



MISC (90-9)
(55FR 43231)

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NUCLEAR MANAGEMENT AND RESOURCES COUNCIL

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December 10, 1990

Mr. Samuel J. Chilk
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. - 20555

ATTENTION: Docketing and Service Branch

RE: Draft Policy Statement --
Possible Safety Impacts of Economic Performance Incentives
55 Fed. Reg. 43231 (October 26, 1990)
Request for Comments

Dear Mr. Chilk:

These comments are submitted by the Nuclear Management and Resources Council, Inc. ("NUMARC") in response to the request of the U.S. Nuclear Regulatory Commission ("NRC") for comments on the Draft Policy Statement for Possible Safety Impacts of Economic Performance Incentives (55 Fed. Reg. 43231 (October 26, 1990)).

NUMARC is the organization of the nuclear power industry that is responsible for coordinating the combined efforts of all utilities licensed by the NRC to construct or operate nuclear power plants, and of other nuclear industry organizations, in all matters involving generic regulatory policy issues and on the regulatory aspects of generic operational and technical issues affecting the nuclear power industry. Every utility responsible for constructing or operating a commercial nuclear power plant in the United States is a member of NUMARC. In addition, NUMARC's members include major architect/engineering firms and all of the major nuclear steam supply system vendors.

We fully support the NRC's initiative in this area. We also encourage the NRC to establish a productive dialogue with states who have, or who are contemplating, instituting economic incentive programs to ensure that they do not adversely affect safety.

Pacific Gas & Electric Co. v. State Energy Resources Conservation and Development Commission (461 U.S. 190 (1983)) clarified that the Atomic Energy Act did not preempt state economic regulation. However, there are unanswered questions relative to when that regulation potentially affects public health

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and safety, the protection of which is clearly, and solely, the responsibility of the NRC under the Atomic Energy Act.

The nuclear power industry shares the Commission's concerns regarding the potential deleterious impact on safety that arbitrary or inappropriate state economic performance regulation could have. For example, we have advocated the elimination of SALP numerical grades because this tool, designed for internal NRC management's use, is being utilized as a numerical measure of licensee performance in analyses conducted by states, outside organizations measuring a licensee's financial viability, and others. We believe that the Commission's oversight of state economic performance regulations, as expressed in the draft Policy Statement, is appropriate to ensure that the public interest is not being disserved.

As the Commission observed in the draft Policy Statement, it is very difficult to make precise determinations of when a performance-based economic incentive can produce undesirable impacts on plant personnel or operations which could adversely impact safety. A financial incentive or disincentive that is directly linked to some quantifiable measure of nuclear plant performance (e.g., a performance indicator) may impact the decision making of personnel who can influence the indicator. Therefore, the improper application of such an incentive has the potential to cause nonconservative decision making by nuclear plant personnel. Since a nonconservative decision potentially could adversely affect nuclear plant safety, any such financial incentive should be selected and applied with great care.

One way to minimize those negative aspects would be to ensure that the focus is on long-term trends and overall performance. Further, the potential misuse of performance indicators should be avoided; it would be a serious mistake to tie an incentive, or disincentive, to one or more indicators that do not measure performance in an appropriate, broad manner. Further, the economic incentive (or penalty) should be applied according to a graduated or proportional formula (i.e., without abrupt changes at any specific level of performance) to help prevent a situation that could overly influence an operational decision. A range within which performance is neither rewarded nor penalized (a dead-band) also should be considered, centered about the desired or target level of performance, to allow for fluctuations in performance that typically occur over time.

We appreciate the opportunity to comment on behalf of the nuclear power industry and would welcome the opportunity to discuss our comments further with appropriate NRC personnel.

Sincerely,


Joe F. Colvin

JFC/RWB:bjb