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(50FR47716)

**Washington Public Power Supply System**

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January 21, 1986

Mr. Samuel J. Chilk  
Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Attention: Docketing and Service Branch

Dear Mr. Chilk:

Subject: COMMENTS ON PROPOSED REVISION  
TO ENFORCEMENT POLICY

The Washington Public Power Supply System notes with interest the Commission's proposed changes to its enforcement policy. The Commission's interest in improving this area is understandable, and its efforts to date have largely been laudatory. However, we feel that some of the proposed changes may actually encourage developments that will run counter to the Commission's safety concerns. Our specific comments are set forth in the attachment to this letter.

Should you have any questions regarding our comments, please contact me.

Very truly yours,

*G. C. Sorensen*  
G. C. Sorensen, Manager  
Regulatory Programs

Attachment

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ATTACHMENT 1  
COMMENTS ON COMMISSION'S PROPOSED REVISION TO ENFORCEMENT POLICY

The Commission's proposed policy revision states that the inspection program is based on the premise that licensees have the primary responsibility for the procurement of quality products and services for use in licensed activities. That is consonant with previous Commission policy, makes extremely good sense, and should continue to be the basis for the program. The revision, however, now calls for NRC enforcement actions directly to the vendor. We feel that this additional channel of NRC activity seriously dilutes the licensee's responsibilities.

Current relationships between the NRC and its licensees rest on firm legal ground. All parties involved understand and accept the relationship. Within the bounds of the relationship, the NRC has several enforcement tools with which to ensure compliance or performance. The NRC does not have such an effective or clear legal relationship with vendors. Beyond the NSSS vendors, there is generally not a long history of a relationship with the NRC with all the understanding that such a relationship engenders. Consequently, the NRC will be "breaking new ground". Direct NRC involvement with vendors, especially when it starts out being largely negative, e.g., fines, is more likely to produce anger, frustration, and exits from the nuclear marketplace, than it is likely to produce improved performance and greater vendor enthusiasm for quality.

In addition to dilution of responsibility, a program of heavy, direct NRC involvement with vendors will weaken the quality control and quality assurance activities of utility licensees. Third party NRC inspection and potential enforcement actions directly with the vendor will inherently cause increased licensee monitoring to keep abreast of NRC activities. This action will complicate communication and liaison activities necessary for the licensee to maintain responsibility for the vendor's program.

Title 10 CFR, Part 21 addresses the reporting of defects in goods or services supplied by vendors to licensees, and already gives the NRC an avenue for enforcement action. This section of 10CFR has been used for this purpose.

Utility licensees have grave concerns over the potential loss of quality vendors due to the advent of the proposed vendor enforcement actions. Significant negative vendor reaction was experienced during the review and implementation of 10CFR Part 21. This reaction is certain to be repeated with the proposed increase in NRC enforcement action and the accompanying avenue for imposition of vendor civil penalties.

Comments

Commission's Revision of Enforcement Policy

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If the potential for civil penalties precipitates vendors to drop out of the nuclear business, licensees will be faced with the impact of design changes and related costs for replacement components. If the vendor does remain in the nuclear business, he will certainly increase prices to reflect the increased risk of exposure to civil penalties from direct NRC enforcement at the vendor level.

In Table 1B of the proposed rule, the Commission is proposing that fines be levied for Severity IV and V violations at 15% and 5%, respectively, of the Severity Level I amount. Severity Level IV and V violations do not have significant implications for public health and safety or for the environment. The Commission's current policy on these two severity levels seems to more accurately reflect their level of importance. Additionally, the Commission has been grouping several Level IV violations to make a Level III violation. This seems to provide ample opportunity to get a licensee's attention. Table 1B should be changed to drop the fines for Levels IV and V.