any action intended to reduce or avert exposure or the likelihood of exposure to sources which are not part of a controlled practice or which are out of control as a consequence of an accident.

SCOPE

1.10. The situations dealt with in this publication are intervention situations in which areas, including land and industrial sites, have been contaminated as a result of human activities and this contamination could cause the prolonged exposure to radiation of workers and members of the public. The requirements in this publication apply to contamination resulting from past events (such as activities at former weapon-testing sites) and former authorized activities that are no longer under the provisions of an operational authorization or licence and for which there are no provisions for proper closure. The requirements also apply to past practices that were not adequately controlled, accidents at nuclear facilities, and discharges and disposals that were managed in accordance with less stringent requirements than apply today. For these cases, situations of actual exposure as well as potential exposure are considered.

1.11. Such interventions have become commonly known as 'remediation'³ situations and in this context the term remediation has a similar meaning to rehabilitation, reclamation and cleanup.

3.2. A generic reference level for aiding decisions on remediation is an existing annual effective dose of 10 mSv from all sources, including the natural background radiation [6]. This will normally be assessed as the mean dose for an appropriately defined critical group. Remedial measures would often be justified below the generic reference level and national authorities may define a lower reference level for identifying areas that might need remediation.

3.4. For all situations in which the thresholds of annual dose for deterministic effects in relevant organs could be exceeded, the implementation of remedial measures or restrictions on access shall be required. An existing annual equivalent dose of 100 mSv (inclusive of all existing contributions, including doses due to the natural background radiation) to any organ shall justify intervention under almost any circumstances, unless national authorities specifically determine that such measures are not justified.⁵

From: Kathryn Snead/DC/USEPA/US
To: Stuart Walker/DC/USEPA/US@EPA
Date: 03/18/2009 04:47 PM
Subject: Modified Proposed Language for the Responses at NRCCom-licensed NPPs Management Briefing Paper

Stuart,

Here's the modified language (my modifications on Mike's modifications on your language) for that one bullet in the NPP response briefing paper. Are you free sometime this week to discuss this? I would suggest either tomorrow (Thursday) from 3:30-4:30 or Friday afternoon, pretty much any time. Colby's out next week, so I'm hoping to slide this in before she leaves, if we can come up with something we are all okay with.

Let me know what you think. Thanks for your help.

"NRCCom has previously referred to ICRP Publication 82 in suggesting final cleanup levels after an NPP incident within a range of one (1) rem per year to ten (10) rems per year. Assuming a 30 year period of exposure, doses in this range would correspond approximately to 3×10^{-2} to 3×10^{-1} cancer risk. NRCCom later joined other federal agencies in adopting an optimization approach for determining cleanup levels; however, it should be re-emphasized that doses in the range of one (1) rem per year to ten (10) rems per year range are higher than any of the benchmarks for recovery under consideration in the U.S."

Kathryn K. Snead
Center for Radiological Emergency Management
Office of Radiation and Indoor Air
Environmental Protection Agency
Mail Code: 6608J
1200 Pennsylvania Avenue NW
Washington, D.C. 20460-1000
202-343-9228



Re: Charles can you find a nuclear power plant email?
Charles Openchowski to: Stuart Walker

08/21/2009 09:29 AM

I'll try to find it, no problem

Stuart Walker

Not to be a total pain, but can you find an email t...

08/20/2009 08:42:09 PM

From: Stuart Walker/DC/USEPA/US
To: Charles Openchowski/DC/USEPA/US@EPA
Date: 08/20/2009 08:42 PM
Subject: Charles can you find a nuclear power plant email?

Not to be a total pain, but can you find an email that I sent on the nuclear power plant issue sometime between May of 2009 and May of 2008.

It had a lot of pdf graphs and text downloaded into the email and LOTS of yellow highlighting.

It was explaining that NRC had floated using a range of 1 to 10 rem per year for final cleanups

There might be several useful emails around the same time.

and YES, I do keep my FREAKING emails, but our CTS system erased a year of mine and they haven't restored it in the last week. I think I can throw this back into the mix of emails going around about optimization and what constitutes acute emails.

Sorry, but of course I don't want to ask ORIA or OEM.



**Joint Office Director Briefing on EPA Emergency Responders at
NRC-licensed Nuclear Power Plants Meeting/Conference Call**

Mon 04/27/2009 11:00 AM - 11:45 AM

Attendance is **Attendance is; required; for** for Stuart Walker

Chair: Kathryn Snead/DC/USEPA/US

Location: Executive Conference Room, EPA HQ EOC, Ariel Rios Building

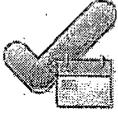
Required:

Charles Openchowski/DC/USEPA/US@EPA, Colby Stanton/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA

Description

Let me know if you would like for me to add others to this invitation. Thanks.

Personal Notes



**Modified Proposed Language for the Responses at
NRC-licensed NPPs Management Briefing Paper**

**Fri 03/20/2009 1:00 PM - 2:00
PM**

Attendance is required for Stuart Walker.

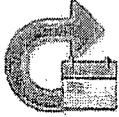
Chair: Kathryn Snead/DC/USEPA/US

Location: Conference Call (866-299-3188, 202343-9713#)

Required: Colby Stanton/DC/USEPA/US@EPA, Mike Boyd/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA

Description

Personal Notes



**Rescheduled: Nuclear Power Plant Briefing Paper Follow-on
Conference Call**

**Tue 03/17/2009 1:00 PM - 3:00
PM**

Attendance is required for Stuart Walker

Chair: **Kathryn Snead/DC/USEPA/US**

Location: **CS's Office**

This reschedule notice has been applied to the meeting.

i I think we have consensus on this updated time. Let me know if something else comes up.

Kathryn

Required:

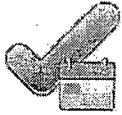
Charles Openchowski/DC/USEPA/US@EPA, Colby Stanton/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA

Description

I think we have consensus on this updated time. Let me know if something else comes up.

Conference Call information: 866-299-3188, Pin Number 2023439713#.

Let me know if you have any questions. Thanks.



Nuclear Power Plant Briefing Paper Follow-on Conference Call

Tue 03/17/2009 1:00 PM - 3:00

PM

Attendance is required for Stuart Walker.

Chair: Kathryn Snead/DC/USEPA/US

Location: CS's Office

Required:

Charles Openchowski/DC/USEPA/US@EPA, Colby Stanton/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA

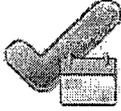
Description

I think we have consensus on this updated time. Let me know if something else comes up.

Conference Call information: 866-299-3188, Pin Number 2023439713#.

Let me know if you have any questions. Thanks.

Personal Notes



**Updated Version of the Nuclear Power Plant Briefing Paper -
Conference Call**

**Tue 02/24/2009 1:00 PM - 2:00
PM**

Attendance is **required** for Stuart Walker
Chair: Kathryn Snead/DC/USEPA/US
Location: 1-866-299-3188, 2023439713#

Required: Charles Openchowski/DC/USEPA/US@EPA, Colby Stanton/DC/USEPA/US@EPA, Jean Schumann/DC/USEPA/US@EPA, Lee Tyner/DC/USEPA/US@EPA, Stuart Walker/DC/USEPA/US@EPA, Susan Stahle/DC/USEPA/US@EPA

Description

Inside EPA

Personal Notes