

SHAW, PITTMAN, POTTS & TROWBRIDGE

1800 M STREET, N. W.
WASHINGTON, D. C. 20036

RAMSAY D. POTTS
STUART L. PITTMAN
GEORGE F. TROWBRIDGE
STEPHEN D. POTTS
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SETH H. HOOGASIAN
SHEILA Z. McCAFFERTY
DELISSA A. RIDGWAY
KENNETH J. HAUTMAN
DAVID LAWRENCE MILLER

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(202) 331-4100
TELECOPIER
(202) 296-0694 & 296-1760
TELEX
89-2693 (SHAWLAW WSH)
CABLE "SHAWLAW"
EDWARD B. CROSLAND
COUNSEL

May 12, 1980



*NOT ADMITTED IN D. C.

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

Attention: Docketing and Service Branch

Re: Proposed Rule on Informal
Conferences During Inspection
(45 Fed. Reg. 19564)

Gentlemen:

On March 26, 1980, the Nuclear Regulatory Commission published for comment a proposed amendment to 10 CFR Part 19, dealing with informal conferences during inspections (45 Fed. Reg. 19564). The proposed rule would codify present practices by allowing an NRC inspector to convene an "informal conference" at any time during an inspection to discuss tentative inspection findings, complaints of individuals involved in the licensed activities, and resolution of matters relating to inspection findings. Under the proposal, licensees would be obligated to have a representative attend these informal conferences. The NRC inspector and the licensee would each have the option of having individuals "with legitimate interests in matters pertaining to the inspection" attend these conferences.

We are pleased to submit the following comments on behalf of Union Electric Company, the construction permittee for the Callaway facility.

As a matter of general principle, we find no objection to codifying present practices on the holding of inspection meetings with licensees. Nor do we find fault with giving NRC inspectors the right under certain circumstances to invite others to these

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meetings. We do believe that this latter authority should be drawn more narrowly in order to assure an orderly inspection process and to protect the legitimate rights of licensees and individuals. We would suggest that the proposed rules should be revised in two respects. First, the NRC inspector should be allowed to invite only those individuals whose presence at inspection meetings may be necessary for the resolution of matters covered by the inspection. Second, the inspector's prerogative of having non-NRC individuals attend such meetings should not extend to those portions of the meetings at which proprietary or other sensitive information is to be discussed.

Under the rule as proposed, an NRC inspector could have "individuals with legitimate interests in matters pertaining to the inspection" attend inspection meetings. The examples of "individuals with legitimate interests" provided in the Supplementary Information accompanying the proposed regulation are unobjectionable -- a representative of the workers who have requested an inspection pursuant to 10 CFR §19.16 or a worker who has expressed an interest in an inspection pursuant to 10 CFR §§19.15 and 19.16. However, the proposed regulatory language is considerably broader. Anyone who the inspector thinks has a "legitimate interest" can be invited. This could include individuals off-site who would claim to be "interested" in the facility. (Under NRC decisions, virtually anyone living within 50 miles of a nuclear power reactor is considered to have sufficient "interest" to participate in licensing proceedings). It could even be read to allow the inspector to invite (and to compel the licensee to accept the presence of) a newspaper reporter or broadcast journalist. The language as written would also seem to prohibit a licensee from objecting if an inspector invited a worker to stop working to attend an inspection meeting. Although the Supplementary Information states that the proposed rule is not intended to open inspection conferences to the general public, the language of the rule itself could in reality have that effect. To avoid this, we would suggest that the proposed language be modified to restrict those invited by an inspector to "individuals whose presence may be necessary to the resolution of matters pertaining to the inspection." This wording would provide the inspector with the authority to assure a complete inspection process, while at the same time assuring that the process is orderly and manageable.

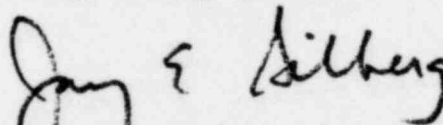
Our second comment concerns the need to protect sensitive information in the inspection process. The Supplementary Information accompanying the proposed rule acknowledges that "information concerning proprietary matters might be relevant to discussions of inspection findings." This type of information

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could include the trade secrets or other confidential commercial information. It could also involve information concerning the licensee's physical security plans and equipment. Inspection meetings might also require the disclosure to NRC by the licensee of information normally restricted from public disclosure by considerations of privacy, such as the identity and radiation exposure records of individuals. The Supplementary Information states that "[t]hese problems should be obviated by the fact that the NRC inspector and the licensee would have the prerogative of inviting only persons with legitimate, specific interests." In fact, the "legitimate interest" test would not prevent the disclosure of this type of sensitive information to persons who would not otherwise be authorized to receive it. For example, an individual might complain to NRC about the adequacy of a plant's security system. At an inspection meeting on that allegation, the individual might be considered to have a "legitimate, specific interest." Yet the individual would normally not have the right to access to information on the physical security plan. To avoid such a result, appropriate restrictive language should be added to proposed §19.14(h).

We appreciate the opportunity to submit these comments.

Very truly yours,



Jay E. Silberg
Counsel for Union Electric Company

JES/rf