

NUCLEAR ENERGY INSTITUTE

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Joe F. Colvin

PRESIDENT AND
CHIEF EXECUTIVE OFFICER

November 25, 1998

The Honorable Shirley A. Jackson
Chairman
U.S. Nuclear Regulatory Commission
Mail Stop O16 C1
Washington, DC 20555-0001

Dear Chairman Jackson:

As a follow up to the Stakeholder meeting on November 13, 1998, I wanted to again express my appreciation for the Commission's willingness to seek feedback and comment from stakeholders on the change process underway at the NRC. I found the discussion valuable and thought it would be useful to share what I thought were the key points with you.

A key industry objective is to arrive at a regulatory regime that is stable, objective and safety focused. Clearly, all stakeholders benefit when the Commission is confident that its regulations do ensure adequate protection. Regulatory confidence will provide an environment where the occurrence of a non-safety significant event does not result in long-term distraction of either the NRC or the licensee even if the event commands significant public attention at the time. Your initiatives to make the regulations and regulatory process risk informed and performance based will serve this objective well as they should foster better public understanding.

The backfit rule is an excellent example of regulation intended to reflect regulatory confidence, yet it is a source of uncertainty because it is not being implemented consistent with the principles on which it was based. Currently, there is a controversy about whether or not it applies to the decommissioning process. The rule was intended to provide latitude to impose new requirements on regulated activity when the benefits to public safety were demonstrated to be in excess of the costs to implement the requirement. The basis of the rule assumes that this principle is completely indifferent to the portion of licensing life cycle applicable. Similarly, the use of averted on-site costs in the application of this rule also creates uncertainty. Averted on-site costs are a matter of economic concern to the licensee but do not have any bearing on public safety. To include them under the aegis of this regulation can easily result in the imposition of requirements that do not enhance public safety and undermine confidence in the process.

12/1...To EDO to Prepare Response for Chairman's Signature...Date due Comm: Dec 15
Cpy to: Chairman, C/C, RF, SECY to Ack...98-1086

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PDR COMMS NRCC
CORRESPONDENCE PDR

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Another issue that degrades regulatory confidence and predictability is the use of mechanisms to "arm twist" licensees to take actions not prescribed in the regulations. The use of CAL's or the threat of them should not be needed if indeed the regulations are adequate to protect public health and safety and if the NRC is confident in their efficacy. There are sufficient mechanisms within the existing codified regulatory process to enforce safe, compliant operation and "outside the process" solutions are neither required or desirable.

The action plan in use by the staff to track and control on going activities is comprehensive especially through the end of January 1999. Several stakeholders raised issues that are on-going but are not included in the plan. I believe that these points deserve your consideration. Some of these issues should be included because they will command substantial amounts of commission and staff time (particularly training) and they are critically important to overall success. Examples of these activities are:

- Staff training in the cultural change desired
- Corrective Action/Self Assessment program
- Regulatory initiatives outside the sphere of 10CFR50

Similarly, post January 1999 activities should be developed further. Many of the current activities take the form of "pilots" for later implementation but the plan for implementation is not apparent. Implementation is critically important on an industry wide basis. There are some other activities which are also significant in the process of moving to a risk informed regime. Design Basis and Safeguards reform are examples which should be included in a plan that goes out several years.

The maintenance rule is viewed by both the NRC and the industry as a working model for the risk informed, performance based regulatory future. It is of concern that there seems to be a significant disconnect between the NRC and the industry concerning whether or not, in its implementation, it is a good model. The industry perspective is that the implementation is at substantial variance with the sound principles on which the rule was based. There is considerable emphasis placed on deterministic involvement of non-safety significant systems, structures and components. This leads to excessive administration which becomes a distracter from important safety issues. We will work closely with you using this rule as a platform for dialogue and understanding foundational to other risk informed changes.

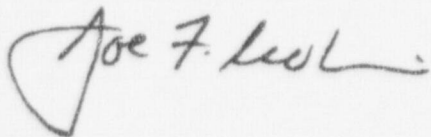
Now that the Commission has reached its full complement, it is appropriate that the NRC review its posture on the Government in the Sunshine Act. In order to

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maximize efficiency and take full advantage of your collective wisdom and leadership, it is essential that the NRC use the provisions of the act that permit collegial, pre-decisional discussion of important issues.

Overall, we are encouraged by the NRC's action on its current plan and the energy levels that we see being devoted to its accomplishment. You can be confident of our cooperation and support of these important initiatives.

Sincerely,

A handwritten signature in dark ink, appearing to read "Joe F. Colvin". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Joe F. Colvin

c: The Honorable Nils J. Diaz, Commissioner, NRC
 The Honorable Edward McGaffigan, Jr., Commissioner, NRC
 The Honorable Greta J. Dicus, Commissioner, NRC
 The Honorable Jeffrey Merrifield, Commissioner, NRC
 Mr. William D. Travers, Executive Director for Operations, NRC