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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

December 29, 1999

The Honorable Sam Gejdenson
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Gejdenson:

I am responding to your letter of December 15, 1999, in which you express concern about the operation of nuclear power plants during the Year 2000 (Y2K) transition. In particular, you urged the Commission to exercise vigorous oversight of plants, especially those that may experience problems that could lead to operations outside of the technical specifications (TSs).

The Commission recognizes that Y2K issues continue to be of widespread concern as the Year 2000 approaches. The Commission is confident, however, that the potential for Y2K-related disruptions have been addressed by licensees of the U.S. Nuclear Regulatory Commission (NRC). In that regard, as of November 4, 1999, all nuclear power plants have been reported as Y2K ready by the plant licensees. This includes preparation of contingency plans for the Y2K transition. The safe operation of the nuclear power plants is expected to contribute to a stable and reliable grid during the Y2K transition.

The NRC has developed a comprehensive Y2K transition strategy as part of its own Y2K Contingency Plan in order to be able to respond to problems that may develop during the Y2K transition. The Contingency Plan encompasses augmented staffing at NRC Headquarters and NRC regional response centers, inspector monitoring of licensee activities at all operating nuclear power plants during the transition period, enhanced communication capabilities, and procedures for responding to Y2K events.

Regarding your specific concerns about nuclear power plants operating outside of their TSs, the NRC expects all nuclear power plant licensees to operate their facilities safely in compliance with the NRC regulations and requirements, including the plant TSs. This expectation is true at all times, including during the Y2K transition period. Accordingly, the minimal acceptable safety standards during the Y2K rollover period will continue to be the same as those during any other period — that is, full compliance with the NRC requirements and plant TSs.

Continued safe operation of nuclear power plants in accordance with NRC regulations and TSs during the Y2K transition will play a major role in maintaining stable and reliable electrical power supply systems. Under rare circumstances, the NRC may exercise its enforcement discretion in certain limited cases of temporary noncompliances with TSs. This situation arises because it is not possible to anticipate every contingency that might arise during the lifetime of a facility. Circumstances occasionally arise in which a licensee foresees that compliance with an NRC requirement would involve an unnecessary plant transient or startup delay, or that performance

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of testing, inspection, or system realignment is inappropriate under the specific plant conditions. For these rare and limited circumstances, the NRC's "General Statement of Policy and Procedures for NRC Enforcement Actions" permits the NRC, at its discretion, either to defer or to not enforce the applicable TSs. In these cases, a licensee may request that the NRC exercise its discretion to refrain from enforcing the applicable TSs before a violation occurs. This type of enforcement discretion is designated as a Notice of Enforcement Discretion (NOED). The NRC will take such an action and issue an NOED only when it is clearly satisfied that this is consistent with the agency's mission to protect public health and safety.

The NRC staff has issued an Interim Enforcement Policy on the process for the agency to exercise enforcement discretion in certain situations in which power reactor licensees encounter Y2K-associated compliance problems in the Y2K transition period (December 31, 1999, through the first few days of 2000) or in other key rollover periods. The Interim Enforcement Policy provides for granting NOEDs to allow continued operation when, despite licensees' best efforts, nuclear facilities face Y2K-related issues involving very little risk, but resulting in potential noncompliance with the license and otherwise requiring shutdown.

As approved by the Commission, a licensee may contact the NRC Headquarters Operations Center and seek NRC enforcement discretion with regard to the potential noncompliance with license conditions, including TSs, if the licensee has determined that:

- (a) Complying with license conditions, including TSs, in a Y2K-related situation would require a plant shutdown;
- (b) Continued plant operation is needed to help maintain a reliable and stable grid; and
- (c) Any decrease in safety as a result of continued plant operation is small (considering both risk and deterministic aspects), and reasonable assurance of public health and safety, the environment, and security is maintained with the enforcement discretion.

A licensee must communicate with NRC regarding the circumstances of the NOED and obtain NRC staff approval for situations involving an NOED. In such circumstances, the NRC will balance the overall public health and safety as a result of the facility not operating against potentially small decreases in safety margin associated with continued operation. The exercise of enforcement discretion may support a licensee's decision to keep the plant in operation, if the licensee has determined that safety will not be unacceptably affected, in order to help maintain electrical grid stability and reliability. When the NRC determines that plant safety will not be unacceptably affected by exercising the discretion, it may grant an NOED.

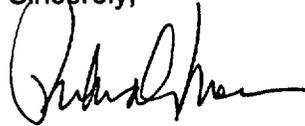
It is important to note that although the Interim Enforcement Policy is a prudent contingency measure for any unlikely Y2K-induced problems, the NRC is under no obligation to (and will not) exercise discretion merely because a licensee requests the NRC to do so.

A copy of NRC Regulatory Issue Summary 99-05, "Implementing Procedure for Power Reactor NOEDs Processed During the Y2K Transition," dated December 1, 1999, is enclosed. This summary discusses planned NRC actions during the Y2K transition and includes copies of the

Y2K implementing procedure, the "Y2K Interim Enforcement Policy Regarding Enforcement Discretion for Nuclear Power Plants During the Year 2000 Transition" as published in the *Federal Register*, the worksheet to be used by licensees and the NRC staff to evaluate licensee NOED requests, and examples of possible power reactor NOED scenarios.

The NRC remains committed to its oversight of the nuclear power plant licensee Y2K readiness efforts in order to ensure safe operation of these facilities throughout 1999, the transition to Year 2000, and beyond. Please contact me if you have any additional questions on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Meserve", written in a cursive style.

Richard A. Meserve

Enclosure: Regulatory Issue Summary 99-05

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
WASHINGTON, D.C. 20555-0001

December 1, 1999

**NRC REGULATORY ISSUE SUMMARY 99-05
IMPLEMENTING PROCEDURE FOR POWER REACTOR
NOEDS PROCESSED DURING THE Y2K TRANSITION**

Addressees

All holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

Intent

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to advise addressees that the staff has prepared the attached implementing procedure for power reactor Year 2000 (Y2K)-related and other Notices of Enforcement Discretion (NOEDs). This procedure contains the process for granting or denying any NOEDs during the Y2K transition (December 31, 1999, through January 3, 2000), and implements the Commission's Enforcement Policy, Appendix E, published in the Federal Register on July 30, 1999.

Background Information

Y2K-related events arise from a date-related problem that is experienced by a software system, a software application, or a digital device at a key rollover date when the system, application, or device does not perform its intended function. The key rollover dates are January 1, 2000; February 29, 2000 (an uncommon leap day); and December 31, 2000 (the 366th day of an uncommon leap year).

The NRC expects all nuclear power plant licensees to operate their facilities safely in compliance with the NRC regulations, the plant license, including technical specifications (TSs), and other requirements. This expectation is true at all times, including during the Y2K transition period. Accordingly, the minimal acceptable safety standards during the Y2K rollover period will continue to be the same as those during any other period.

Under rare circumstances -- circumstances not expected to be involved in the Y2K transition -- the NRC may allow temporary noncompliance with a TS. This situation arises because it is not possible to anticipate every contingency that might arise during the lifetime of a facility. Circumstances occasionally arise in which a licensee foresees that compliance with an NRC requirement would involve an unnecessary plant transient or startup delay, or that performance of testing, inspection, or system realignment is inappropriate with the specific plant conditions. For these rare and limited circumstances, the NRC's "General Statement of Policy and Procedures for NRC Enforcement Actions" (Enforcement Policy, NUREG-1600), permits the

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NRC, at its discretion, either to defer or not enforce the applicable TSs. In these cases, a licensee may request that the NRC exercise its discretion to refrain from enforcing the applicable TSs before a violation occurs. This type of enforcement discretion is designated as a NOED and is addressed in Section VII.C of the Enforcement Policy. The NRC will take such an action and issue a NOED only when it is clearly satisfied that this action is consistent with the agency's mission to protect public health and safety.

Summary of Issue

The NRC's Enforcement Policy, Appendix E (published in the *Federal Register* [64 FR 41474] on July 30, 1999), describes NRC's interim policy for exercising NOEDs for nuclear power plants during the Y2K transition. All licensees have been declared Y2K-ready, and the need for enforcement discretion is considered unlikely.

It is recognized that in spite of every reasonable effort by licensees to identify and correct Y2K computer system problems at their facilities, some software, applications, equipment, and systems may remain susceptible to the problem. Additionally, software, data, and systems external to the facility could adversely affect the facility (for example, interruption of communications or partial loss of offsite power).

The electricity production and delivery systems, as two of the more important elements of the North American economic and social infrastructure, must remain dependable during Y2K transition or rollover periods. Most other critical elements of the infrastructure depend on the availability of an interconnected, stable, and reliable supply of electrical power. There is no doubt that cascading or even localized outages of generators and transmission facilities could have serious short-term and long-term consequences. Continued safe operation of nuclear power plants during Y2K transition or rollover periods will play a major role in maintaining stable and reliable electrical power supply systems, providing necessary reserve power if there are major losses at other generating facilities. However, for continued plant operation in certain noncompliance situations, NRC enforcement discretion is required.

The interim enforcement policy provides for the exercise of enforcement discretion to address noncompliance with license conditions, including TSs, because of Y2K transition or rollover issues. The interim enforcement policy applies to situations in which plant operation is needed to help maintain the stability and reliability of the electrical power supply system, even when license conditions, including TSs, would require a plant shutdown. If such situations occur, licensees are expected to follow the existing guidance in NRC Inspection Manual Part 9900 for Notices of Enforcement Discretion <<http://www.nrc.gov/NRC/IM/noed.html>> to the maximum extent practicable, particularly regarding a safety determination and notification of NRC. In Y2K-related situations in which forced compliance with license conditions, including TSs, would require a plant shutdown, and continued plant operation is needed to help maintain a reliable and stable grid, licensees may request a NOED. The staff will consider such a request when the licensee has determined that:

- (a) Complying with the license conditions, including TSs, in a Y2K-related situation would require a plant shutdown;

- (b) Continued plant operation is needed to help maintain a reliable and stable grid; and
- (c) Any decrease in safety as a result of continued plant operation is small (considering both risk and deterministic aspects), and reasonable assurance of public health and safety, the environment, and security is maintained with the enforcement discretion.

As part of its Y2K contingency plan, NRC has augmented staff at the Headquarters Operations Center for the Y2K transition and has established a backup team in the Region IV Incident Response Center (IRC). Other regional response centers will also be staffed.

Communication with NRC and NRC staff approval are required for continued plant operation in situations involving a NOED. Without NRC approval, licensees should take actions in conformance with their license conditions and applicable regulations (for example, 10 CFR 50.54(x), if appropriate). If communications are established but the volume of requests is such that the NRC staff cannot review and approve or deny them in a timely fashion, the staff will obtain sufficient safety-significant information from the licensee to make a prompt initial assessment. Unless the assessment is unfavorable, the licensee will be permitted to proceed with its planned course of action. A more detailed assessment will be made as soon as possible.

The Headquarters reactor safety team director, or his designee, and the regional administrators, or their designees, are delegated the authority from the Director, NRR, to grant or deny NOEDs. The Headquarters Y2K Response Team expects that the Region IV IRC and cognizant regional IRC teams (if other than Region IV) will participate in all telephone discussions with the licensee and all internal staff discussions, to the extent possible. The Headquarters Y2K Response Team will coordinate all NOED-related requests and activities, in conjunction with the cognizant regional team. Both teams will jointly evaluate such requests. The Headquarters Y2K Response Team will assume lead responsibility for the agency response to Y2K-related NOEDs. Depending on the nature of the request and the competing activities, the Headquarters team may request a regional team to take the lead for some NOED evaluations.

In the case of a Headquarters communications loss or an event such that the Headquarters Operations Center is no longer functional, the Region IV IRC will assume the coordination role. Region IV will attempt to restore communications between the licensee and the cognizant regional IRC team. In this situation, it is expected that Region IV will transfer the lead for NOED approval or denial to the cognizant regional IRC team on a case-by-case basis. If situations arise that result in a loss of communications between licensees and Headquarters and Region IV, any region can process and grant or deny NOED requests. The NRC organization having the lead will grant or deny the NOED request by telephone.

Backfit Discussion

This regulatory issue summary requests no action or written response. Consequently, the staff did not perform a backfit analysis.

Federal Register Notification

The staff did not publish a notice of opportunity for public comment in the *Federal Register* because this regulatory issue summary is informational and pertains to a staff procedure. The policy that the procedure implements was published in the *Federal Register* and the NRC staff considered all of the comments it received.

Paperwork Reduction Act Statement

This regulatory issue summary does not request any information collection.

Please contact the lead project manager listed below if there are any questions about this matter.

(Original signed by)

David B. Matthews, Director
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Lead Project Manager: Allen G. Hansen, NRR
301-415-1390
E-mail: agh@nrc.gov

Attachments:

1. Implementing Procedure for Power Reactor NOEDs Processed During the Y2K Transition
2. List of Recently Issued NRC Regulatory Issue Summaries

(NUDOCS Accession Number ML993280306)