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The Honorable Ivan Selin  
Chairman  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Chairman Selin:

SUBJECT: ELIMINATION OF REQUIREMENTS MARGINAL TO SAFETY

During the 388th meeting of the Advisory Committee on Reactor Safeguards, August 6-8, 1992, we reviewed SECY-92-263, "Staff Plans For Elimination of Requirements Marginal to Safety." We had the benefit of discussions with the NRC staff and NUMARC, and of the documents referenced.

The staff is not very far along in this enterprise, and proposes a workshop (or more than one), interactions with the public, the industry, and ACRS, to elicit input. It has also produced a list of candidate regulations for further study. We have no problem with any of this, and both hope and expect to remain involved. We do have a few observations at this stage, as follows, in no special order.

The list of candidate regulations so far seems a bit thin, and doesn't really represent the fruits of the kind of comprehensive review we have often recommended. That may come later.

Even this list, however, can serve to test the methods, and highlight the very difficult questions of implementation which have yet to be considered. Resolution of those issues (to which we turn in a moment) can provide paradigms for later developments.

The presentation we heard described the objective as removal of regulations when this can be done "without adverse safety impact." Since such a determination requires that the regulation be judged as having had no safety significance at all, it is hard to imagine the staff acquiescing in such a judgment. The original term was "marginal to safety," and that has yet to be defined. It will not be easy.

In many cases (if not most), it is not the plain wording of a regulation that causes the problems, but the implementation and interpretation by the staff. In short, it is the body of regulatory practice, not just the regulations, that is at issue. The staff did not mention that as a problem, so the effort is so far very incomplete.

We have given many examples in recent years of incoherence among regulations and practices, and some important examples of overkill only appear in that context. These are more difficult to find by searching each regulation independently. Yet this program is an important vehicle for the study of coherence in regulation.

In the whole enterprise, it will be necessary to make informed and sophisticated use of PRA to separate the marginal from the essential requirements. Everything we have recently said on that subject should be regarded as repeated here.

Finally, it is worth noting that the health of the organism is not only a function of the health of its parts. The reasons for seeking to remove marginal regulations are not only to reduce wasted effort and burden, but also to improve the signal-to-noise ratio of the regulatory process. Regulations that do no harm in and of themselves nonetheless can do harm to the focus and effectiveness of the enterprise.

Sincerely,

David A. Ward  
Chairman

References:

1. SECY-92-263, dated July 24, 1992, from James M. Taylor, Executive Director for Operations, for the Commissioners, Subject: Staff Plans for Elimination of Requirements Marginal to Safety (Draft Predecisional).
2. Memorandum dated July 13, 1992, from Byron Lee, Jr., NUMARC, for NUMARC Board of Directors, Subject: Industrywide Initiative.