

United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, MAJORITY STAFF DIRECTOR
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October 9, 2014

The Honorable Allison M. Macfarlane
Chairman
Nuclear Regulatory Commission
Rockville, MD 20852

Dear Chairman Macfarlane:

We have learned that you have recently proposed to effectively reorganize the NRC's Office of Investigations (OI) in a manner that significantly erodes the independence Congress intended it to have in support of its mission to investigate allegations of wrongdoing by NRC licensees. NRC's OI investigates a wide range of safety-related, security-related and other allegations of willful wrongdoing by NRC licensees. We urge you to rescind this proposal.

NRC's independent Office of Investigations was created on April 20, 1982, following an April 6, 1982, hearing then-Congressman Markey held about a case where NRC officials altered the conclusions of a safety report that found that a pump company had falsified and removed records prior to an NRC inspection. The safety report was whitewashed after NRC staff showed the draft report to a former NRC Chairman who had been hired by the subject of the investigation.

We have learned that your proposal seeks to erode OI's independence by calling for NRC's Office of General Counsel (OGC) to recommend changes to OI's investigative procedures and essentially direct its activities at every stage of an investigation, as well as by limiting the type of investigations OI could undertake in the first place. This proposal removes the independence that is essential to an effective investigative office.

We are also troubled by information we have learned that OGC and others engaged in persistent efforts to prevent a recent OI investigation from proceeding. Some of the OGC actions that occurred during this case, which may also have been perceived to be retaliatory in nature, have been referred to the NRC IG and the Office of Special Counsel. It is our understanding that the OGC personnel actions related to this matter remain under investigation. It is especially troubling that you would propose to grant OGC so much authority over the activities of OI while this investigation is pending.

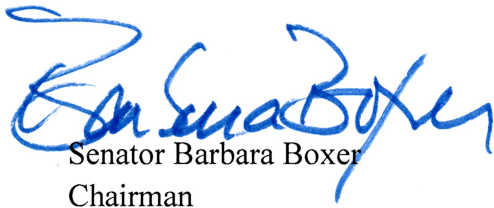
To assist our understanding of the manner in which this proposal was developed, please provide us with responses to the following questions and requests for information:

- 1) Please confirm that on October 1, 2014, you sent a draft proposal to NRC's Executive Director for Operations (EDO) Mark Sartorius and NRC's General Counsel Margaret

Doane that directed a review of and significant changes to NRC's enforcement process, which includes the NRC Office of Investigations.

- 2) Please confirm that this proposal calls on OGC to review and recommend changes to the procedures used in investigations and enforcement, and seeks to involve OGC throughout the entirety of each investigation, calling on OGC to provide advice and recommendations at every stage.
- 3) Please confirm that this proposal seeks to limit the resources OI can dedicate to a sub-set of the investigations it currently can undertake, which would likely have the effect of ensuring that investigations into some criminal violations and matters with significant fiscal implications could no longer be undertaken.
- 4) Please provide us with copies of all documents (including but not limited to all drafts of this proposal, emails, notes, memos, white papers, telephone logs, and presentations) related to the preparation of this proposal.

Sincerely,


Senator Barbara Boxer
Chairman


Senator Edward J. Markey