

ENVIRONMENTAL POLICY CENTER

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Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington D.C. 20555

REGARDING: INTERIM STATEMENT ON RULEMAKING POLICY

To the Secretary:

In response to the Preliminary Statement on General Policy for Rulemaking to Improve Nuclear Power Plant Licensing (NUREG-0499), I have the following comments on behalf of the Environmental Policy Center.

1. Regarding the Ultimate Form of Generic Rules

There are four forms of generic rules considered in NUREG-0499: findings, criteria, priorities, and methodologies. To begin with, I think that the issue of priorities -- "the relative importance of the generic issue to the decisional process for subsequent individual licensing cases" -- is clearly inappropriate and should be eliminated from further consideration. In proceedings of essentially inexhaustible complexity, it is meaningless to hypothetically categorize the relative importance of different issues as they may arise in future situations.

The three other forms of rules, however, are all conceptually reasonable. To the extent that regulatory reviews of nuclear license applications are necessarily complex, controversial, and involve a diversity of interested parties, and to the extent that guidelines have generally provided insufficient guidance to applicants, it is desirable to establish rules which define the obligations of applicants and the criteria for decisions as precisely as possible.

Conceivably, therefore, it makes sense to make dispositive findings of facts which are of generic relevance to all license applications, to establish definitive criteria where they may be appropriate, and to define an acceptable methodology for the consideration of certain other issues.

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2. Plan for Development of Rulemaking

The NRC Interim Policy Statement on Generic Rulemaking was published in the Federal Register on December 14th with a comment period through February 12th, 1979. Toward the end of this comment period, I called approximately two dozen individuals whom I know to be involved in nuclear licensing proceedings and policy issues of nuclear power. Of these two dozen people, only one was aware of the Interim Policy Statement, although all expressed interest in seeing the statement and reviewing the proposed issues.

Notwithstanding other responses the NRC may have received, I think this sample underscores two serious problems with which the Commission must deal in considering generic rulemaking. First, it is necessary that a greater effort be made to contact potentially interested parties. At a minimum, this should include all persons directly involved in nuclear licensing proceedings during the five year period prior to and including the present. Presumably these people represent not only concerned individuals, but individuals who are in a unique position to comment knowledgably on the basis of direct experience. Second, the comment period should be much longer than the sixty days originally allowed. Given the present lack of new license applications, and the likelihood that no surge in new reactor orders will be forthcoming in the immediate future, the NRC can move deliberately in this matter. There is no rush, there is no reason for haste, and there is no reason why the initial comment period should not be extended an additional six months to allow thorough public consideration of the issues. During the time the staff could take the opportunity not only to review comments as they are received, but to solicit additional comments to questions which are raised, and to follow-up on issues which are developed.

Beyond these initial considerations, workshops and conferences such as those proposed in NUREG-0499 would be appropriate, and I think the consideration of "only a few" rules per year is realistic. On the other hand, I would caution against consideration of the more complex and difficult rules first.

With these caveats, I have the following comments on the ten candidate areas.

3. Future Availability and Price of Uranium

It is probably inappropriate to define uranium availability as a "highly generic" issue which is not subject to case by case variation. Nor is it appropriate for the Nuclear Regulatory Commission to make assessments of national resources, or to make dispositive findings of costs subject to future variation. Instead, it is the responsibility of the NRC to clearly define the obligations of the applicant in securing firm contracts for uranium supplies adequate to serve the projected life-span of the plant.

4. Alternative Energy Options

It is clearly desirable for the NRC to establish a generic rule for the methodology of alternative energy source consideration in powerplant license reviews. It is equally important that NRC licensing proceedings review powerplant applications in the context of energy supplies rather than electric supplies, and that the proposed methodologies for consideration of alternative energy evaluations include alternatives to electric production and electric demand. In other words, nuclear powerplant applications must be reviewed against all available alternatives, including alternative system planning as well as alternative energy technologies.

5. Need for Base Load Capacity

Traditionally, state governments have the fundamental authority for the determination of electric generating power needs. Although the federal government has maintained extensive data on national energy supply systems, it has no existing authority for the determination of power needs or decisions regarding the optimization of fuel-mixes and other energy options. This is not an appropriate area for NRC rulemaking.

6. Alternative Site Methodologies

The promulgation of a rule for site evaluation and alternative site considerations should add considerable stability to the licensing process. Similarly, there should be a clear rule for the presentation of minimum baseline data and prescribed rules the implementation of the "obviously superior" concept. It is my own opinion, however, that minimum threshold criteria should form the basis of siting decisions, and that the focus of work in this area should be on the development of sufficient baseline data and environmental analysis to support regulatory decisions, rather than on the comparative merits of alternative sites. If there are no sites which meet threshold requirements, the comparative merits should not be relevant.

7. Criteria for Impact Assessment

Both criteria and methodologies for impact assessment, both prior and subsequent to nuclear powerplant construction and operation, seem desirable: but the complexity of these tasks may require continued dependence on guidelines for some time into the foreseeable future.

8. NRC Responsibility in Water-Related Impacts

This does not seem to me an area appropriate for rulemaking.

9. NEPA Criteria for OL Reviews

NRC rules establishing both the admissibility of impact issues and criteria for new information at the OL stage are desirable.

10. Occupational Radiation Exposure Control

To the extent that crud buildup is a generic problem, it is obviously desirable to establish rules involving both areas identified in NUREG-0499: i.e., crud formation, solution, and deposition, and decontamination, and plant layout and design requirements. Furthermore, where generic rules can be formulated for the reduction of any in-house radiation exposures in operation and maintenance activities, they should be pursued.

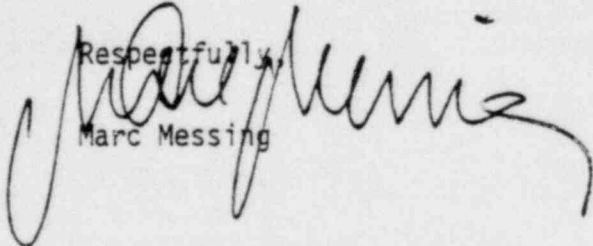
11. Generic Radionuclide Release Impacts

Although this is an area of fundamental importance to the mission of the NRC, it is probably one in which there is still insufficient information for rulemaking. In the near term it is necessary for the NRC to increase its environmental monitoring and assessment, and hopefully it will be possible to advance to rulemaking within the next few years. In the meantime, empirical studies of the relation between observed and calculated impacts are also highly desirable, and probably prerequisite to rulemaking.

12. Threshold Limits for Cooling Towers

Establishing threshold limits for a wide variety of designs (and prior to bona fide standardization of designs by the industry) and a wide variety of site-specific conditions (which presumably would have to be hypothetical) seems inconsistent with the basic premises of generic rulemaking.

These comments are based on a preliminary reading of NUREG-0499. As I indicated earlier, I believe the record should be left open for additional comments for an extended period of time, and, if it is possible, I may submit supplementary comments based on further discussions of these issues with other interested parties.

Respectfully,

Marc Messing