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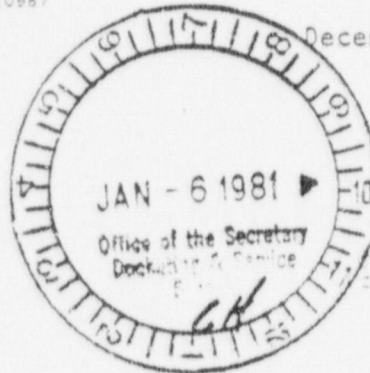
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December 30, 1980

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

ATTN: Docketing and Service Branch

Gentlemen:



This letter is to comment on the proposed Appendix C to Title 10 CFR Part 2, "General Policy and Procedures for NRC Enforcement Action".

The historical intent of the Atomic Energy Act has been to promote the peaceful use of atomic energy while not jeopardizing the common defense and security. In this regard the common paramount concern has always been to insure the safety of life and property. It appears that the proposed addition to Part 2 goes beyond what is necessary to accomplish this purpose. It was stated that the prime mover of the Commission in proposing this policy statement was the enactment of Pub. L. 96-295 which mandates increasing the limit of civil penalties which can be imposed by the Commission. It should also be stated that this law did not mandate that the frequency of, or occasions for imposing such penalties be increased as well. The proposed appendix mandates both.

The assigned severity levels under Supplement I do not seem appropriate for research reactor facilities if they are primarily based on a concern for public safety and the environment. Most research reactor technical specification limits are set conservatively so that, if breached, there would be little or no impact on public safety. The penalties called for in Table I do not reflect this. Also, if the Commission can distinguish between severity I & II violations, this distinction should be recognized in commensurate penalties.

The assigned severity levels I, II & III under Supplement V do not specify if the radiation exposure from, or surface contamination on a package results from an accident condition or normal handling. If a proper package does not withstand an accident condition that exceeds design performance standards, a shipper should not be liable for a civil penalty.

The proposed Appendix (Section IVB) appears to leave little leeway to the Commission in cases involving violations of severity levels I, II & III when it is stated that "civil penalties are generally imposed" for such violations. Further discussion in Section IV addresses

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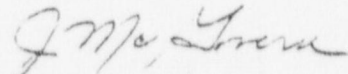
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circumstances which may mitigate the amount of such penalties but not the imposition of them. Section V then states that the Director, Office of Inspection and Enforcement "exercises judgement and discretion in determining severity level of the violations and the appropriate enforcement sanctions, including the decision to impose a civil penalty". Sections IV & V seem to be contradictory about how much discretion the Commission has in levying civil penalties. The degree of freedom to use discretion in assigning civil penalties should be clarified, hopefully in favor of allowing more freedom for the Commission to make decisions based on the merits of individual cases.

Section IV also states that civil penalties will be reduced to 1/2 if a licensee discovers and corrects violations independent of the NRC. This is so even if such violations may not be reportable. It seems inconsistent to levy a civil penalty for breaching a requirement that is not serious enough to be a reportable incident. Also, it is faint praise for the licensee who is astute and uses initiative to identify and correct a problem unilaterally. In the interest of fostering communication of potential problems among all licensees the Commission should reconsider its policy on such occasions.

Very truly yours,



James J. McGovern
Business Manager - Radiochemicals

JJMcG:sk