

DECEMBER 2, 1980

REMARKS BY THOMAS F. PLUNKETT  
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GENTLEMEN:

THANK YOU FOR GIVING ME THE OPPORTUNITY TO COMMENT ON THE PROPOSED CHANGES TO 10CFR2.

ALTHOUGH I AM SPEAKING AS AN ILLINOIS POWER COMPANY REPRESENTATIVE, MY BACKGROUND HAS BEEN IN THE AREA OF NUCLEAR POWER PLANT STARTUP AND OPERATION. THUS, I WOULD HOPE THAT I AM ALSO SPEAKING FOR SOME OF MY COLLEAGUES WHO ARE WORKING IN THE POWER PLANTS TODAY AND CANNOT BE HERE. THESE ARE THE PEOPLE WHO ARE THE ONES THAT HAVE TO LIVE WITH AND INTERPRET THE PLETHORA OF REGULATIONS THAT FALL ON THEIR BACKS DAILY.

MY REMARKS ARE AS FOLLOWS:

1. THE NRC NEEDS TO PROVIDE TRUE INCENTIVES FOR ACCURATE, HONEST PROMPT REPORTING. CONSEQUENTLY, THERE SHOULD BE NO PUNITIVE OR REGULATORY ACTION ASSOCIATED WITH SUCH REPORTING. I DOUBT VERY MUCH IF THE REDUCTION OF THE CIVIL PENALTY BY AS MUCH AS 50 PERCENT FOR LICENSEE REPORTED VIOLATIONS WILL HAVE THE AFFECT INTENDED. FURTHERMORE, THE PROPOSED REDUCTION IN FINES AS INCENTIVES IS NOT CLEARLY DEFINED AND PLACES RELIANCE ON SUBJECTIVE DECISIONS FROM I & E RELATING TO THE GOOD FAITH OF LICENSEES, THE PROMPTNESS OF THE REPORT AND THE COMPREHENSIVENESS OF CORRECTIVE ACTION. SUBJECTIVE DECISIONS ARE NOT ACCEPTABLE IN LIGHT OF THE LARGE FINES BEING PROPOSED. PUNITIVE OR REGULATORY ACTIONS ARE ONLY APPROPRIATE WHEN THERE IS A FAILURE TO REPORT OR A FAILURE TO IDENTIFY A VIOLATION.

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2. THE PROPOSED BASE CIVIL PENALTIES ARE DISCRIMINATORY WHEN BASED ON ABILITY TO PAY AND POTENTIAL PUBLIC CONSEQUENCES. THE TRUE PUBLIC CONSEQUENCES OF ACCIDENTS AT THE FUEL FACILITIES, FOR EXAMPLE, CAN BE GREATER THAN AT POWER REACTORS. MOREOVER MANY OF THE VIOLATIONS RELATE TO "NON-PUBLIC" INCIDENTS SUCH AS RADIATION EXPOSURE TO WORKERS. THE SERIOUSNESS OF AN OVEREXPOSURE IS EQUAL AT ALL LICENSEES, THE CIVIL PENALTY SHOULD BE EQUAL AS WELL.
3. IMPOSING CIVIL PENALTIES FOR EVERY DAY THAT A VIOLATION OCCURS IS CONTRARY TO THE APPROACH THAT SHOULD BE TAKEN TO IMPROVE PERFORMANCE. IT IS FAIRLY WELL RECOGNIZED THAT REWARDS AND INCENTIVES ARE MORE EFFECTIVE THAN PUNISHMENT YET THE TONE OF THIS PROPOSED REGULATORY CHANGE IS PURELY PUNITIVE. I WOULD SUGGEST THE AUTHORS OF THIS DOCUMENT MAY WANT TO INVESTIGATE OTHER TYPES OF MOTIVATIONAL TECHNIQUES. I WOULD ALSO RECOMMEND THAT ALL FINES MUST BE APPROVED BY THE COMMISSION. THE INCLUSION OF AN APPEAL PATH WITH NO ACTION TAKEN UNTIL THE APPEAL IS RULED ON SHOULD ALSO BE INCLUDED.
4. THE PROPOSED RULE CHANGE REFERS TO ADHERENCE TO INFORMAL OBLIGATIONS AND INFORMAL AGREEMENTS. IT WOULD CLEAR THE AIR CONSIDERABLY IF THE WORD "WRITTEN" WAS PLACED IN FRONT OF THE WORD INFORMAL.
5. I CAN UNDERSTAND THE NEED FOR PROGRESSIVE ESCALATION ACTIONS WITH RESPECT TO NONRESPONSIVE LICENSEES. HOWEVER, I FEEL THAT TABLE 2 WOULD EVENTUALLY RESULT IN THE SHUTDOWN OF MOST OPERATING UNITS. I'M PARTICULARLY REFERRING TO SEVERITY OF VIOLATION CATEGORIES II AND III WHERE I COULD EASILY POSTULATE EQUIPMENT FAILURES WHICH COULD OCCUR OVER A TWO YEAR PERIOD THEREBY RESULTING IN SUSPENSION OF OPERATIONS.

I BELIEVE YOU NEED TO QUALIFY THIS TABLE SOMEWHAT TO INSURE THAT EQUIPMENT WHICH IS SUBJECT TO SOME PROBABILITY OF FAILURE, WHICH IS TRUE OF ALL EQUIPMENT, IS NOT SUBJECT TO PUNITIVE ENFORCEMENT ACTION. THIS COMMENT ALSO APPLIES TO A CONSIDERABLE NUMBER OF SEVERITY CATEGORY EXAMPLES. I FIND IT DIFFICULT TO BELIEVE THAT THE LICENSEE IS SUSCEPTABLE TO FINES FOR HARDWARE FAILURES.

A FEW BRIEF COMMENTS PERTAINING TO THE SEVERITY CATEGORIES ARE AS FOLLOWS:

#### REACTOR OPERATIONS

1. "A SYSTEM DESIGNED TO PREVENT OR MITIGATE A SERIOUS SAFETY EVENT NOT BEING ABLE TO PERFORM ITS INTENDED FUNCTION UNDER CERTAIN CONDITIONS" MAY NOT REPRESENT A VIOLATION DUE TO THE REDUNDANCY OF SAFETY SYSTEMS. IN ANY EVENT, IF THE MATTER IS WITHIN THE BOUNDS OF TECHNICAL SPECIFICATION LIMITING CONDITIONS FOR OPERATION, THERE SHOULD BE NO PENALTY

#### HEALTH PHYSICS

1. NO ALLOWANCE IS MADE FOR ONE TIME EMERGENCY EXPOSURES WHERE POSSIBLE HARM TO HUMAN LIFE IS CONCERNED.
2. "FAILURE TO DECONTAMINATE PLANT AREAS AS REQUIRED" IS MENTIONED. I AM UNAWARE OF NRC STANDARDS FOR DECONTAMINATION.

IN GENERAL, THE SEVERITY CATEGORIES ARE POORLY DEFINED AND PRONE TO SUBJECTIVE JUDGMENTS OF THE NRC

FINALLY, I AM PERSONALLY TIRED AND OFFENDED WITH THE USE OF THE WORDS CRIMINAL, CRIMINAL OFFENSE, ETC. WHICH APPEARS THROUGHOUT THIS DOCUMENT. THE NRC IS MISTAKEN IF THEY BELIEVE THAT BY USING FEAR TACTICS SUCH AS THREATS OF INVESTIGATION BY THE FBI AND THE DEPARTMENT OF JUSTICE COMPLIANCE WITH ALL REGULATIONS CAN BE ACHIEVED. THE

ONLY AFFECT THESE TYPES OF THREATS HAVE IS TO EVENTUALLY DISGUST  
GOOD DEDICATED EMPLOYEES TO THE POINT THEY FEEL LIFE IS TOO SHORT  
TO WORK IN THIS KIND OF INDUSTRY AND ENVIRONMENT. WHEN THEY LEAVE,  
USUALLY LESS EXPERIENCED PEOPLE TAKE THEIR PLACE. THIS DOES NOT  
ACHIEVE THE STATED GOAL OF "TO ENCOURAGE IMPROVEMENT OF LICENSEE  
PERFORMANCE."

THANK YOU AGAIN FOR GIVING ME AN OPPORTUNITY TO COMMENT.