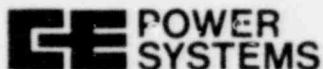


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May 8, 1980  
LD-80-022

Mr. Victor Stello, Jr., Director  
Office of Inspection and Enforcement  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Subject: NRC Enforcement Policy

Dear Mr. Stello:

Combustion Engineering has reviewed the proposed NRC enforcement program described in SECY-80-139 of March 13, 1980. We support the NRC's objective of developing a formal approved enforcement policy. We are concerned, however, that several aspects of the proposed policy will have detrimental effects which were not intended and which greatly exceed the measures necessary to encourage high standards of performance. The comments developed by our review to date are detailed below for your consideration.

A major concern with the proposed policy is its failure to restrict the imposing of plant shutdowns to those violations which pose a continuing threat to public safety or which require a plant inspection to assure safe operation. The proposed enforcement policy defines six severity categories of violations in each of seven broad areas subject to NRC regulation. The result is a large number of circumstances under which the proposed policy would mandate a shutdown, even though many of these circumstances pose little or no threat to the general public. Shutdown of an operating plant can have a severe economic impact on the utility owner but it also has an adverse economic impact on the general public. If it is imposed under conditions of restricted energy supply, such as existed recently on several occasions, it could be extremely disruptive. The enforcement policy should impose plant shutdowns only when the plant poses a continuing threat to the public, or when a plant inspection is required to assure continued safe operation. Moreover, the policy should never require automatic plant shutdowns because they preclude consideration of the full range of impacts that can result from each situation. Finally, the policy should direct, to the extent possible, that shutdown orders state the conditions that must be met for plant restart.

With respect to the Severity Category I violations in Attachment A of the enforcement policy, the violations in this category include those which cause "a system designed to prevent or mitigate significant safety events not being able to perform its intended function when actually called upon to work." This wording should be revised to add the phrase "...and when its functioning is required to keep the consequences of an event within applicable acceptance criteria." For example, a secondary system transient outside containment may produce low Reactor

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Coolant System pressure that would initiate a containment isolation signal, even though containment isolation is not required to mitigate the event. A failure of the containment to isolate in this case because of a violation should not make the violation Severity Category I. It would be more appropriate to make it Severity Category II which includes violations causing "a system designed to prevent or mitigate significant safety events not being able to perform its intended function."

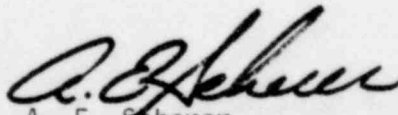
Allowing unlimited civil penalties to be imposed can produce severe impacts which may not be intended. In the extreme, unlimited penalties hold the potential to bankrupt a utility and impose severe impacts on the stockholders and, ultimately, on the ratepayers as well. This aspect of the proposed enforcement policy should be changed.

We recommend that the proposed enforcement policy be restructured to set maximum penalties for various categories of violations and allow more flexibility in setting the penalty to be applied in each case. The policy, as proposed, prescribes fixed penalties, mandates fixed NRC actions, and defines fixed penalty reductions based on specific licensee actions. It is difficult to imagine that such a rigid policy would result in equitable and constructive action in response to all violations that may occur. It appears that a more equitable enforcement policy, that would be less likely to produce counterproductive impacts, would incorporate the flexibility to impose enforcement sanctions based on the relevant considerations to the case at hand. These considerations would include evaluating the full range of impacts of an enforcement action on the licensee and the public, the actual safety significance of a violation, a licensee's past record of performance, sanctions imposed by other regulatory bodies and industry organizations, licensee action upon discovery of the violation, and the deterrent and motivational value of enforcement sanctions in light of the effects of the preceding considerations. Direction to evaluate these factors should be included in a revised enforcement policy.

If desired, we would be pleased to meet with you or your staff to clarify or further discuss these comments.

Very truly yours,

COMBUSTION ENGINEERING, INC.



A. E. Scherer  
Director  
Nuclear Licensing

AES:dag