



OFFICE OF THE
GENERAL COUNSEL

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20585-0001

January 27, 2000

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Henry F. Bedford
15 Shaw Circle
New Castle, New Hampshire 03854-0462

Dear Mr. Bedford:

This is in response to your letter to David Meyer dated December 6, 1999. In this letter you expressed your concern that the NRC may limit or eliminate public participation in order to improve the efficiency of the NRC licensing process.

The Commission has been and continues to be committed to public participation in its licensing process. It has requested the Office of General Counsel to review the current NRC adjudicatory procedures to determine what changes could be implemented to improve the efficiency and effectiveness of the hearing process while at the same time enhancing public participation. As part of this review, a workshop with individuals representing various viewpoints was held on October 26-27, 1999 to solicit input on how the hearing process could be improved. The review of the hearing procedures is still ongoing. The Commission will consider a proposed rule for public comment later this year. If the Commission decides to proceed with rulemaking, we look forward to receiving any comments you might have on the rulemaking proposal.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph R. Gray".
Joseph R. Gray
Associate General Counsel
for Licensing and Regulation

06C-003
06C-01



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

January 27, 2000

Henry F. Bedford
15 Shaw Circle
New Castle, NH 03854-0462

Dear Mr. Bedford:

This documents the phone conversation on January 24, 2000 between you and Dave Nelson of my staff. Mr. Nelson called you to explain the confusion involving a letter I sent to you on December 14, 1999. This letter was replying to your letter of August 15, 1999 concerning enforcement activities at the Seabrook Nuclear Power Plant.

You interpreted my December 14 letter as a response to a second letter you sent to the NRC on December 6, 1999 concerning procedures for licensing of nuclear power plants. You subsequently sent a third letter to the NRC Chairman on December 23, 1999 noting the unresponsiveness of my December 14 letter to your December 6 letter.

Your confusion is understandable because, as stated above, my December 14 letter was not replying to your December 6 letter, but rather was replying to your August 15 letter. In the conversation with Mr. Nelson, you stated you did not send a letter dated August 15, 1999 or any other date concerning enforcement activities at the Seabrook Nuclear Power Plant.

As you requested, enclosed are copies of the August 15 letter and its envelope that appear to be from you.

The NRC will reply separately to your December 6, 1999 letter.

Sincerely,

A handwritten signature in black ink, appearing to read "R.W. Borchardt".

R. W. Borchardt, Director
Office of Enforcement

Enclosures: As stated

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JAN 7

HENRY F. BEDFORD
P.O. 15 Shaw Circle
NEW CASTLE, NEW HAMPSHIRE
03854-0462

23 December 1999

Chair, Nuclear Regulatory Commission
Washington DC 20555-0001

Dear Chairperson:

As an observer of nuclear regulation over nearly two decades, I have noted the errors and successes of the process. My book about Seabrook Station (University of Massachusetts Press, 1990) chronicled some of each. One of the NRC's persisting problems, I believe, has been the public perception that it ignores public concern.

Case in point: On December 6, 1999, I wrote David L. Meyer to express my hope that the NRC would resist reported congressional pressure to streamline the licensing process by limiting public participation. Such input improved, and did not significantly delay, the licensing of Seabrook Station. Further, political intervention implies that it is regulatory procedures (and therefore the agency itself), and not design flaws, siting errors, managerial incompetence, and financial miscalculation, that have brought the industry to an impasse. The NRC ought to resist that implication.

I received a response to this letter, dated December 14, 1999, from R. W. Borchardt that was utterly unresponsive. The reply appears to be a form letter to correspondents interested in Non-Cited Violations and Y2K issues at Seabrook. Although the content is soothing with respect to those matters, it is not at all reassuring to conclude that officials at the NRC cannot read, understand, and reply directly to public comment. That sort of ineptitude only reinforces views that the agency is uninterested in public comment and unable to respond effectively to public criticism.

Chairman Silin, in correspondence with me some years ago, thought he might be able to do something about that situation, but I expect the culture is entrenched and resists change. Still, it might be worth trying.

Sincerely yours,

H. F. Bedford



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20585-0001

December 14, 1999

Henry F. Bedford
15 Shaw Circle
New Castle, NH 03854-0462

Dear Mr. Bedford:

This responds to your letter concerning the Seabrook Nuclear Power Plant. We believe your concern involves the Nuclear Regulatory Commission's (NRC) issuance of Non-Cited Violations (NCVs) for violations occurring at Seabrook.

As background, the NRC remains focused on assuring that licensees comply with regulatory requirements through implementation of its inspection and enforcement programs. The current enforcement policy distinguishes violations as Severity Level I through IV, according to their overall safety and risk significance, with Severity Level IV being the least significant. Civil penalties may be assessed for violations of Severity Level I through III. In all cases, licensees are required to restore compliance whenever violations are identified.

To encourage licensees to self-identify and correct violations, the NRC Enforcement Policy appropriately provides for consideration of identification and corrective actions when determining what enforcement action to take. For Severity Level IV violations, NCVs are normally issued unless (1) the licensee failed to restore compliance within a reasonable time after the violation was identified; or (2) the licensee failed to place the violation into a Corrective Action Program to deter recurrence; or (3) the NRC finds the violation and determines that it is repetitive as a result of inadequate corrective action; or (4) the violation was willful and not subject to discretion pursuant to the Enforcement Policy. An NCV means that the violation is described in an inspection report as a violation of NRC requirements, but is not formally cited in a Notice of Violation which normally requires a written response.

While the use of NCVs has been a longstanding provision of the Enforcement Policy, their use was expanded by changes to the policy in March 1999, allowing most Severity Level IV violations that previously would have been formally cited in a Notice of Violation to be dispositioned as NCVs. These changes were made in order to reduce unnecessary regulatory and administrative burden on licensees when addressing violations of low safety and risk significance and to place greater emphasis on licensee's corrective actions programs. The result is that licensees no longer have to provide the NRC with written responses to violations entered into their corrective action programs and can prioritize corrective actions commensurate with safety and risk significance. In addition, the changes were intended to increase NRC effectiveness and efficiency. Due to these changes, all but a few Severity Level IV violations are now dispositioned as NCVs. The NRC believes that this approach to resolving violations of low safety and risk significance benefits safety due, in part, to the motivation for licensees to correct violations in order to avoid formal enforcement actions. The NRC continues to document all Severity Level IV violations in inspection reports and refer to them as violations, as we have in the past.

The NRC periodically inspects the licensee's corrective action programs. The inspection procedures require that a sample of the NCVs be selected for review, in detail, to determine whether the program is being implemented effectively. The procedures specify that in selecting the sample, the NRC considers, among other things, the risk significance of the affected systems. Enforcement action can be taken if ineffective corrective actions are identified.

The NRC has exercised discretion to issue non-cited violations instead of formal citations for certain Severity Level IV violations at Seabrook as indicated by your letter. It is important to note that these violations met the criteria for being classified as NCVs in accordance with the policy described above. In each case, compliance with NRC requirements was restored, the issues involving the violations were entered into the corrective action program, and corrective actions to prevent recurrence must be taken. Escalated action will continue to be considered for the more significant violations (i.e., those classified at Severity Level I, II, or III in accordance with the NRC enforcement policy). As you may know, the NRC issued a \$55,000 civil penalty to Seabrook on August 3, 1999 for a Severity Level III violation.

You also expressed concern regarding the NRC's intent to exercise enforcement discretion related to Y2K deficiencies. I presume you are referring to the intent to allow continued plant operation, where prudent, to help maintain reliable electrical supplies during the Y2K transition period even though violations of licenses or NRC regulations may exist.

All 103 operating nuclear power plants are fully Y2K ready and have developed Y2K contingency plans to cope with unanticipated problems. These plans supplement emergency response plans and off-normal operating procedures. They address items such as augmented staff, "topping-off" of consumables and diesel generator fuel, monitoring of critical components, and enhanced communication capability.

Based on the NRC's review of responses from the nuclear power industry, our independent inspections at all plants, a number of plant audits, and our ongoing regulatory oversight activities, we believe that the Y2K problem will not adversely affect the continued safe operation or, if necessary, the safe shutdown of U.S. nuclear power plants through the Y2K transition and beyond.

The electricity production and delivery systems, as two of the more important elements of the North American economic and social infrastructure, must remain dependable during Y2K transition or rollover periods. Most other critical elements of the infrastructure depend on the availability of an interconnected, stable, and reliable supply of electrical power. There is no doubt that cascading or even localized outages of generators and transmission facilities could have serious short-term and long-term consequences.

Continued safe operation of nuclear power plants during Y2K transition or rollover periods will play a major role in maintaining stable and reliable electrical power supply systems, providing necessary reserve power if there are major losses at other generating facilities. The NRC has issued interim guidance on the process for the NRC to exercise enforcement discretion in certain situations where power reactor licensees encounter Y2K-associated compliance problems in the Y2K transition period (December 31, 1999, through the first few days of 2000) or in other key rollover periods. The exercise of enforcement discretion may support a prudent

decision to keep the plant in operation, if safety will not be unacceptably affected, in order to help maintain electrical grid stability and reliability.

More detailed information on the Y2K activities at the NRC and at licensed nuclear facilities is available on the NRC's Y2K web site www.nrc.gov/NRC/NEWS/year2000.html.

I appreciate your interest in the enforcement issues involving Seabrook and Y2K. I hope that this letter is responsive to your concerns, and also provides useful information regarding the NRC Enforcement Policy. The current Enforcement Policy and other enforcement-related information can be obtained at www.nrc.gov/OE. If you have any questions, please do not hesitate to contact me (301-415-2741).

Sincerely,



R. W. Borchardt, Director
Office of Enforcement

HENRY F. BEDFORD

15 SHAW CIRCLE
NEW CASTLE, NEW HAMPSHIRE
03854-0462

15 August 1999

Director, Office of Enforcement
NRC
Washington DC 20555-0001

Sir:

Several recent inspections at Seabrook Station have found serious deficiencies about which the Commission has declined to take enforcement action. In addition, apparently the Commission is considering waiving enforcement against plants that may operate beyond their licenses as a result of Y2K deficiencies.

Such a tolerance of shortcomings in the industry is of course characteristic of the Commission. This is, however, as good a time as any to reassert the Commission's responsibility to protect the health and safety of the public. Enforcing regulations that are already industry-friendly would send a reassuring message to the public and a useful reminder of the Commission's authority to an industry that has become accustomed to having lax oversight.

Sincerely yours,

H. F. Bedford

HENRY F. BEDFORD
15 SHAW CIRCLE
NEW CASTLE, NEW HAMPSHIRE
03854-0462

6 December 1999

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1999 DEC 17 PM 4:00

RULES & DIR. BRANCH
US NRC

David L. Meyer
Chief, Rules and Directives Branch
Nuclear Regulatory Commission
Washington DC 20555-0001
Mail Stop:T6D59

Dear Mr. Meyer:

The press reports that Senator Domenici and others have urged improved procedures for the licensing of nuclear power plants. The objective, apparently, is to accelerate the process. One suggested method of achieving that end might be to limit or even preclude public participation.

Even if a speedier process is desirable, the suggested means to the end is inappropriate. Public intervention in licensing proceedings, on those occasions when the NRC has heeded it, has improved the design of nuclear plants and added to popular acceptance of facilities. Sponsors and regulators have tended to blame delayed licensing on intervenors that might more accurately have other explanations.

My study of the struggle to license Seabrook Station (University of Massachusetts Press, 1990) documents both of the contentions in the paragraph above. Intervenors were responsible for design improvements that made the plant more environmentally responsible and less subject to seismic risk. And the applicants themselves admitted that public intervention had not caused delayed construction and operation, for which bad weather, bad management, and dilatory regulators were more responsible.

The effort to revive nuclear power by revising regulations implies that licensing is somehow the cause of the twenty-plus year moratorium in the industry. Surely the NRC ought to dispute that inference. And surely the NRC ought to direct the attention of critics in Congress to legislation that specifically stripped the agency of a previous task of promotion of nuclear power. The effort to revive the industry, if that be possible, is emphatically not the responsibility of those whose statutory concern is the protection of the health and safety of the public.

Sincerely yours,

H.F. Bedford

cc: Senator Judd Gregg
Senator Robert Smith