

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

(F) Explain why the OI Director was not a voting member of the IRB.

ANSWER:

The Director of OI was not a voting member of the IRB primarily because OI did not want to participate as a voting member. The staff proposed that OI be invited to the IRB meetings as an observer and participant, but not as a voting member. Commissioner Asselstine proposed to have OI as a member of the IRB. The Director of OI believed that it would be better for OI not to participate as a member of the Board to preserve OI's independence and to conserve OI's resources, but OI should receive information copies of all matters referred to the IRB. Information copies of all matters referred to the IRB were sent to OI while the IRB was in operation.

*Also the Commission voted not to have OI as an IRB participant.*

(C) What did the OI Director ask for in the SECY paper?

ANSWER

OI asked, (1) that the Commission reaffirm OI's authority and responsibilities, and (2) that the Commission direct OI and the Staff to develop joint guidance to ensure that all NRC employees are informed of the scope of OI authority and responsibility so that all matters of wrongdoing are brought to OI's attention. The paper was withdrawn without Commission action at OI's request.

QUESTION 21. Has the Commission ever denied an OI request to initiate an investigation under its jurisdiction? If so, describe the specific incidences and why the request(s) were denied.

ANSWER

The Commission has never denied an OI request to initiate an investigation under its jurisdiction.

QUESTION 22. Please explain the relationship between wrongdoing and safety issues in the context of OI's responsibilities to investigate wrongdoing. In the Commission's view, does wrongdoing always have safety significance? Does OI share the Commission's view of the relationship between wrongdoing and safety issues?

ANSWER

NRC prescribes requirements to protect public health and safety. Normally, wrongdoing as it occurs under the purview of NRC involves a deliberate violation of NRC requirements. Wrongdoing or deliberate violations are of significance because they reach to the character, reliability, and integrity of the licensee individuals involved. The potential significance to safety is also gauged by the position and responsibilities of the person involved. For example, wrongdoing on the part of a nuclear plant manager is clearly more significant than wrongdoing by a firewatch.

The Commission cannot prejudge the safety significance of each case of wrongdoing. The safety significance of wrongdoing also varies depending upon the specific requirement violated. Each case is reviewed on its merits. For example, wrongdoing could span deliberately concealing incapacitated systems vital to reactor safety all the way to falsification of logs used to record the routine tours of fire watches.

OI offers the following observations regarding the interrelationship of wrongdoing and safety:

The nuclear industry is largely self-regulating. For the most part, our regulatory assumption is that most licensees will comply voluntarily with NRC requirements, and that their commitment to the protection of the public health and safety is as vigorous as that of the NRC. OI does not disagree with this assumption. But this is what makes character and integrity so important. The NRC must be able to rely on persons in the industry to comply with, not circumvent NRC requirements. Industry employees who engage in deliberate violations of NRC requirements represent a potential safety threat in terms of their unreliability.

It is difficult enough for NRC inspectors to detect non-compliance when it is not deliberate given NRC resource constraints. When such violations are done on purpose, and covered up, such non-compliance is highly unlikely to be discovered during routine inspections. Whatever character traits that may lead licensee employees to commit such violations render them untrustworthy for regulatory safety responsibilities.

Thus, it is OI's view that wrongdoing, as defined by the NRC, generally has safety significance.

QUESTION 24. In his October 8, 1987, testimony before the Subcommittee, Mr. Hayes noted OI's mission of providing thorough, objective, and timely reports to the staff to assist them in making regulatory decisions. What criteria is used to suspend an investigation based upon a regulatory need? Who makes this decision? Please give specific examples of OI investigations that have been suspended.

ANSWER

The Director, OI, may elect to suspend an investigation based on a lack of regulatory need, but this would be an unusual action for the following reason. Virtually all current OI investigations have been carefully reviewed by the Staff and OI prior to initiation. At the time of a staff request for investigation there is a consensus that a regulatory need for it exists. Example of factors that could lead to a decision that a regulatory need for investigation no longer exists would be evidence supporting a reasonable belief that wrongdoing did not, in fact, exist or that the basis of regulatory need no longer exists. Under those circumstances, the assigned investigator would, with the concurrence of his supervisor, discontinue the investigation and write a final report of completed investigation work that would be issued in accordance with standard procedures.

Although the original requestor of an investigation may assert that he or she no longer requires an investigation, the investigation may be discontinued only by the Director, OI, if there was a reasonable belief that there was no wrongdoing.

On the other hand, the Director, OI, may want to close a case due to a requestor's assignment of a lower priority to the investigation. For example, the requestor of an investigation initially assigned a high priority may, based on the belief that the investigative results no longer are necessary, request it be treated as a low priority case. Under those circumstances, the case could become a candidate for OI administrative closure if the priority of the case is such that the investigation will not commence within six months. The practical results of such a Staff action would be to cause the matter to be closed administratively. At that point the staff would be notified and could take further action on its own or request OI to reopen the case with a higher priority if circumstances warrant.

As of December 31, 1987, OI has closed 39 cases administratively.





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NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

March 1, 1988

EDO

Taylor/Martin  
Rehm  
Murley  
Murray  
Hayes  
Lieberman  
Thompson  
Russell  
Grace  
Davis  
RMartin  
JMartin  
McDonald  
Jordan  
EDO 3450  
LUnderwood

The Honorable John Breaux, Chairman  
Subcommittee on Nuclear Regulation  
Committee on Environment and Public Works  
United States Senate  
Washington, D.C. 20510

FILE  
Copies to

Dear Mr. Chairman:

I am enclosing the remaining answers to your January 27, 1988 questions pertaining to the Office of Investigations (OI), Training and Qualification of Nuclear Power Plant Personnel, the NRC Proposed Policy Statement on Maintenance, and the NRC Policy Statement on Enforcement (with the exception of 15(E) and 37) as follows: 14 through 22, 24 through 27, 29, 31, 32, 35, 41 through 46.

The other answers in these areas were provided on February 24, 1988. Remaining answers to questions concerning the NRC Office of Inspector and Auditor and the NRC Material False Statement Rule, as well as 15(E) and 37, will be sent via separate letter.

Sincerely,

Lando W. Zech, Jr.  
Lando W. Zech, Jr.

Enclosures: As stated

cc: Sen. Alan K. Simpson

FOIA-88-237, 4/4

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