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

Dear Chairman Selin:

SUBJECT: SECY-91-262, "RESOLUTION OF SELECTED TECHNICAL AND SEVERE
ACCIDENT ISSUES FOR EVOLUTIONARY LIGHT WATER REACTOR
(LWR) DESIGNS"

During the 380th meeting of the Advisory Committee on Reactor Safeguards, December 12-14, 1991, we considered SECY-91-262, "Resolution of Selected Technical and Severe Accident Issues for Evolutionary Light Water Reactor (LWR) Designs" dated August 16, 1991. Our Subcommittee on Safety Philosophy, Technology, and Criteria discussed this matter on December 5, 1991. We had the benefit of presentations by members of the NRC staff during these meetings and the documents referenced.

SECY-91-262 was prepared by the staff in response to a Staff Requirements Memorandum (SRM) of May 22, 1991, which "requested the staff to provide the advantages and disadvantages of proceeding with generic rulemaking on these issues." The issues in question were not precisely defined in the SRM nor in SECY-91-262, but include fifteen instances, as discussed in SECY-90-016, "Evolutionary Light Water Reactor (LWR) Certification Issues and Their Relationship to Current Regulatory Requirements," dated January 12, 1990, in which the staff proposes to depart from current regulations.

SECY-91-262 cites four advantages for the proactive approach (i.e., generic rulemaking) as summarized below:

- (1) Reduced likelihood for litigation in the design certification proceedings by codifying the Commission's policy decisions into enforceable standards.
- (2) Better opportunity for the public to participate early in the development of standards.
- (3) Facilitation of design certification applications by early clarification and codifying of the Commission's requirements.
- (4) Increased confidence of designer-applicants that their submittals can be approved.

The paper also cites four disadvantages, as summarized below:

- (1) Generic rulemaking would throw the current schedule for certification of evolutionary designs into disarray.
- (2) The diversity of designs will make it difficult to write

generic rules with sufficiently detailed criteria.

- (3) Additional staff resources will be necessary if generic rulemaking is to be applied to evolutionary designs.
- (4) The interdependence of certain complex issues indicates generic rulemaking will be difficult and protracted.

The cited advantages are compelling and well stated. On the other hand, only the first of the cited disadvantages (concern about the schedule) is meaningful. By its approval of the schedule for certifying the evolutionary designs, the Commission effectively ruled out any course other than design-specific rulemaking. The staff proposes to proceed with this course for the ABWR and ABB CE System 80+ designs and states its intent to continue with generic rulemaking activities where appropriate for other evolutionary and passive design applications. In reality, this approach could apply only to passive designs.

The advantages of a generic rulemaking approach are real and important. The design-specific rulemaking process can be carried out in a sound manner, but generic rulemaking is technically preferable. We urge the Commission not to let the opportunity slip by for using this better approach for design certification of the passive plants. We call your attention to our report of May 17, 1991 in which we proposed means by which a proactive approach to severe accident issues could be taken for the passive plant designs.

Sincerely,

David A. Ward
Chairman

References:

1. SECY-91-262 dated August 16, 1991, for the Commissioners from James M. Taylor, NRC Executive Director for Operations, Subject: Resolution of Selected Technical and Severe Accident Issues for Evolutionary Light Water Reactor (LWR) Designs
2. Staff Requirements Memorandum dated May 22, 1991, for James M. Taylor, NRC Executive Director for Operations, and William C. Parler, NRC General Counsel, from Samuel J. Chilk, Secretary, Subject: Evolutionary Light Water Reactor Certification Issues and Related Regulatory Requirements
3. SECY-90-016 dated January 12, 1990, for the Commissioners from James M. Taylor, NRC Executive Director for Operations, Subject: Evolutionary Light Water Reactor (LWR) Certification Issues and Their Relationship to Current Regulatory Requirements
4. Report dated May 17, 1991, from David A. Ward, ACRS Chairman, to Kenneth M. Carr, NRC Chairman, Subject: Proposed Criteria to Accommodate Severe Accidents in Containment Design