

July 27, 2011

The Honorable Ben Chandler
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Chandler:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to the June 15, 2011 letter signed by you and other members of the Blue Dog Coalition and the Task Force on Oversight and Regulatory Review. The letter requested that the Commission commit to complying with President Obama's Executive Order 13563, regarding improving regulations and regulatory review.

Executive Order 13563 reaffirms and supplements Executive Order 12866, issued by President Clinton in 1993. Because the NRC has long been voluntarily complying with various aspects of Executive Order 12866, many features of Executive Order 13563 that derive from Executive Order 12866 have been implemented at the NRC. For instance, Executive Order 13563 encourages agencies issuing proposed rules "to afford the public a meaningful opportunity to comment through the Internet" for "at least 60 days." The NRC already offers opportunities to comment on proposed rules through e-mail and the website www.regulations.gov. In addition, the NRC usually provides 75 days to comment on proposed rules.

Executive Order 13563 encourages agencies to consider the costs and benefits of regulatory actions. To the extent it is allowed under the Atomic Energy Act, the NRC has considered the costs and benefits of new or modified requirements in regulatory analyses since 1976. In addition, for certain regulated facilities such as nuclear power plants, the NRC may evaluate costs and benefits as part of its "backfitting" analyses. When a backfit analysis is conducted, the NRC considers whether the costs of modifying facilities to comply with new requirements are justified by a substantial increase in the protection of public health and safety or the common defense and security. I would point out, however, that cost may not be considered if we decide that the modifications are necessary to meet the adequate protection standards for safety and security under the Atomic Energy Act.

Executive Order 13563 also asks agencies to adopt specific performance objectives, rather than specifying the actions that regulated entities must take. The NRC has already adopted many performance-based regulations, which let the regulated entities decide how best to accomplish the goals set forth in the regulation. For the last twenty years, the agency has incorporated insights from risk assessments into regulatory decision making. This approach focuses attention on risk-significant safety systems structures and components and reduces unnecessary conservatism associated with our regulations. Recently, a task force was established to enhance the use of risk information in regulatory activities.

The White House issued a January 18, 2011, Memorandum accompanying Executive Order 13563 that directs covered agencies to “develop plans for making information concerning their regulatory compliance and enforcement activities accessible, downloadable, and searchable online.” The NRC already provides access to this kind of information through our website, www.nrc.gov, and our public Agencywide Documents Access and Management System (ADAMS). In addition, the NRC website provides daily Status Reports, Event Notifications, Safety Performance Summaries, inspection reports, enforcement actions, press releases, and public meeting information for all nuclear power plants.

As you noted, independent regulatory agencies like the NRC are not subject to these Executive Orders. Subsequent to your letter, however, on July 11, 2011, the President issued Executive Order 13579, which specifically recommends that independent regulatory agencies comply with various general provisions of Executive Order 13563 and also conduct retrospective regulatory reviews akin to those that Executive Order 13563 requires of other agencies. The NRC is carefully considering the provisions in these Executive Orders and is currently determining its next steps in light of this more recent executive order.

The Commission appreciates your interest and support of its efforts to continually improve the quality of its regulations in an open and transparent manner.

Sincerely,

/RA/

Gregory B. Jaczko

Identical letter sent to:

The Honorable Ben Chandler
United States House of Representatives
Washington, D.C. 20515

The Honorable Tim Holden
United States House of Representatives
Washington, D.C. 20515

The Honorable Heath Shuler
United States House of Representatives
Washington, D.C. 20515

The Honorable John Barrow
United States House of Representatives
Washington, D.C. 20515

The Honorable Mike Ross
United States House of Representatives
Washington, D.C. 20515

The Honorable Dan Boren
United States House of Representatives
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The Honorable Dennis Cardoza
United States House of Representatives
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The Honorable Jim Matheson
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