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## United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6176

October 24, 1989

The Honorable Kenneth W. Carr  
Chairman  
U. S. Nuclear Regulatory Commission  
1717 H Street, N.W.  
Washington, D.C. 20555

Dear Admiral Carr:

I enjoyed meeting with you and discussing some of the nuclear regulation issues facing us in 101st Congress. As a follow-up to this meeting, I would like to encourage the Commission to adopt a policy which would allow funds levied as civil penalties to be used for training and educational purposes related to the enhancement of the health and safety of the public.

With its authority and broad discretion under Section 234 of the Atomic Energy Act to levy fines and to compromise, mitigate and remit such penalties, the Commission could consider requests that all or part of levied penalties be reduced by an amount which would be directed to nonprofit educational institutions. The funds could be used to establish or enhance the quality and availability of programs in fields relating to radiological health and safety. With a declining interest among our students in the nuclear sciences, and the commensurate difficulties in funding such educational programs, the program would result in a direct and effective contribution to the national interest.

The Environmental Protection Agency (EPA) is currently engaged in an identical program for fines levied pursuant to the various acts which it administers. Moreover, the Department of Energy (DOE) has announced a proposed rulemaking in a similar vein wherein civil fines will be diverted to educational purposes.

I have given a great deal of consideration to the points you raised at our meeting, and hope to allay your remaining concerns. Under a program such as we discussed, the Commission would have the discretion and authority to determine whether, and the extent to which, funds should be used for this purpose. The Commission would have complete and sole authority to approve or disapprove the destination of the funds.

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The administration of this policy would require a very small amount of effort that would be more than compensated for by the educational benefits it would generate. In addition, it would increase public goodwill toward the NRC. General internal guidelines could be established for such issues as the degree and purposes of the penalty mitigation, and the Commission could exercise the policy only in response to specific requests by a licensee against whom a fine was being levied.

The licensee could be required to do the lion's share of the work in administering such a program, with oversight by the NRC. Moreover, there would be few, if any, costs of enforcement. A mitigation agreement with a licensee, for example, could be conditioned upon the actual receipt of the funds by the donee.

I feel strongly that such a policy would not weaken the effectiveness of the civil penalty program. Licensees are highly motivated to avoid citations for noncompliance, regardless of the monetary value of the fine imposed. The levying of a fine carries with it a high degree of adverse publicity to which a licensee, in an arena as publicly visible as nuclear safety, is particularly sensitive.

I do not believe that the effect of a penalty, a portion of which was mitigated, would in any way be lessened the desire of the industry to avoid it. If there is any positive publicity to be associated with mitigation, I feel that it would be for the NRC rather than the licensee. Alternatively, the portion of the fine that is mitigated could be subject to a "gag" order on the part of the licensee, as the EPA has done on occasion.

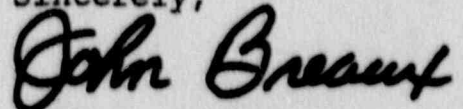
This policy would result in no financial benefit to the licensee. The licensee not be able to claim an income tax deduction for the redirected funds. They would retain the same character as a fine. In case of any doubt on this score, a provision stating this fact could be inserted in the mitigation agreement.

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The EPA has found this program workable and I commend their program to your attention with regard any specific details of its administration that I may have failed to review with you. Please feel free to contact my staff should you require further information.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink that reads "John Breaux". The signature is written in a cursive, slightly slanted style.

JOHN B. BREAUX  
UNITED STATES SENATOR