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BRANCH

Dr. Nunzio J. Palladino,
Chairman
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Dr. Palladino:

You may remember that I spoke to you after the Commissioners meeting on June 19, 1985 on the Proposed Rule to Limit the Use of Highly Enriched Uranium (HEU) in Research and Test Reactors. For the separate actions on the HEU to LEU fuel Conversion directed by the Commissioners for action, at least three items appear to have been overlooked.

1. It appears that the Commission will mandate removal from each facility of surplus or excess HEU fuel even before the rulemaking action for HEU to LEU fuel conversion and before a means is available to reimburse the considerable cost that will be incurred. Examples of costs are the following:

- If the fuel is even slightly irradiated, availability of a suitable shipping cask will be a concern.
- If the fuel is to be accepted at the Idaho operations for disposal, then a significant cost is involved.
- Since the fuel is HEU (by definition), then the shipment will involve the expensive armed guards as required by NRC.

The sense of the June 19 meeting seemed to be that the removal of this surplus HEU fuel can be accomplished without costs. No mention was made of how these costs will be reimbursed. Similarly, no recognition was given to the needs of the commercial nonpower research reactor operator for appropriate reimbursement. This latter point will be addressed in greater detail below.

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2. In the Commissioners' meeting there was unanimous agreement that the costs of the core conversion from HEU to LEU should be reimbursed by the government. However, it was clear that the Commissioners had in mind the university reactors. In the several letters we sent to the Staff and to the Commissioners several months ago in response to the request for comments, we made it clear that commercial nonpower research reactor owners are as deserving and needful of reimbursement as are the university reactor owners. Premature disposal of useful HEU fuel squanders a valuable resource which is costly to replace.

If the replacement of the fuel were allowed to occur as the uranium burnup dictates, then the replacement cost could be handled by the owner in the usual manner. To mandate replacement regardless of burnup requires the same considerations for reimbursement by the government for both commercial and university nonpower reactors. An even handed approach by the government on this matter is required.

3. The original rulemaking on the HEU to LEU fuel conversion offered for comment in 1984 ignored the fact that an LEU replacement has been available since 1979 for TRIGA reactors with HEU cores. The final version of the Rule should not make the requirement that detailed plans for conversion be dependent solely upon availability of the suitable LEU fuel. If this requirement is left, then all affected TRIGA reactor owners must submit detailed conversion plans immediately whereas the owners of other nonpower reactors will delay for months or perhaps years to submit a detailed conversion plan because of the lack of immediate replacement fuel.

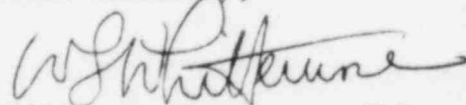
The Commissioners are urged to devise a method to use the 10CFR50.59 to permit the HEU to LEU fuel conversion. In the case of TRIGA reactors, and probably for most non-TRIGA nonpower reactors, the only hindrance to use of 10CFR50.59 is the fact that the fuel is closely described in the applicable Technical Specifications, no part of which may be altered by 10CFR50.59.

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For the sole purpose of expediting this HEU to LEU fuel conversion without intervenor action, the Commission could permit the use of 10CFR50.59 by exempting the reactor fuel descriptions from the above limitation, provided of course that all Safety concerns imbedded in the proper application of 10CFR50.59 are satisfied.

Thank you for attention to the above matters. If I may be of any assistance to you or your staff in the upcoming, important Rulemaking, please feel free to call.

Yours Sincerely,

A handwritten signature in dark ink, appearing to read 'W. L. Whittemore', written in a cursive style.

William L. Whittemore, PhD.
Manager, TRIGA Reactors Facility
(619) 455-3277

WLW:sd