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PROPOSED RULE (53 FR 47822)

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CABLE ADDRESS: ATOMLAW

Mr. Samuel J. Chilk, Secretary  
United States Nuclear Regulatory  
Commission  
Washington, D.C. 20555

Re: Proposed Rule on the Effectiveness of  
Maintenance Programs for Nuclear Power  
Plants, 53 Fed. Reg. 47822 (November 28, 1988)

Dear Mr. Chilk:

Based on recently available information, this will supplement our comments in response to the Commission's Proposed Rulemaking on the Effectiveness of Maintenance Programs for Nuclear Power Plants.

The Commission has informed the public of additional information bearing upon the regulatory analysis for the proposed rule (54 Fed. Reg. 6935). The information is contained in a written NRC response to various questions raised by NUMARC following a meeting with the Staff on the new rule (hereinafter "NRC Response"). We therefore comment upon the additional bases stated by the NRC for proposing to adopt the new maintenance rule. We also comment on the significance of newly published operational data for 1988.

In the response to NUMARC, the NRC explicitly recognizes "that maintenance improvements, in contrast to hardware or design changes, do not readily lend themselves to quantification, given the limitations of current methods and data" (NRC Response at 1). In other words, the Commission's prediction of dramatic savings to the industry due to improved plant capacity factors and reduced corrective maintenance cannot be justified by any provable method of calculation or other hard data. The predicted benefits are nothing more than theoretical guess-work and unproven assumptions about the possible correlation of improved maintenance to reduced transients and reactor down time.

The speculative nature of predicted benefits is confirmed by other concessions in the newly provided information, for example, the admission that maintenance SALP ratings cannot be statistically related to plant capacity factors in any meaningful way. As the NRC states, "[a]

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statistical analysis of this type cannot prove causation. It only demonstrates an association between variables" (NRC Response at 6; emphasis added). We made precisely the same point in our comments at pages 26-27. The same problem exists in correlating SALP ratings to safety failure rates in predicting total risk reduction to the public, as our comments further noted at pages 27-28.

A closely related problem is that the NRC's analysis considers all safety system failures without differentiating between those which can or cannot be reasonably attributed to a lack of effective maintenance practices. Also, the NRC's analysis improperly treats all such failures as having equal safety significance. The NRC now concedes that the "[r]isk significance [of challenges to safety systems] was not quantified" (NRC Response at 5). In fact, the NRC admits that its original determination "that challenges to safety systems were excessive was a judgment call . . . not based on quantitative criteria" (id.).

We further noted in our comments (page 30, footnote 56) that equating the number of hours spent in a particular activity with the risk attributable to operating a plant is a clear example of mixing apples and oranges. In its latest statement, the NRC attempts to defend its hypothesis that, because maintenance accounts for seventy percent of all activity in the plant, improvements in maintenance "could" reduce the estimated risk by two-thirds. However, its explanation provides no real answer at all. It merely laments that "estimating that parameter [risk reduction attributable to a new maintenance rule] with precision is obviously difficult, since suitable information on the risk contributions due to maintenance is limited" (NRC Response at 12). The NRC then states that the value of a two-thirds risk reduction "was used in the absence of a better estimate" (id.).

As a matter of requirements for rulemaking under the Administrative Procedure Act, the fact that the NRC cannot develop a "better estimate" is scarcely a valid reason for adopting a rule based upon speculative, unproven assumptions. In the same vein, the NRC's invitation to the industry in its Response to furnish its own data is no substitute for valid rulemaking. It is not the responsibility of the industry to justify other methodologies or data which might yield a valid rule. Rather, it is the obligation of the NRC to support its own conclusions in the first instance.

Secondly, in a recent NRC Weekly Information Report, the NRC announced that a special study report by the Office for Analysis and Evaluation of Operational Data, AEOD/S901, "Maintenance Problems at Nuclear Power Plants," was issued on February 23, 1989. According to this weekly report, just received by our office, a bounding estimate for the cost of replacement power due to maintenance deficiencies shows a projected drop-off in 1988 compared to prior years. The reported upper bound for 1987 was \$960 million as compared to a projection for 1988 of \$720 million. The corresponding lower-bound estimates were \$120 million in 1987 and \$80 million in 1988.

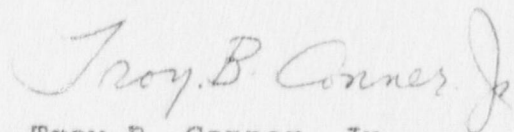
These projections verify the nuclear industry's position that voluntarily adopted initiatives in maintenance improvements at nuclear power plants make rulemaking requirements unnecessary.

Moreover, the new information developed by the Office for Analysis and Evaluation of Operational Data casts substantial doubt upon the NRC's claims of cost-savings to the nuclear industry by adopting formal maintenance rules -- claims which the NRC had already acknowledged to be speculative.

In view of the sharply reduced costs of replacement power due to maintenance deficiencies for 1988, the NRC's projected cost-savings to be achieved by rulemaking do not provide a valid basis for the proposed rule.

For the reasons stated above and in our previous comments, we oppose adoption of the rule as unjustified and unsupported in the record of this proceeding.

Sincerely,

  
Troy B. Conner, Jr.