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

April 16, 1980

OFFICE OF THE  
COMMISSIONER

The Honorable J. Bennett Johnston, Chairman  
Subcommittee on Energy and Water Development  
Committee on Appropriations  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

On February 27, 1980, the Commission testified before your Subcommittee on NRC's FY 1981 appropriation request. During the hearing we discussed with you and Senator Schmitt the desirability of amending the Atomic Energy Act to provide NRC explicit authority to allow for public interest considerations in setting safety standards or resolving safety questions. You invited draft language that would establish such a requirement and resolve the present ambiguity on this point in our statutory charter.

As Senator Schmitt pointed out, the Federal Aviation Administration (FAA) is similar to NRC in that its primary responsibility is to regulate a potentially hazardous industry. However, the FAA in regulating civil aviation is permitted by statute to consider the public interest in setting safety standards. We believe it highly desirable that NRC be provided similar explicit statutory authority to take into account public interests in assuring that the civilian nuclear industry operates safely. Accordingly, we have enclosed draft statutory language which we believe will accomplish this result.

Under the Atomic Energy Act, activities involving nuclear facilities and materials are regulated in order to provide adequate protection of the health and safety of the public and to assure that such activities are carried out in a manner that would not be inimical to the common defense and security. It is clear that these statutory standards do not require zero risk and, so long as some risk may be tolerated consistent with these statutory standards, decisions on "how safe or secure is enough" may properly entail some balancing of safety or security risks against public interest factors, specifically energy needs and economic impacts. Thus, we view this draft legislation as confirming authority the NRC now has, authority to make prudent and sensible safety and national security judgments based upon safety or security as a paramount consideration, but also giving some consideration to appropriate public interest factors.

Hon. J. Bennett Johnston, Chairman

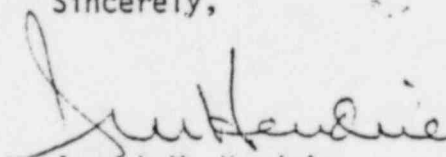
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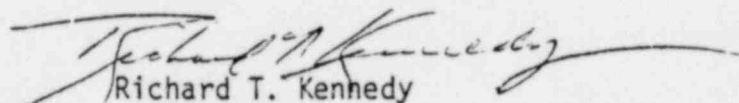
However, there has been some confusion on this point, and legislation would be highly desirable in order to help avoid future confusion and to make explicit in the Act what is at present only implicit.

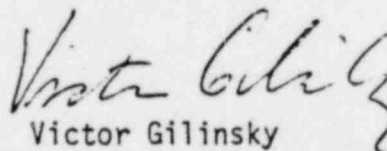
Finally, we emphasize that this proposal is not intended to reduce the current standards of protection but rather to permit future decisions to be taken on a more rational basis with all considerations explicitly stated.

Please do not hesitate to call on us if we can be of further assistance in this matter.

Sincerely,

  
Joseph M. Hendrie  
Commissioner

  
Richard T. Kennedy  
Commissioner

  
Victor Gilinsky  
Commissioner

Enclosure:  
As stated

cc: Sen. Mark O. Hatfield  
Sen. Harrison Schmitt

DRAFT BILL

The Atomic Energy Act of 1954, as amended, is amended by revising the title of Chapter 2. to read "Definitions and Policy," and by adding a new section 12 to read as follows:

"Sec. 12. Policy. - In the domestic licensing and regulation of facilities and materials under this Act the Commission shall regard minimizing risks to public health and safety and the common defense and security as the paramount consideration, but the Commission shall recognize that absolute safety or security may be unattainable as a practical matter and give appropriate consideration to economic impacts and to meeting energy needs. This policy shall guide the Commission in applying the domestic licensing and regulatory standards of this Act, including the standards of adequate protection to the health and safety of the public in section 182a. and non-inimicality in section 103d."