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2. TYPE OF DOCUMENT CORRESPONDENCE HEARINGS (Qs/As)
3. DOCUMENT CONTROL SENSITIVE (NRC ONLY) NON-SENSITIVE
4. CONGRESSIONAL COMMITTEE AND SUBCOMMITTEE (if applicable)
_____ Congressional Committee
_____ Subcommittee
5. SUBJECT CODES
(A) _____
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6. SOURCE OF DOCUMENTS
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**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

September 28, 1999

The Honorable John Chafee, Chairman
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Enclosed please find Dr. Richard Meserve's responses to post-hearing questions submitted by Senators Lieberman and Thomas following his confirmation hearing on September 23, 1999 before the Environment and Public Works Committee.

Sincerely,

A handwritten signature in cursive script that reads "Dennis K. Rathbun".

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

RESPONSES TO
POST HEARING QUESTIONS FROM
SENATOR JOSEPH LIEBERMAN
CONFIRMATION HEARING FOR DR. RICHARD A. MESERVE
SEPTEMBER 23, 1999

1. In March of this year, the GAO issued a report that I requested with Senator Biden, assessing the NRC's efforts to devise a strategy to advance a risk-informed approach to regulation. The report found that some utilities do not have current and accurate design information for their plants that is a prerequisite for a risk-informed safety strategy. I have long advocated for better use and enforcement of design specific safety initiatives.

What steps do you envision the NRC taking to verify that utilities use plant design as the basis for their operating and safety initiatives?

Answer I understand that the NRC has identified the need for additional guidance to licensees both to provide a clear definition of what constitutes design information that must be maintained by licensees as the basis for operations and to clarify how that information should be updated to reflect changes to the facility. That guidance needs to be completed in a timely manner. As the Commission implements its new reactor oversight process, it should take steps to focus licensee and NRC resources on significant plant issues, including, where appropriate, maintenance of plant design information.

What other major problems with respect to safety do you see that remain?

Answer Various indicators show that the safety performance of the nuclear industry has improved in recent years. But, as I indicated in my testimony before the Committee, the restructuring of the industry has important implications for the NRC's work. It is necessary for the NRC to have effective mechanisms in place so as to assure that the pressures to reduce costs do not become incentives to cut corners on safety.

2. The NRC recently issued a report finding that a former senior engineer at the Millstone nuclear plant violated federal safety regulations and willfully lied to the NRC about it. However, the NRC cannot fine the company because the 5 year statute of limitation expired. While NRC maintained that the report was delayed due to complexities of the issues, the public remains concerned that the NRC did not conduct a timely investigation, thereby hindering enforcement of safety.

What will the NRC do to improve its track record with investigating and enforcing serious safety violations?

Answer The NRC should make sure that it focuses on potentially significant violations or allegations of wrongdoing and gives their resolution priority in the investigative and enforcement process. In the example you mention, simply tracking the application of the statute of limitations to the violations under investigation would help investigators and enforcement staff to keep sight of the need for resolution

of the investigation and would allow them to take steps to preserve the agency's enforcement options.

3. Connecticut is currently in the process of auctioning off its nuclear generating assets, and Northeast Utilities recently announced that they don't expect to bid on the Millstone plants. The citizens of Connecticut have worked hard to correct management and safety problems at the plant over the years. I believe - unlike others, who have raised concerns that the NRC over regulates - that the NRC plays a critical role in maintaining public confidence that the plants are safe.

What role would the NRC play in overseeing the transition of ownership of the Millstone plants? How will NRC ensure that the mistakes of the past are not repeated?

Answer The NRC is required to approve transfers of ownership or control of plant licenses in accordance with Section 184 of the Atomic Energy Act of 1954, as amended. The NRC's regulations provide for an appropriate review of the technical and financial qualifications of a new owner or operator and also offer opportunities for public comment or hearing on proposed transfers. In light of the history of the Millstone plants, I believe that the NRC should seek to ensure that the plants, whether under existing or new management, sustain improvements in operations and in the work environment. I understand that both Millstone units are currently under enhanced monitoring through additional dedicated inspection resources and close NRC senior regional management oversight.

4. Dr. Jackson took some major actions to make the NRC more responsive to problems raised by whistleblowers at nuclear plants. I believe that the NRC needs to continue to do more to keep improving safety, taking aggressive enforcement action where appropriate, and holding nuclear plant licensees accountable for correcting problems in a timely manner.

Do you have any plans for improving NRC's record protecting workers from suppression of concerns about plant performance and safety?

Answer I believe it is important for the NRC to intervene promptly if we identify concerns about a worker's ability to raise issues of plant performance and safety without fear of retribution. The NRC has identified the existence of a safety-conscious work environment as one of the central elements in its new process for assessment of reactor performance. This should remain a key element of the assessment process.

Do you think that legislative authority is needed to improve whistleblower protections?

Answer I understand that several years ago the NRC identified improvements which could be made to the protections for whistleblowers, including several changes to the provisions of Section 211 of the Energy Reorganization Act. This section provides for redress by the Department of Labor of retaliatory actions against employees for raising safety issues with their employers or the NRC. If confirmed, I will review this matter.

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5. As you are aware, the Price-Anderson act is scheduled to be reauthorized in 2002. Last year, the NRC submitted a statutorily-mandated report to Congress that concluded that the Price-Anderson nuclear insurance statute has proved to be successful, and should be renewed for another ten years with other modest, if any changes. I am interested in your views on the Act, and the role protecting the public from liability in the event that there is a nuclear accident.

Do you generally support the NRC's conclusions (in the report to Congress on the Price-Anderson nuclear insurance statute)? Do you agree with the NRC's report conclusion that Price-Anderson has assured that, in the unlikely event of an accident, the public will be promptly and equitably compensated for any resulting liabilities?

Answer

I am familiar with the Price-Anderson Act and its purposes and functions, although I am not yet fully conversant in the NRC's report to Congress on the Act that was submitted last year. I, thus, cannot address the conclusions or recommendations in that report. I do understand that the Act has established a system to provide ample and prompt compensation for public liability claims arising from a nuclear incident.

RESPONSES TO
POST HEARING QUESTIONS FROM
SENATOR CRAIG THOMAS
CONFIRMATION HEARING FOR DR. RICHARD A MESERVE
SEPTEMBER 23, 1999

1. Recognizing the continuing fragile state of the domestic uranium recover industry, would you favor Commission policies that seek to limit dual regulation of such facilities?
 - a. In particular, would you support NRC's relinquishing jurisdiction over in-situ leach wellfields since these facilities are adequately regulated by the Environmental Protection Agency (EPA) and administered by the states?
 - b. Would you support NRC's using its federal preemption authority under the Atomic Energy Act to move forward with the final disposal of uranium (11e2) byproduct material?

Answer:

A regulatory agency must always be sensitive to the need to regulate in a manner that imposes the minimum degree of burden consistent with getting the job done. Where more than one regulatory agency is involved in the oversight of an industry, it is important for each agency to ensure that the requirements it imposes provide needed protection of the public's health and safety and the environment and, to the maximum extent possible, are not inconsistent with obligations imposed by other agencies.

I understand that the Commission has before it a series of decision documents laying out various options for addressing the specific questions you have raised, as well as others, relating to the uranium recovery industry. I am not sufficiently familiar with these issues to provide a specific response at this time as to my own views. If confirmed, however, I will study these issues carefully. I pledge to work with my fellow Commissioners to see that the Commission resolves these issues in a comprehensive manner in an effort to bring consistency, clarity and efficiency to the requirements governing the uranium recovery industry.

2. Under the current fee system, NRC is required by the Omnibus Budget and Reconciliation Act to recover approximately 100 percent of its fees from licensees. This system requires licensees to pay for agency services they do not benefit from. These services include the following activities: international activities; agreement state oversight; fee exemption for nonprofit educational institution; licensing and inspection activities associated with other federal agencies; cost not recovered due to an exemption of or small entities; regulatory support for agreement states; and others.

The lack of reasonable relationship between annual fees and services rendered by NRC is exacerbated as more states become Agreement States and more sites are decommissioned. This situation leaves fewer NRC licensees to bear an even greater share of the burden. The NRC needs to determine an equitable way of dealing with this scenario that is already playing out in the uranium recovery area.

Would you be willing to support an aggressive request to Congress to resolve the inequities caused by the current fee system?

Answer: Although there can be inequities which result from the current requirement for the NRC to recover all of its budget authority through fees, the various NRC programs are important if the NRC is to fulfill its statutory obligations. As a result, resources to support them must be found. I have pledged to work with the Committee to find an appropriate solution to this problem.