



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

April 7, 1994

Mr. Paul Blanch
135 Hyde Road
W. Hartford, CT 06117

Dear Mr. Blanch:

A news article transmitted by The Associated Press to newspapers on April 5 attributed to you charges that an NRC "confidential policy" allows dozens of nuclear power plants with safety problems to keep operating. This is simply inaccurate.

The April 5 article further attributes to you a statement that a "device" (a Rosemount transmitter) used to monitor pressure and temperature inside a nuclear reactor could give off false readings under some conditions. You concluded, according to the article, that the nuclear plants were in violation of NRC rules and the NRC was required to shut them down.

When significant safety questions arise concerning the operability of equipment in a nuclear power plant, the NRC staff performs an independent evaluation and assessment to ensure that the equipment is capable of performing their intended safety functions.

Although not timely, the NRC staff examined the ability of these transmitters to accomplish their safety function and concluded that they were operable. The operability determination was based on system design, redundancy and diversity, sensor failure history and an increase in the testing frequency using an upgraded test.

If the NRC staff had concluded that the transmitters were inoperable, operators of nuclear power plants would have had to a) follow their technical specifications, b) request a license amendment or c) request the NRC to exercise enforcement discretion. This NRC process is described in Generic Letter 91-18, a copy which is enclosed.

Because the NRC staff concluded the transmitters were operable, there was no need to decide whether to exercise enforcement discretion.

On a different issue, the first paragraph of the article mentions "a confidential policy" allowing federal regulators to overlook some violations at nuclear power plants. Even though the policy on enforcement discretion is not relevant to the Rosemount

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transmitters, it might be applicable elsewhere. The circumstances under which the NRC may exercise enforcement discretion are not confidential, but are described in the Commission's Enforcement Policy, published as Appendix C to NRC's Part 2 regulation. For example, a description of "the exercise of enforcement discretion . . . where the course of action involves minimal or no safety impact and the NRC staff is clearly satisfied that the exercise of discretion is consistent with the public health and safety" was published in revisions to the Enforcement Policy in the Federal Register, March 17, 1993, pages 14308-10 and is well delineated in the NRC Enforcement Manual, a document that is publicly available.

Finally, the article says you were unable to obtain a copy of the NRC "policy." Enclosed is a copy for your use. The only document for which the NRC claims client/attorney privilege is the General Counsel's paper discussing, in a pre-decisional analysis, the pros, cons and limited circumstances under which it would be appropriate. These circumstances are described, however, in the Commission's Enforcement Policy.

Sincerely,

Original Signed By
WILLIAM T. RUSSELL

William T. Russell, Director
Office of Nuclear Reactor
Regulation

Enclosures:
As stated


cc: The Associated Press
Hartford, CT

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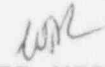
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No legal objection. OGC reviewed earlier draft and provided comments to J. Kopeck. Some changes were made following our review, but our No Legal Objection stands. A. W. Zimm