NRC FORM 464 Part I (6-1998)

U.S. NUCLEAR REGULATORY COMMISSION

RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) / PRIVACY ACT (PA) REQUEST

FOIA/PA	RESPONSE NUMBER
2000-0326	1

RESPONSE TYPE ☐ FINAL ☑ PARTIAL

REQUESTER: Tami Sheheri

DATE: SEP 19 2000

PART I. -- INFORMATION RELEASED

- ☐ No additional agency records subject to the request have been located.
- ☐ Requested records are available through another public distribution program. See Comments section.
- ☑ APPENDICES: A — Agency records subject to the request that are identified in the listed appendices are already available for public inspection and copying at the NRC Public Document Room.
- ☑ APPENDICES: B — Agency records subject to the request that are identified in the listed appendices are being made available for public inspection and copying at the NRC Public Document Room.
- ☑ Enclosed is information on how you may obtain access to and the charges for copying records located at the NRC Public Document Room, 2120 L Street, NW, Washington, DC.
- ☑ APPENDICES: * — Agency records subject to the request are enclosed.
- ☐ Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (see comments section) for a disclosure determination and direct response to you.
- ☑ We are continuing to process your request.
- ☐ See Comments.

PART I.A -- FEES

AMOUNT * $

* See comments for details

- ☐ You will be billed by NRC for the amount listed.
- ☐ You will receive a refund for the amount listed.
- ☐ None. Minimum fee threshold not met.
- ☐ Fees waived.

PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- ☐ No agency records subject to the request have been located.
- ☐ Certain information in the requested records is being withheld from disclosure pursuant to the exemptions described in and for the reasons stated in Part II.
- ☐ This determination may be appealed within 30 days by writing to the FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Clearly state on the envelope and in the letter that it is a "FOIA/PA Appeal."

PART I.C COMMENTS (Use attached Comments continuation page if required)

***Since you are entitled to 100 free pages of duplication, Documents A/6, B/1 and B/2 are enclosed.**

We are continuing our search for and review of records subject to your request. We will contact you upon completion of the search and review.

SIGNATURE - FREEDOM OF INFORMATION ACT AND PRIVACY ACT OFFICER

Carol Ann Reed Carol Ann Reed

Re: FOIA-2000-0326

APPENDIX A
RECORDS ALREADY AVAILABLE IN THE PDR

NO.	DATE	ACCESSION NUMBER	DESCRIPTION/(PAGE COUNT)
1.	04/06/94	9404210158	Letter from Chairman Selin to Sen. Lieberman, with attached 03/16/94 letter from Lieberman re: adoption of a rule to require that nuclear power plants be protected against acts of terrorism or sabotage. (6 pages)
2.	04/20/94	9406090096	Letter from Senators Simpson and Lieberman to Chairman Selin re use of potassium iodide. (2 pages)
3.	05/06/94	9405200014	Letter from Chairman Selin to Sen. Lieberman, with attached 04/20/94 incoming letter from Lieberman re: NRC policies and practices for the non-enforcement of violation. (11 pages)
4.	05/10/94	9405180296	Letter from J. Taylor to Sen. Lieberman, with attached 03/17/94 incoming letter re: constituent's concerns regarding Haddam Neck and Millstone plants. (44 pages)
5.	05/13/94	9406090080	Letter from Chairman Selin to Sen. Lieberman responding to 04/20/94 incoming letter from Lieberman re potassium iodide. (2 pages)
6.	05/24/94	9406100259	Letter from D. Rathbun to Sen. Lieberman, enclosing responses to specific questions re policies and practices for the exercise of enforcement discretion. (90 pages)
7.	07/21/94	9408050148	Letter from Sen. Lieberman to Chairman Selin regarding License Fee Policy

			Review. (2 pages)
8.	07/29/94	9408080060	Letter from Acting Chrm. Rogers to Sen Lieberman responding to 07/21/94 letter regarding Fee Policy. (1 page)
9.	01/31/95	9503020188	Letter from J. Taylor to Sen. Lieberman with attached 12/22/94 incoming letter re constituent's 2.206 petition. (3 pages)
10.	07/05/95	9507180043	Letter from J. Taylor to Sen. Lieberman with attached 06/15/95 letter fro Lieberman regarding constituent's concerns about the transfer of operator licensing exams from the NRC to power plants. (3 pages)
11.	07/11/95	9507190115	Letter from J. Taylor to Sen. Lieberman with attached 05/18/95 letter from Lieberman requesting status of constituent's complaint against Northeast Nuclear Energy Company. (24 pages)
12.	10/26/75	9511070380	Letter from Chairman Jackson to Sen. Lieberman with attached 09/27/95 letter from Lieberman re: Northeast Utilities. (3 pages)
13.	11/27/95	9511300243	Letter from J. Taylor to Sen. Lieberman, attaching 10/18/95 incoming re complaints by constituent re Northeast Energy Company. (19 pages)
14.	11/30/95	9512070217	Letter from Chairman Jackson to Sen. Lieberman re: refueling activities at Millstone. (9 pages)
15.	12/21/95	9512280168	Letter from J. Taylor to Sen. Lieberman with attached 09/21/95 incoming letter re: constituent's concerns over Millstone. (7 pages)
16.	06/18/96	9606270006	Letter from Chairman Jackson to Sen. Lieberman providing update on

			Millstone. (20 pages)
17.	06/28/96	9607100194	Letter from Chairman Jackson to Sen. Lieberman regarding Millstone status. (6 pages)
18.	07/31/96	9608090182	Letter from Chairman Jackson to Sen. Lieberman, with attached 07/23/96 incoming re: Connecticut Yankee plant. (9 pages)
19.	08/14/96	9608220191	Letter from Chairman Jackson to Sen . Lieberman providing trip report to Millstone. (24 pages)
20.	11/01/96	9611150321	Letter from Chairman Jackson to Sen. Lieberman, with attached 10/09/96 incoming re: status of Millstone. (3 pages)
21.	12/02/96	9612120334	Letter from Chairman Jackson to Sen. Lieberman providing status report on Millstone. (4 pages)
22.	04/11/97	9704170288	Letter from L. J. Callan to Sen. Lieberman, with attached 02/26/97 incoming letter attaching constituent's concerns over primary piping welds and reactor coolant piping welds at Millstone. (21 pages)
23.	05/21/97	9705290372	Letter from Chairman Jackson to Sen. Lieberman with attached 03/13/97 incoming letter re cleanup of groundwater and soil at decommissioned sites. (32 pages)
24.	06/25/97	9707070238	Letter from Chairman Jackson to Sen. Lieberman providing latest efforts at Millstone and Haddam Neck plants. (201 pages)
25.	10/30/97	9711130013	Letter from Chairman Jackson to Sen. Lieberman with attached 10/10/97 incoming regarding soil at Connecticut Yankee. (7 pages)

26.	01/05/98	9801140116	Letter from Chairman Jackson to Sen. Lieberman with attached 10/29/97 letter from Sens. Lieberman and Dingell re: GAO report. (6 pages)
27.	02/17/98	9802260048	Letter from L. J. Callan to Sen. Lieberman, with attached 01/16/98 incoming letter re constituent's concern about fire protection rulemaking. (14 pages)
28.	03/05/98	9803120388	Letter from Chairman Jackson to Sen. Lieberman, with attached 01/27/98 incoming letter urging NRC to revise policy regarding potassium iodide use. (5 pages)
29.	03/26/98	9804060147	Letter from Chairman Jackson to Sen. Lieberman, with attached 01/22/98 incoming letter regarding restart of Millstone. (12 pages)
30.	06/04/98	9806120213	Letter from Chairman Jackson to Sen. Lieberman, with attached 05/20/98 incoming letter re restart of Millstone. (4 pages)
31.	9/11/98	9809210049	Letter from Chairman Jackson to Sen. Lieberman responding to attached 9/1/98 letter regarding investigations at Millstone. (3 pages)
32.	2/17/99	9902230198	Letter from W. Travers to Sen. Lieberman responding to attached 1/21/99 letter forwarding constituents concerns over spent fuel at decommissioned nuclear plants. (10 pages)
33.	3/18/99	9903300127	Letter from Chairman Jackson to Sen. Lieberman responding to attached 1/12/99 letter re IG report on Millstone. (24 pages)
34.	07/13/99	9907210089	Letter from W. Travers to Sen.

Lieberman responding to attached
6/10/99 letter re Y2K issues. (20 pages)

Re: FOIA-2000-0326

APPENDIX B
RECORDS BEING RELEASED IN THEIR ENTIRETY
(If copyrighted identify with *)

NO.	DATE	DESCRIPTION/(PAGE COUNT)
1.	08/14/00	Letter from Chairman Meserve to Sen. Lieberman, responding to attached 7/13/00 incoming letter regarding Energy Savings Performance Contracts and "share-in-savings" contracting. (5 pages)
2.	06/08/00	Letter from W. Travers to Sen. Lieberman, responding to attached 05/15/00 incoming letter regarding constituent's concerns over sale of American nuclear power Plants to Great Britain. (7 pages)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 24, 1994

The Honorable Joseph I. Lieberman, Chairman
Subcommittee on Clean Air and Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am enclosing responses to the specific questions contained in your April 20, 1994, letter concerning the Nuclear Regulatory Commission's policies and practices for the exercise of enforcement discretion for violations of nuclear power plant technical specifications and license conditions. Chairman Selin previously wrote to you on these matters on May 6, 1994.

Should you or your staff have any questions, please do not hesitate to contact me.

Sincerely,

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosures:
As Stated

cc: Senator Alan K. Simpson

(Concurrence received from all Commission Offices per Mike Callahan 5/24/94)

Question 1. A technical specification limiting condition of operation or other license condition imposes on a licensee a legal obligation to obey it until is modified by amendment of the license in accordance with the Atomic Energy Act (AEA) and NRC regulations. Although intended to be simply an exercise of enforcement discretion, a Notice of Enforcement Discretion (NOED) not to enforce a technical specification or license condition is in essence a grant of immunity from sanctions for noncompliance with a license condition because it approves operation in a manner not in conformance with the license. For this reason, issuance of a NOED can be viewed as a license amendment.

(a) Do you agree? In your opinion, can a NOED reasonably be viewed as a license amendment?

(b) How does the legal effect of a NOED differ from that of a license amendment?

Answer.

We do not agree that a NOED can reasonably be viewed as a license amendment. There are fundamental, legally significant differences between a license amendment and an NOED.

A license amendment, including an amendment issued under "emergency" circumstances, involves changes in the legally-authorized conditions of operation and, assuming compliance with the new conditions of operation authorized by the amendment, there is no violation.

In contrast, a NOED does not involve a change to the legally-authorized conditions of operation, and the licensee's operation of the facility as proposed in its request for a NOED does constitute a violation of its license. In other words, the licensee violates its license notwithstanding the NRC staff's agreement that the proposed method of operation is prudent from a safety perspective. A NOED reflects an agency determination, as a matter of policy, to exercise its inherent authority to refrain from taking enforcement action for the violation which has occurred.

When the NRC issues a NOED, it is stating its intent to exercise its discretion to refrain from taking enforcement action for a violation that the licensee believes it will commit; the NOED does not change the legally-authorized conditions of operation. It follows that if the NRC issues a NOED in light of an evaluation of the public health and safety consequences based on particular facts and circumstances presented by the licensee, the NRC is free to take enforcement action for violation of the substantive requirement should the facts presented by the licensee as a basis for the NOED prove incomplete or inaccurate in some material respect or should the licensee not adhere to the NOED's terms. Thus, the NRC could refuse to act in accordance with its stated intent in a NOED to exercise its discretion to refrain from taking enforcement action, including the imposition of civil penalties, given certain circumstances. Of course, whether an amendment or an NOED is issued, the NRC may always issue an order to protect public health and safety, if necessary.

Moreover, the issuance of a license amendment arises from the NRC's authority to issue and amend licenses pursuant to sections 103, 104, and 189 of the Atomic Energy Act of 1954, as amended (AEA), a wholly different legal foundation from its authority to exercise enforcement discretion, which is described in the response to Question 5, below. *See Union of Concerned Scientists v. NRC*, 711 F.2d 370, 383 (D.C. Cir. 1983); *see generally Heckler v. Chaney*, 470 U.S. 821 (1985) (setting the standards for a court to determine if a matter is committed to agency discretion).

Question 2. According to the NRC's enforcement policy, a Region may issue a NOED only when "the expected noncompliance is of such short duration that a license amendment could not be issued before the need no longer exists, making it impractical to amend the license." The Director, Office of Nuclear Reactor Regulation, may issue a NOED "for the brief period of time it requires the NRC staff to process an emergency or exigent TS amendment under the provisions of 10 C.F.R. 50.91(a) (5) or (6)." According to the Inspection Manual, NRR may exercise enforcement discretion to allow noncompliance: (1) "until such time as the element [in a limiting condition for operation] can be revised by a license amendment;" (2) in a situation in which "a license amendment will be processed to make [an extension of an action statement time limit] a permanent change to the TSs;" and (3) in a situation in which a change to a surveillance requirement "will be incorporated by an amendment."

This indicates that the criterion for the NRC's decision on whether to issue a NOED rather than a license amendment is the NRC's determination as to the practicality or timeliness of the license amendment process.

If the ability of the NRC to issue a license amendment in the appropriate time frame is the controlling factor on whether the NRC will issue a license amendment or a NOED to permit a licensee to operate in a manner not in accordance with a technical specification or license condition, then can a NOED reasonably be viewed in essence as a license amendment that is issued under "emergency" circumstances when the normal license amendment procedures cannot be followed?

Answer.

It should be noted from the outset that many if not most NOEDs issued by the NRC are entirely unrelated to the issuance of license amendments because these NOEDs are issued in situations in which a license amendment is not contemplated.

The NRC does not believe that a NOED can reasonably be viewed in essence as a license amendment that is issued under "emergency" circumstances when normal license amendment procedures cannot be followed. NOEDs and license amendments, including license amendments issued under "emergency" circumstances, are fundamentally different.

NOEDs, which are presently limited to Technical Specifications or other license conditions of licensees holding Part 50 licenses, are documents recording a decision on the part of the NRC to not take enforcement action for a violation of a Technical Specification or other license condition, i.e., for the licensee's conducting activities in a manner which its license does not authorize. NOEDs are not license amendments since specified conditions of operation are not changed by a NOED. NOEDs reflect the exercise by the NRC of its discretion not to take enforcement action in accordance with an openly

established NRC policy and after an NRC safety assessment. The NRC has clear authority to exercise such discretion as is further discussed in the response to Question 5 below.

Such a notice does not approve plant operation in noncompliance with its license or modify the approved conditions of operation and enforcement action may be taken for any violations that led to the situation that warranted the exercise of enforcement discretion. The NRC authority to exercise such discretion is well-established by the case law. See the response to Question 5 below.

Question 3. – The NRC's enforcement policy statement explains that NRC will issue a NOED only when issuance of a license amendment would be impractical under the circumstances, or where there is not sufficient time to process a license amendment application under 50.91(a) (5) or (6). Hence, the NRC itself has stated that it will use the NOED procedures only when there is an "emergency situation" within the meaning of section 189 of the Atomic Energy Act--*i.e.*, when the normal procedures of section 189 for issuance of license amendments cannot be followed because immediate action is necessary to prevent the shutdown or derating of an operating reactor.

Isn't the NRC's NOED policy, therefore, another type of "emergency situation" exception to the procedures required under section 189 of the Atomic Energy Act for issuance of license amendments?

Answer.

The NRC's NOED policy is not another type of "emergency situation" exception to the procedures required under section 189 of the Atomic Energy Act for the issuance of license amendments. As indicated earlier, many if not most NOEDs are issued in response to temporary circumstances or conditions. Also, NOEDs and license amendments, including license amendments issued under "emergency" circumstances, are fundamentally different. License amendments are issued pursuant to the NRC's regulatory authority under the Atomic Energy Act authorizing licensees to lawfully conduct specified activities. When a licensee must make a permanent change to its facility license conditions or technical specifications in response to an enduring change of circumstance, and an emergency situation exists such that failure to act in a timely way would result in derating or shutdown of a nuclear power plant, then it is appropriate to follow the procedures in 10 CFR 50.91(a)(5).

NOEDs are documents recording a decision on the part of the NRC to not take enforcement action for a violation of a Technical Specification or other license condition in accordance with an openly established NRC policy and after an NRC safety assessment. NOEDs are not license amendments since specified conditions of operation are not changed by a NOED. Accordingly, the provisions of Section 189 of the Atomic Energy Act dealing with license amendments are not applicable to NOEDs.

Rather, the NOED reflects the exercise of discretion by the NRC not to take enforcement action. As discussed in the response to Question 5 below, the NRC has the authority to exercise enforcement discretion when confronted with a situation where a licensee is not in compliance with its Technical Specifications or other license condition. An appropriate case for the exercise of such discretion could be a case where an "emergency" license amendment is being sought to permit operation which would otherwise constitute a violation of Technical Specifications.

However, to the extent that violations by the licensee were involved which led to the noncompliance for which the NRC exercised discretion, the NRC will normally take enforcement actions for such root causes. Such enforcement

action is intended to emphasize that licensees may not rely on the NRC's authority to exercise enforcement discretion as a routine substitute for compliance or for requesting a license amendment.

Question 4.(a). In view of the NRC's statements that indicate that the NRC's NOED practice is an "emergency situation" (within the meaning of section 189 of the AEA) exception to the normal license amendment procedures, why does the NRC believe that section 189 does not require these NOED procedures to be promulgated by rulemaking?

(b) Does the NRC believe that it has enforcement discretion to not enforce the requirements of 10 C.F.R 50.91 for license amendments?

(c) Does the NRC believe that it has the enforcement discretion to not enforce the rulemaking requirement of either section 189 of the Atomic Energy Act or the substantive limitation of that section?

Answer.

Because, as explained above, a NOED does not involve a license amendment and is fundamentally different from a license amendment, the provisions of Section 189 of the Atomic Energy Act and 10 C.F.R.Section 50.91 dealing with license amendments are not applicable to the NRC policy to exercise enforcement discretion through the use of a NOED.

As explained in the response to Question 5 below, the NRC has inherent discretion to not take enforcement action for the violation of a Technical Specification or other license condition in appropriate circumstances and after a thorough NRC safety assessment. Since a license amendment is not involved, the provisions of Section 189 of the Atomic Energy Act related to license amendments do not apply to NOEDs. Likewise, since a license amendment is not involved when a NOED is issued, the provisions of Section 50.91 are not applicable and no issue regarding NRC discretion regarding enforcement of that regulation is raised.

Similarly, the Commission's use of enforcement discretion is inherently a fact-dependent case-by-case decision and no regulations need be adopted to prescribe criteria or procedures for the exercise of discretion. The Commission has indicated, as part of its Enforcement Policy, that it may exercise discretion to not enforce compliance with certain requirements in limited circumstances, but that statement of policy is not a document which must be adopted in accordance with the rulemaking requirements of section 189 of the Atomic Energy Act.

Question 5. -- Please provide the NRC's legal authority for the NOED policy and procedures.

Answer.

The concept of enforcement (prosecutorial) discretion is well recognized in law and more particularly, with respect to the authority of the NRC. Decisions as to investigation and enforcement, especially when there are different types of enforcement action available, are discretionary judgments. Bernitsky v. United States, 620 F.2d 948, 955 (3d Cir. 1980), cert denied, 449 U.S. 870 (1981). Regulatory activities are [discretionary], not because alternatives exist in particular circumstances, but because of the fundamental character of the role assigned to the agency. General Public Utilities Corporation v. United States, 745 F.2d 239, 245 (3d Cir. 1984), cert denied, 469 U.S. 1228 (1985). The decision to prosecute or not to prosecute falls within the discretionary function. Smith v. United States, 375 F.2d 243, 247 (5th Cir. 1967), cert. denied, 389 U.S. 841 (1967).

As the court in Union of Concerned Scientists v. Nuclear Regulatory Commission, 711 F.2d 370, 382-383 (D.C. Cir. 1983), explicitly noted, this agency has prosecutorial discretion to take no action where a license condition would be violated or to issue without notice and comment a "statement of policy" regarding its intent not to enforce the license condition. A NOED may be viewed as a written acknowledgement that the NRC does not intend to take action.

Question 6. -- Section 189 of the AEA allows the Commission in "emergency situations" to dispense with prior notice and comment (pursuant to criteria established by rulemaking) on a proposed determination that a license amendment involves no significant hazards consideration. The Conference report accompanying the latest amendments to section states that "the term 'emergency situations' encompass[es] only those rare cases in which immediate action is necessary to prevent the shutdown or derating of an operating commercial reactor."

The NRC's NOED policy and 10 CFR 50.91(a)(5) (the emergency situations provision) allow the Commission to not enforce a license condition or to a issue a license amendment in order to avoid delay in the startup of a reactor.

In view of the conferees' intent that the emergency situations include only situations where the actions is necessary to prevent a shutdown or derating, how does the Commission justify using emergency situations provision to avoid a delay in reactor startup?

Answer.

The Commission stated its position with regard to the term "emergency situations" in the statements of consideration for 10 CFR 50.91(a)(5) in response to commenters' suggestions that an emergency situation should also exist where a shutdown plant could be prevented from starting up because the Commission had failed to act in a timely way. The Commission specifically addressed the Conference report quote referenced in this question. The SOC states, "There may be situations where the need to prevent shutdown or derating can be equivalent in terms of impact to the need to startup or to go to a higher power level. The Commission believes that expanding the definition of "emergency situation" to include these situations is not inconsistent with Congress' intent" as stated in Section 189 of the AEA.

Question 7. - The inspection Manual states that "The exercise of enforcement discretion for plants attempting to start up is expected to occur less often than for operating plants, because delaying startup does not usually leave a plant in a condition in which it could experience undesirable transients."

(a) Please explain under which circumstances and how delaying startup could leave a plant in a condition in which it could experience undesirable transients.

Answer.

Delaying startup and remaining in a shutdown condition would rarely leave a plant in a condition in which it could experience undesirable transients and, therefore, would rarely warrant a decision to proceed with issuance of a NOED. Since we cannot anticipate every condition, the provision allows for discretion for unanticipated circumstances. When enforcement discretion is exercised to avoid a startup delay, it is to be exercised with respect to conditions that are specifically described in the background section of the NRC Inspection Manual, Part 9900: Enforcement Discretion.

Also, the design and operation of a nuclear power plant is such that, during plant startup, there may be several low power levels where the plant is more susceptible to a plant transient, such as a reactor trip. Plant operators increase power through these levels to points of more stable operation in accordance with approved plant procedures. The reason for the increased susceptibility is primarily due to the large number of equipment manipulations, both automatic and manual, which occur at specified power levels. During low power operations (up to about 20% power), numerous shutdown and startup systems are secured and systems designed for higher power operation are brought into service. There may be circumstances during this early startup phase where the issuance of an NOED is appropriate to allow quick transit to higher, more stable power levels. This avoids sustained operation at power levels more prone to transients.

Question 7.(b). Can the risks to the public health and safety ever be reduced by starting up a plant rather than leaving it in a shutdown condition?

Answer.

Yes, there may be circumstances such that the overall risk to the public health and safety may be reduced by short-term operation of the facility in noncompliance with certain requirements. Further, there may be situations in which the risk to the public health and safety from plant start-up in noncompliance with a license condition is essentially safety neutral; that is, there is no increase in risk over operation in compliance with the facility requirements. An example of the former occurred this past winter, during severe cold weather resulting in a record demand for power on the Pennsylvania, New Jersey and Maryland (PJM) grid. On January 19, 1994, a maximum generation emergency was declared for the PJM grid, interruptible customers were interrupted, voltage was reduced 5%, voluntary power demand reductions were requested, and rotating outages were initiated. This state of emergency existed until midnight January 21. During this period, Notices of Enforcement Discretion were issued to Salem Unit 1 and Susquehanna Unit 2 to avoid plant startup delays, thereby supplying needed electrical power while assuring continued safe plant operations.

Question 8.(a). To what extent are economic considerations permissible for the NRC to consider in determining under which circumstances it will issue a NOED or a license amendment?

Answer.

The NRC's overriding focus is on plant safety and public health and safety when determining under which circumstances we will issue a Notice of Enforcement Discretion. Although there may be a resultant economic benefit to a licensee, the NRC's primary consideration is aimed at protecting public health and safety by avoiding unnecessary plant transients. Only after we are satisfied that our safety responsibility has been and will be met, will we consider the merits of exercising enforcement discretion associated with issues such as unnecessary plant shutdowns and unnecessary delays in plant startup. NRC Inspection Manual Chapter Part 9900, provides the staff guidance for the exercise of enforcement discretion. This guidance document states, "...the exercise of enforcement discretion is appropriate only when it is temporary and nonrecurring and when the course of action involves minimal or no safety impact and the NRC staff is clearly satisfied that the exercise of discretion is consistent with protecting the public health and safety."

For example, the staff has found the exercise of enforcement discretion to be appropriate in instances where a licensee is required by its technical specifications to initiate a plant shutdown, but ongoing equipment maintenance or surveillance testing is anticipated to be completed promptly. In these instances, the equipment can typically be returned to service, or the surveillance requirement completed, within hours of the applicable limiting condition for operation (LCO) action statement requirement. If there is no adverse impact to plant safety by extending the LCO time requirement, the staff will exercise enforcement discretion for a short duration until the licensee can return the equipment to service or can satisfactorily conduct the surveillance test. This approach avoids unnecessary plant shutdowns, where the likelihood for an unnecessary plant transient is increased because of the equipment manipulations required during power level changes.

With respect to routine license amendments, the NRC has recently initiated a program in which economics are a factor--once the overriding factor of safety significance is considered--in determining the worklaod priority provided by the NRC staff to reviewing a particular request for license amendment. This initiative is known as the Cost Beneficial Licensing Action (CBLA) program. The program is aimed at a limited number of requests for license amendments that are of minimal safety concern and could result in significant cost savings for the licensee. The program relates only to the priority associated with the NRC staff review of the matter; the request for amendment must still be evaluated on its technical merits.

Question 8.(b). To what extent is economics rather than safety the reason to grant a NOED or emergency license amendment in order to avoid delays in plant startups?

Answer.

Although there may be resultant benefit to a licensee, safety is always the overriding factor in consideration of a licensee's request for either enforcement discretion or for an emergency license amendment. The staff is under no obligation to exercise enforcement discretion merely because a licensee requested it. 10 CFR 2, Appendix C, Section VII, states, "Where enforcement discretion is to be exercised, it is to be exercised only if the NRC staff is clearly satisfied that such action is warranted from a health and safety perspective".

Question 8.(c). In general, to what extent does the NRC consider economic factors in determining whether to enforce its regulations?

Answer.

Please see response to 8(a).

Question 8.(d). In order to impose a new regulatory requirement that is not necessary to provide adequate protection to the public health and safety, the NRC must perform a backfit analysis to determine whether the costs of the new requirement would outweigh the benefits. To what extent and under which circumstances does the NRC perform a similar backfit analysis when it is considering deleting an existing regulatory requirement or amending a license condition that is not necessary to provide adequate protection to the public health and safety?

Answer.

The staff does not perform a backfit analysis when it is considering deleting an existing regulatory requirement or amending a license condition that is not necessary to provide adequate protection to the public health and safety. Relaxations in requirements are not considered backfits and thus are not subject to the backfit rule.

However, all changes to previously established regulatory requirements or positions, including relaxations, as well as all new generic requirements or staff positions to be imposed on licensees, must currently receive the approval of the Committee to Review Generic Requirements (CRGR). The Commission established the CRGR in June 1982.

Question 9. -- In the Statement of Considerations accompanying the final promulgation of 10 CFR 50.91, the Commission stated as follows:

"The Commission does not automatically consider exemption requests as license amendments. Most are not amendments. If an exemption to the regulations for a particular facility also entails or requires an amendment to the facility license, the amendment would be processed as a license amendment under the 'Sholly' regulations and the requirements of the regulations could not be avoided simply because an exemption is also involved."

In light of the NOED policy, is the last sentence of this statement no longer accurate?

Answer.

The accuracy of the last sentence of the statement is not affected by the NOED policy.

Question 10. -- In general, please explain the process for considering a license amendment under emergency or exigent circumstances (10 CFR 50.91(a)(5) and (6)). Also, as part of your answer, please include an explanation in particular of:

(a) How a no significant hazards consideration is made;
(b) How the NRC's final decision on safety is made;
(c) The documentation required of the licensee;
(d) The documentation required of the NRC staff; and
(e) The type of notice provided to members of the public or the states.
(f) Can license amendments ever be granted orally?

Answer.

When a licensee requests a license amendment under the provisions of 10 CFR 50.91(a)(5) or (6), an initial discussion between the licensee and the NRC staff typically precedes the formal submittal of the written request. This discussion alerts the staff to the need for prompt attention to the impending amendment request, and initiates the staff's consideration of the safety issues involved and two procedural questions: (1) Does the request meet the Commission's criteria for consideration as an emergency or exigent amendment request? and, (2) Does the request involve a no significant hazards consideration? If, in the course of this discussion, the staff determines that the answer to either question is clearly no, the licensee would be unlikely to submit a written request for an emergency or exigent amendment. Such a request would be treated as a routine amendment request involving a significant hazards consideration, and in either case, the staff would not approve the amendment prior to the publication of the appropriate Federal Register notice and the expiration of the 30-day comment period. For this reason, the written requests for emergency or exigent amendments submitted to the staff include adequate justification for the emergency or exigent circumstances and a thorough no significant hazards consideration evaluation.

When the written request for an emergency or exigent license amendment is received by the staff, the request is promptly reviewed to confirm that it meets the criteria of 50.91(a)(5) or (6). For emergency amendment requests, the Commission must find that failure to act in a timely way would result in derating or shutdown of a nuclear power plant, or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level. For exigent requests, the licensee must justify the circumstances that do not permit the normal 30-day notice period prior to approval of the request. In either case, the licensee must describe the reasons for the emergency or exigent circumstances and why it could not be avoided.

The assigned Project Manager (PM) in the NRC's Office of Nuclear Reactor Regulation is the primary person responsible for determining that the licensee adequately justifies both the emergency or exigent circumstances and the timeliness of the amendment request. In making these determinations, the PM consults with several other NRC staff, including his management in the NRR Projects organization. NRC resident inspectors, who are stationed at the site, provide first-hand verification of plant conditions, and an awareness of the circumstances leading up to the request and options available to the

licensee. Regional inspection staff and NRR technical staff provide detailed insights into the technical problems confronting the licensee, and may also suggest other technical solutions. Other NRR Projects staff and the Commission's legal staff in the Office of the General Counsel (OGC) advise the PM of precedents and practice to assure consistency in our determinations.

(a) If it is determined that the criteria for consideration as an emergency or exigent amendment request are met, the PM will review the licensee's no significant hazards consideration (NSHC) analysis and will consult with many of the same staff identified above. The PM will evaluate the licensee's analysis against the three criteria of 10 CFR 50.92(c). Guidance available to the staff in making the determination includes the examples of types of amendments likely and not likely to involve a significant hazards consideration, as published in the Federal Register (51 FR 7750), and records of previous NSHC determinations made by the staff. In applying the three criteria of 10 CFR 50.92(c), the PM will review the relevant portions of the licensing basis documents for the facility, including the licensee's Final Safety Analysis Report and the NRC Safety Evaluation Report. Following his or her review, the PM may conclude that the licensee's NSHC analysis is acceptable, or that the licensee's analysis is incomplete, that the request involves an NSHC, or that the request involves a significant hazards consideration. For exigent amendment requests, notice of the staff's proposed NSHC determination is provided, as discussed in item (e) below. This proposed NSHC determination is concurred in by the NRR PM's supervisor, at a minimum. For both emergency and exigent amendments, the staff makes a final NSHC determination, which is documented in the safety evaluation accompanying the amendment. This final NSHC determination is also reviewed by OGC and the responsible NRR technical manager as part of the amendment package.

(b) The NRC's final decision on safety is made in the same way for all amendment requests and represents a consensus of staff views reached through a similar process of consultations to that described above. In cases of emergency or exigent amendments, the time frame in which the staff's safety evaluation is formulated is shorter than for routine amendments; however, emergency and exigent amendments will typically receive a higher level of NRC management review. NRR technical staff, or in some cases, the PM, will draft the written safety evaluation to support the amendment. The safety evaluation will describe the staff's technical basis for approving the amendment, after considering the information provided by the licensee, as evaluated for conformance with NRC regulations, guidance and current staff positions. The written safety evaluation will receive the concurrence of the responsible NRR Projects and technical management and be reviewed by OGC, prior to the issuance of the amendment.

(c) The documentation required of the licensee for emergency or exigent amendment requests is essentially the same as that provided for routine amendment requests, with the additional requirements for discussions of the reasons for the emergency or exigent circumstances and why the situation could not have been avoided. All amendment requests contain the licensee's analysis of the NSHC determination, a description of the amendment requested, a supporting safety analysis, an environmental assessment and the proposed changes to the license or including Technical Specifications.

(d) The documentation required of the NRC staff for emergency or exigent amendments is generally the same as for routine amendments, with the additional requirements for the staff to document the bases for the emergency or exigent circumstances and for the final NSHC determination in the safety evaluation accompanying the amendment. For exigent amendments, the staff must address any comments received from the State or the public. As described in item (e) below, the notice of issuance for an emergency amendment differs from that for an exigent or routine amendment.

(e) For emergency amendment requests involving NSHC, no prior notice of the proposed action is given. The licensee sends a copy of the amendment request containing the NSHC analysis to the State at the same time the request is submitted to the NRC. The NRR PM makes a good-faith effort to contact the designated State official by telephone, to notify him of the NRC's intent to issue the emergency amendment and of the staff's NSHC determination finding. The staff's basis for the final NSHC determination is documented in the safety evaluation accompanying the license amendment. For exigent amendment requests, the State receives a copy of the licensee's request and the NRC either publishes a Federal Register notice with a shortened notice period (typically 15 days) or issues a press release in local newspapers (in the vicinity of the licensee's facility), seeking public comment on the staff's proposed NSHC determination. As in the emergency case, the PM makes a good-faith effort to contact the designated State official prior to issuance of the amendment, and the staff's basis for its final NSHC determination is documented in the safety evaluation accompanying the amendment. In addition, for exigent amendments, any public or State comments received are also addressed in the staff's safety evaluation. In both cases, a Federal Register notice is published to notify the public of the issuance of the license amendment. For emergency amendments, the notice is entitled, "Notice of Issuance of Amendment to Facility Operating License, and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Emergency Circumstances)." Although the amendment is effective upon issuance, any interested party may request a hearing after the fact. For an exigent amendment, a standard "Notice of Issuance of Amendment to Facility Operating License" is published, since some prior notice was provided either in the Federal Register or local newspapers. A hearing may also be requested after issuance of an exigent license amendment.

(f) License amendments cannot be granted orally, there must be a documented record of the amendment at the time it is granted.

Question 11.(a). In what respect(s) are the "Sholly" emergency situations procedures (10 CFR 50.91(a)(5)) too lengthy or impractical for issuance of a license amendment when the NRC contemplates a NRR-issued NOED?

Answer.

NRR-issued NOEDs are issued in conjunction with the subsequent submittal and staff review of a related emergency or exigent license amendment request, as described in the NRC Inspection Manual, "Part 9900: 10 CFR Part 2 Appendix C, Enforcement Discretion."

In considering a request for an NOED, NRR senior managers focus heavily on concern for the operational safety of the plant and on the assurance of public health and safety. There are situations when a licensee, due to unforeseen circumstances, may have only a matter of hours to restore systems or components to a certain status, or else take prescribed actions in accordance with its license and Technical Specification (TS) requirements. In the majority of cases, these actions are necessary and appropriate.

In certain limited instances, it may be in the best interest of public health and safety for the NRC and the licensee to consider alternatives to literal compliance. These situations are discussed more fully in the Inspection Manual guidance. The NOED process is a vehicle for the NRC and licensees to take prompt action in certain limited circumstances to avoid undesirable plant impacts that could result from literal compliance with the license requirements. An NRR-issued NOED, with appropriate technical justification, is intended to allow sufficient time for a licensee to prepare and submit a written request for an emergency or exigent license amendment, and for the NRC staff to review that amendment request, a process that typically requires several days or even weeks. In contrast, the licensee and the NRC can typically take action on an NOED request in a matter of hours.

To further contrast the two processes, an NOED tends to focus on the safety considerations of plant operation under certain conditions for a brief duration, and the implications of changing those conditions. An emergency license amendment frequently focusses on a permanent change, or one of relatively long duration. Therefore, the basis for issuing an NOED may be different from the basis for approving the associated emergency license amendment. In cases where a licensee has sufficient notice of the need for an emergency or exigent amendment, an NOED is not necessary.

Question 11.(b). In which respects do the NOED procedures differ from the procedures required under 10 CFR 50.91(a)(5)?

Answer.

Although there are similarities between the procedures, an NOED is not a license amendment and therefore, the NOED procedures are not required to conform with 10 CFR 50.91(a)(5). NRR-issued NOEDs must be issued and signed by the responsible Assistant Director for Projects, who consults with the responsible Regional Projects Division Director and the appropriate NRR technical Division Director. Thus an NOED requires a much higher level of management review and consultation than that required for an emergency amendment because the time available to review and approve the NOED is considerably condensed. However, OGC does not concur in the issuing of NOEDs; they do concur in emergency license amendments. NOEDs may be requested and issued orally, promptly followed by the appropriate documents (within 24 hours), as specified in the Inspection Manual guidance; emergency license amendments must be submitted and granted in writing.

All requests for the exercise of enforcement discretion must address the following: 1) the Technical Specification or other license condition that will be violated, 2) the circumstances surrounding the situation, including the need for prompt action, 3) the safety basis for the request that enforcement discretion be exercised, including an evaluation of the safety significance and potential consequences of the proposed course of action, 4) any proposed compensatory measure(s), 5) the justification for the duration of the request, 6) the basis for the licensee's conclusion that the request will not be of potential detriment to the public health and safety and that a significant safety hazard is not involved, 7) the basis for the licensee's conclusion that the request will not involve adverse consequences to the environment, 8) a statement that the request has been approved by the facility organization that normally reviews safety issues (Plant Onsite Review Committee, or its equivalent), and 9) any other information the NRC staff deems necessary before making a decision to exercise enforcement discretion.

Emergency amendment requests require a discussion of the emergency circumstances, the TS to be changed, a safety analysis, an NSHC determination, and an environmental assessment; in these areas they are similar to NOED requests. However, amendment requests do not address compensatory measures, duration of noncompliance, or other aspects unique to the exercise of enforcement discretion. The regulations regarding an emergency amendment also specify that the NRC will attempt to telephone the designated State official prior to issuance of the amendment. The State is not notified in advance when the NRC issues an NOED.

Question 11.(c). In which respects do the documentation requirements differ?

Answer.

As stated in the response to 11.(b), NOEDs are not license amendments, therefore the documentation requirements are not the same. There are no requirements for public noticing of the issuance of NOEDs, unlike those discussed for emergency amendments in the response to Question 10. However, all requests for NOEDs and their subsequent disposition by the NRC are documented and made publicly available. The NRC does not make a formal NSHC determination for NOEDs per se (although a finding of minimum or no safety impact is made), but would make such a determination for the associated emergency license amendment. All of the items identified in the response to (b) above would be documented in the written NOED request.

Question 12.--. Pursuant to section 189, the NRC's regulations prohibit use of the "emergency situation" exception to the Sholly procedures if the licensee is responsible for the emergency. The NOED policy does not contain such an explicit restriction.

(a) Can or will the NRC grant a NOED if the licensee is responsible for the emergency?

Answer.

The NRC may conclude it is appropriate to issue a notice of enforcement discretion if the licensee is responsible for the emergency, provided that the licensee has not purposefully created the need for an exercise of enforcement discretion. However, as stated in the NRC Inspection Manual, "In accordance with the Enforcement Policy, enforcement action will normally be taken for the root causes, to the extent violations were involved, that led to the reason for the request for the exercise of enforcement discretion."

Question 12.(b). If not, then why is this not as explicit in the policy as in the regulation? If the NRC's policy does not preclude the grant of a NOED if the licensee is responsible for the emergency, then is the NOED policy consistent with the NRC's Sholly procedures?

Answer.

The NOED policy is consistent with 10 CFR 50.91, although there is no legal requirement that it be so. The NRC policy precludes the issuance of a NOED if the licensee purposefully creates the need for emergency action by the NRC. 10 CFR 50.91(a)(5) states, "It (the Commission) will decline to dispense with notice and comment on the determination of no significant hazards consideration if it determines that the licensee has abused the emergency provision by failing to make timely application for the amendment and thus itself creating the emergency." Similarly, the NRC Inspection Manual on NOEDs states, "provided that the licensee has not abused the emergency provisions of 10 CFR 50.91 by failing to apply for an amendment in a timely manner, it is appropriate that the NRC have a procedure for expeditious notice to a licensee of NRC's intentions to exercise enforcement discretion under limited circumstances." In both the regulations and the NOED Inspection Manual Chapter, the licensee is required to provide the staff with the circumstances surrounding the situation for staff evaluation.

Question 13. -- The NOED policy allows the NRC to grant oral NOEDs upon oral statements by NRC licensees, with either the NRC's decision or the licensee's request to be followed by written documentation.

(a) What type of safety analysis is prepared when information is communicated orally?

Answer.

The licensee's request for enforcement discretion must include a discussion of the following:

(1) The TS or other license conditions that will be violated.
(2) The circumstances surrounding the situation, including the need for prompt action.
(3) The safety basis for the request that enforcement discretion be exercised, including an evaluation of the safety significance and potential consequences of the proposed course of action.
(4) Any proposed compensatory measure(s).
(5) The justification for the duration of the noncompliance.
(6) The basis for the license's conclusion that the noncompliance will not be of potential detriment to the public health and safety and that a significant safety hazard is not involved.
(7) The basis for the license's conclusion that the noncompliance will not involve adverse consequences to the environment.
(8) A statement that the request has been approved by the facility organization that normally reviews safety issues (Plant Onsite Review Committee, or its equivalent).
(9) Any other information the NRC staff deems necessary before making a decision to exercise enforcement discretion.

Question 13.(b). How does the NRC enforce its requirements regarding the accuracy of information when the information is communicated orally?

Answer.

The NRC enforces its requirements regarding the accuracy of information in the same way regardless if the information is communicated orally or in writing. 10 CFR 50.9, Completeness and accuracy of information, provides the legal requirements for licensees to adhere to with regard to information supplied to the Commission.

However, it should be noted that the NRC Inspection Manual requires a licensee's oral request to be followed promptly by written documentation, usually within 24 hours, addressing the criteria listed in response to Question 13(a) above.

Question 13.(c). Part IX of the NRC's enforcement policy provides the NRC's policies for taking enforcement action for inaccurate oral statements. The policy states that "The Commission recognizes that oral information may in some situations be inherently less reliable than written submittals because of the absence of an opportunity for reflection and management review."

There are two recent examples in which the NRC allowed the startup of nuclear power plants based upon incomplete or inaccurate oral information material to the startup decision. (Turkey Point, 1992; Vogtle, 1990).

If there is sufficient time for the NRC to either prepare or review a written analysis of the proposed violation of a license condition, then is it appropriate for the Commission to be relying on information which may be "inherently less reliable" to allow operation in violation of license conditions or technical specifications?

Answer.

In the case of a licensee's request for the exercise of enforcement discretion, there are a number of mitigating factors which reduce the concern of relying on oral information for determining appropriate action. These factors include:

(1) the NRC resident staff at the site may be used in monitoring the license's actions and activities,

(2) the requirement that the information provided by the licensee has been approved by the facility organization that normally reviews safety issues (this group is required to consist of senior, experienced utility managers with diverse backgrounds),

(3) the requirement that only senior level headquarters and regional management, working in concert, and interacting with senior licensee management, have authority to determine whether the exercise of enforcement discretion is warranted.

Question 14. -- The NOED policy provides that "In each case where the NRC staff has decided to exercise its enforcement discretion, enforcement action will normally be taken for the root causes, to the extent violations were involved, that led to the noncompliance at issue."

Please explain how this policy works. Does a NOED excuse compliance from the underlying TS or license condition, or does it just excuse compliance from the requirement that the reactor be shut down if the underlying TS or license condition is not satisfied? For example, assume that there is a requirement which provides that if certain equipment is not operable within x hours following the commencement of maintenance on that equipment, then the plant must be shut down. If the NRC were to decide to issue a NOED to allow x+3 hours to return the equipment to operability, would the NRC then issue a notice of violation for failure to return the equipment to operability within x hours, or would non-enforcement of this requirement also fall within the NOED (in addition to the non-enforcement of the requirement to shut down)?

Answer.

The NOED is a notice of intent to exercise of discretion not to enforce compliance with the underlying technical specifications and/or license conditions that are applicable in the situation. A NOED does not excuse compliance with the license. A license violation will occur because a NOED does not change the condition of operation. Typically, the NOED would apply to matters such as noncompliance with a surveillance interval in a technical specification, noncompliance with an element specified in a limiting condition for operation and noncompliance with the applicable action statement. In the example set forth in Question 14, the NRC would <u>not</u> issue a notice of violation for either (1) the "failure to return the equipment to operability within x hours" or (2) the licensee's not shutting down when the equipment in question was "not operable within x hours following the commencement of maintenance on that equipment."

The NRC would consider taking enforcement action for any root cause violation that led to the situation that warranted the exercise of enforcement discretion. For example, if the need for the NOED in the example in Question 14 arose because the licensee violated a requirement for maintenance of the equipment in question, followup enforcement action would be considered for that root cause violation.

Question 15.(a). Why did the NRC stop issuing "temporary waivers of compliance" and instead begin to issue NOEDs?

(b). What is the difference between the two?

Answer.

(a). Although it too was intended to be simply an exercise of enforcement discretion, a "temporary waiver of compliance" (TWOC) as it was being used could arguably be viewed as approving operation in a manner not in conformance with the existing license.

An NOED, like the earlier TWOC, does not approve plant operation in a manner not in conformance with the existing license, but more clearly than the TWOC reflects the NRC's determination to exercise discretion not to enforce compliance with a binding requirement.

The Commission stopped issuing temporary waivers of compliance and began issuing NOED's to eliminate possible criticism that licenses were being amended in noncompliance with Section 189.

(b). The difference is a subtle but legally significant one that was recognized by the court in UCS v. NRC. (Cited in the answer to Question No. 5). Rather than arguably stripping itself of prosecutorial discretion by arguably approving the prospective violation of the license with a "temporary waiver of compliance," the NRC now, in a NOED, merely states its intent to exercise its discretion not to enforce compliance with the license.

Enforcement action may be taken for any violations that led to the situation that warranted the exercise of enforcement discretion. In addition, unless the licensee strictly adheres to the terms on which enforcement discretion is being exercised during the period that the NOED is in effect, enforcement action also may be taken for the violations of the license that will occur even though enforcement discretion is being exercised, because a NOED does not immunize the licensee from appropriate sanctions.

Question 16.(a). Please provide a list of all NOEDs issued since September, 1989, (please include all "temporary waivers of compliance" issued during this period).

Answer.

The requested list is attached and includes both temporary waivers of compliance as well as NOEDs. A total of 330 were granted, 8 were denied, and 36 were withdrawn or not needed. While we believe the list is accurate, time constraints have prevented a confirmation check.

Question 16.(b). Which involved plant startups?

Answer.

The list indicates which NOEDs involved plant startups.

STATUS
G = GRANTED (330)
N = NOT NEEDED (25)
W = WITHDRAWN (11)
D = DENIED (8)
374

TEMPORARY WAIVERS OF COMPLIANCE/ NOTICES OF ENFORCEMENT DISCRETION

	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
1	SALEM 1/2	PERSONNEL QUALIFICATIONS	08/29/89	G	NRR	09/01/89	
2	BEAVER VALLEY 2	DIESEL FUEL IMPURITY LEVEL	09/28/89	G	NRR	09/29/89	
3	OCONEE 2/3	LEAK RATE TESTING	09/29/89	G	NRR	10/05/89	
4	SALEM 1/2	RV HEAD VENT SYSTEM	10/04/89	G	NRR	10/11/89	
5	SURRY 1	PRESSURIZER SAFETY VALVES	10/23/89	G	REGION	10/27/89	
6	ZION 1/2	EDG ROOM AIR INTAKE DAMPER OPER	10/25/89	G	NRR	10/27/89	
7	VERMONT YANKEE	INOPERABLE UNINTERRUPTABLE POWER	11/09/89	G	NRR	11/09/89	
8	QUAD CITIES 1	REACTOR HEAD SPRAY CONT ISO VALVES	11/16/89	G	NRR	11/20/89	
9	ZION 2	O EDG OPERABILITY	11/28/89	G	REGION	11/29/89	
10	FITZPATRICK	HPCI TSL HIGH FLOW INSTRUMENT	02/11/89	G	NRR	12/11/89	
11	MMP 2	EDG FUEL OIL STABILITY TESTING	01/03/90	G	REGION	01/04/90	
12	SALEM 2	MAX CENTRIFUGAL PUMP FLOW RATE	01/04/90	G	NRR	01/04/90	
13	PALO VERDE 2	MOVABLE CONTROL ASSEMBLIES	12/29/89	G	NRR	01/05/90	
14	CALLAWAY	MOVABLE CONTROL ASSEMBLIES	02/02/90	G	NRR	02/06/90	
15	CATAWBA 2	LIFT SETTING OF MSL SAFETY VALVES	02/05/90	G	REGION	02/06/90	
16	PILGRIM	INSTRUMENT LINE EXCESS FLOW CV	02/09/90	G	REGION	02/13/90	
17	BRUNSWICK 1/2	TS INTERPRETATIONS	02/02/90	G	NRR	02/14/90	
18	PEACH BOTTOM 2	FAILED CIRCUIT IN ADS	02/14/90	G	NRR	02/14/90	
19	PILGRIM	EXCESS FLOW CHECK VALVES (DENIED)	02/09/90	W		02/16/90	
20	HATCH 1	RHR SHUTDOWN COOLING	02/22/90	G	REGION	02/22/90	
21	RANCHO SECO	USAR REQUIREMENTS	10/12/89	G	NRR	02/26/90	
22	RANCHO SECO	APPENDIX J REQUIREMENTS	10/20/89	G	NRR	02/26/90	
23	ZION 1/2	EDG OPERABILITY	03/02/90	G	REGION	03/06/90	YES
24	BROWNS FERRY 2	SECONDARY CONTAINMENT & SGTS	03/06/90	G	NRR	03/08/90	YES
25	SHOREHAM	SCHEDULAR REQMTS OF 50.71	12/05/89	G	NRR	03/09/90	
26	THREE MILE ISLAND 1	RELIEF FROM EDDY CURRENT TESTING	03/09/90	G	NRR	03/14/90	
27	SHOREHAM	PRIMARY CONT LEAK RATE TESTING	12/08/89	G	NRR	03/16/90	
28	SURRY 1	MECH VACUUM PUMP OPERABILITY	03/19/90	G	REGION	03/19/90	
29	ARKANSAS 1/2	REPAIRS TO CONTAINMENT ISO VLVS	03/19/90	G	REGION	03/20/90	
30	BEAVER VALLEY 1	ONSITE POWER DISTRIBUTION	03/17/90	G	NRR	03/21/90	

TEMPORARY WAIVERS OF COMPLIANCE/
NOTICES OF ENFORCEMENT DISCRETION

	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
31	VOGTLE 1	OPERABILITY OF AC POWER SOURCES	03/22/90	G	REGION	03/23/90	YES
32	PALO VERDE 3	FEEDWATER CONTAINMENT VLV REPAIR	03/22/90	G	REGION	03/26/90	
33	CRYSTAL RIVER 3	DHR CAPABILITY	03/23/90	G	NRR	03/26/90	
34	SEQUOYAH 1	SOURCE RANGE NUCLEAR INST CHANNELS	03/25/90	G	NRR	03/27/90	
35	SALEM 2	MSIV TESTING	03/29/90	G	REGION	03/30/90	
36	PILGRIM	APRM UPSCALE TRIP	03/30/90	G	NRR	04/02/90	
37	MILLSTONE 3	REPAIR OF FIRE HEADER/PLANT RESTART	04/01/90	G	NRR	04/02/90	
38	SUSQUEHANNA 1/2	TESTING OF EDG	04/02/90	G	NRR	04/04/90	
39	SALEM 1	MSIV CLOSURE TIME	04/04/90	G	NRR	04/05/90	
40	RANCHO SECO	ISI EXAMINATIONS	11/02/89	G	NRR	04/06/90	
41	POINT BEACH 1/2	FUEL OIL AVAILABILITY	04/10/90	G	REGION	04/13/90	
42	TROJAN	CONTROL ROOM VENTALATION	04/22/90	G	NRR	04/25/90	
43	CALVERT CLIFFS 1/2	USE OF DEGRADED SALT WATER SYSTEM	05/05/90	G	REGION	05/09/90	
44	RANCHO SECO	LTOP REQUIREMENTS	04/12/90	G	NRR	05/14/90	
45	TURKEY POINT 4	REPAIR OF ICW PUMP	05/15/90	G	REGION	05/16/90	
46	MILLSTONE 1	REPAIRS TO GAS TURB GENERATOR	05/18/90	G	REGION	05/21/90	
47	QUAD CITIES 1	TESTING OF CONTAINMENT PATHWAYS	05/19/90	G	NRR	05/22/90	
48	VOGTLE 1/2	EDG HIGH JACK WATER TEMP TRIP	05/25/90	G	NRR	05/25/90	
49	DIABLO CANYON 1	RCP UV RX TRIP INSTRUMENTATION	06/01/90	G	REGION	06/07/90	
50	VOGTLE 1/2	SURV TESTIN OF ESFAS	06/06/90	G	REGION	06/07/90	
51	BEAVER VALLEY 2	CONTAINMENT VALVE STROKE TIMES	06/06/90	G	NRR	06/08/90	
52	PALISADES	PZR HEATER CAPACITY	06/11/90	G	REGION	06/13/90	
53	SHOREHAM	QUARTERLY DRILLS	05/30/90	G	NRR	06/19/90	
54	RIVER BEND	SUPPRESSION POOL TEMPERATURE	06/22/90	N		06/22/90	
55	VERMONT YANKEE	POST ACCIDENT MONITORING	06/15/90	G	NRR	06/26/90	
56	CLINTON	EDG OPERABILITY	06/22/90	G	REGION	06/26/90	
57	WNP 2	EDG INSPECTION AND TESTING	06/26/90	G	REGION	06/28/90	
58	TURKEY POINT 4	EMERGENCY CONTAINMENT COOLING SYS	07/05/90	G	REGION	07/06/90	
59	WNP 2	EXAMINATION OF EDG	07/11/90	G	REGION	07/16/90	
60	MILLSTONE 1	EDG INOP FOR REPAIR	07/16/90	G	REGION	07/19/90	

TEMPORARY WAIVERS OF COMPLIANCE/
NOTICES OF ENFORCEMENT DISCRETION

	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
61	MILLSTONE 3	SUP LEAK COLLECTION AND RELEASE SYS	07/20/90	G	NRR	07/23/90	
62	DRESDEN 2/3	PATHWAY LEAK RATE TESTING	07/20/90	G	NRR	07/24/90	
63	NORTH ANNA 1/2	RESPONSE TIME TESTING EXTENSION	07/20/90	G	NRR	07/25/90	
64	COMANCHE PEAK 1	REPAIR AND TEST OF CONT INSTRUMENTS	07/24/90	G	REGION	07/25/90	YES
65	MADDAM NECK	AFW OPERABILITY/ PLANT STARTUP	07/26/90	G	NRR	07/27/90	
66	PALO VERDE 3	SERVICE OF FW CONTAINMENT VLVS	07/27/90	G	REGION	07/27/90	
67	SUSQUEHANNA 1/2	AC POWER SOURCE OPERABILITY	07/27/90	G	REGION	07/27/90	
68	HOPE CREEK	UNIT STAFF QUALIFICATIONS	07/17/90	G	NRR	08/07/90	
69	ARKANSAS 1	REPAIRS TO BLOCKOUT	08/11/90	G	REGION	08/13/90	
70	SHOREHAM	PLANT SERVICE WATER	08/10/90	G	NRR	08/16/90	
71	HOPE CREEK	EDG FUEL OIL TESTING	08/24/90	G	REGION	08/24/90	
72	MADDAM NECK	AFW OPERABILITIY REQUIREMENTS	08/24/90	G	NRR	08/30/90	
73	SUSQUEHANNA 1/2	EXTENSION OF EDG OPERABILITY	09/01/90	G	REGION	09/04/90	
74	MILLSTONE 1	CONTAINMENT SPRAY INTERLOCK	09/11/90	G	NRR	09/12/90	
75	SURRY 2	EXEMPTION FROM 10CFR LLRT	09/14/90	G	NRR	09/18/90	
76	SALEM 2	CONTAINMENT FAN COIL UNIT	09/17/90	G	REGION	09/18/90	
77	NINE MILE POINT 1/2	ADMINSTRATIVE CONTROLS	09/21/90	G	NRR	09/28/90	
78	HARRIS	AUX FEEDWATER SURV REQUIREMENT	09/27/90	G	NRR	09/28/90	
79	TURKEY POINT 3	REPAIRS TO BORIC ACID ISO VLV	09/27/90	G	REGION	09/28/90	
80	MAINE YANKEE	FEEDWATER TRIP SYSTEM	10/03/90	G	NRR	10/04/90	
81	VOGTLE 1	CS ISOLATION VALVE	10/03/90	G	REGION	10/04/90	
82	HOPE CREEK	SAFETY AUX COOLING SYSTEM	09/28/90	G	REGION	10/05/90	
83	ROBINSON	CONTINUED EFFLUENT RELEASES	10/05/90	G	NRR	10/09/90	
84	OCONEE 3	SSF TESTING	10/09/90	G	REGION	10/12/90	
85	VOGTLE 2	ECCS FLOW MEASUREMENT	10/15/90	G	REGION	10/16/90	
86	BEAVER VALLEY 1	CONTAINMENT RECIRC SPRAY SYSTEMS	10/18/90	G	NRR	10/19/90	
87	MAINE YANKEE	LIMIT SWITCH QA	10/19/90	G	REGION	10/22/90	
88	SUSQUEHANNA 2	PRIMARY CONTAINMENT ISOLATION VLVS	10/24/90	G	NRR	10/24/90	
89	NORTH ANNA 2	CORE SURVEILLANCE REPORT	10/04/91	G	NRR	10/26/90	YES
90	SURRY 2	INSPECTION OF SERVICE WATER HEADER	10/27/90	G	REGION	10/29/90	

TEMPORARY WAIVERS OF COMPLIANCE/
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	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
91	WNP 2	AC SOURCES	10/30/90	G	REGION	10/30/90	
92	SURRY 2	CLEANING SERVICE WATER HEADER	10/30/90	G	REGION	10/31/90	
93	BIG ROCK POINT	CONTROL ROD DRIVE REMOVAL	11/05/90	G	REGION	11/06/90	
94	FITZPATRICK	REACTOR COOLANT SAMPLE LINE	11/02/90	G	REGION	11/07/90	
95	BEAVER VALLEY 2	INOP STEAM AUXFEED PUMP	11/19/90	G	REGION	11/19/90	
96	ST LUCIE 2.	COMPONENT COOLING WATER SYSTEMS	11/23/90	G	REGION	11/26/90	
97	SOUTH TEXAS 2	EXTEND SURVEILLANCE INTERVAL	11/19/90	G	NRR	11/29/90	
98	SUSQUEHANNA 1/2	SURVEILLANCE REQUIREMENTS	11/29/90	D		11/30/90	
99	NINE MILE POINT 1	SURVEILANCE TESTING OF RTS	12/04/90	G	NRR	12/04/90	
100	RIVER BEND	RCIC SYSTEM INOPERABLE	12/04/90	G	REGION	12/05/90	
101	SOUTH TEXAS 2	TURBINE DRIVEN AF PUMP OVERSPEED	12/05/90	N		12/10/90	
102	RIVER BEND	DRYWELL AIRLOCKS	12/12/90	G	REGION	12/13/90	
103	VOGTLE 1/2	HEATER CAPACITY VERIFICATION	12/13/90	G	NRR	12/17/90	
104	WATERFORD	TURBINE OVERSPEED PROTECTION	12/24/90	G	REGION	12/26/90	
105	RANCHO SECO	RAD GAS EFFLUENT MONITORING SYS	03/26/90	G	NRR	01/03/91	
106	SOUTH TEXAS 1	RAD MONITORING INSTRUMENTATION	01/07/91	G	REGION	01/08/91	
107	WOLF CREEK	ESFAS CONT PRESSURE CHANNELS	01/23/91	G	REGION	01/24/91	
108	BEAVER VALLEY 1	CONT STRUCTURAL INTEGRITY TS SURV	01/25/91	G	NRR	01/25/91	
109	COMANCHE PEAK 1	1ST WAIVER REQUEST	01/26/91	G	NRR	01/28/91	
110	FITZPATRICK	IDLE RECIRC LOOP START-UP	01/31/91	D		01/31/91	
111	ZION 1/2	APP J TYPE C TESTING	01/29/91	G	NRR	02/01/91	
112	TROJAN	INCORRECT SIZE SAFETY VALVE ORIFICE	02/04/91	G	NRR	02/05/91	
113	CALVERT CLIFFS 1	REQUIREMENTS FOR CEA	02/08/91	G	NRR	02/08/91	YES
114	SAN ONOFRE 2/3	RPS INSTRUM. AND ESFAS INSTRUM.	02/08/91	G	REGION	02/11/91	
115	TROJAN	CONTINUED OPS W/O FLUX MAPPING	02/14/91	G	REGION	02/27/91	
116	WOLF CREEK	ESFAS CONT PRESSURE CHANNELS	02/22/91	G	NRR	02/27/91	
117	CATAWBA 1/2	CONTROL ROOM VENTILATION OPER.	02/26/91	G	NRR	02/27/91	
118	MILLSTONE 1	CONTAINMENT COOLING SYSTEM	02/26/91	G	REGION	02/27/91	
119	MADDAM NECK	TESTING OF RX TRIP BREAKERS	02/28/91	G	NRR	03/01/91	
120	FITZPATRICK	TEMPERATURE DIFF IN RCS	01/31/91	W		03/13/91	

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	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
121	ZION 1/2	APP J LEAK TESTING REQUIREMENTS	03/09/91	G	NRR	03/13/91	
122	WATERFORD	MAIN STEAM SAFETIES SETPOINT	03/14/91	G	REGION	03/15/91	
123	ZION 1/2	"O" EDG FAILURE	03/22/91	G	REGION	03/25/91	
124	PALO VERDE 3	TABLE 3.4-3 LCO FOR COOLDOWN RATE	03/25/91	G	NRR	03/27/91	
125	PILGRIM	24 HOUR SINGLE LOOP OPERATION	03/26/91	G	REGION	03/27/91	
126	COOK 1	VALVE LEAK IN CVCS	03/28/91	W		03/28/91	
127	BRUNSWICK 1/2	EDG REPAIRS	03/28/91	D		04/08/91	
128	MILLSTONE 3	HYDROGEN RECOMBINER	04/05/91	G	NRR	04/09/91	
129	CALVERT CLIFFS 2	CONTAINMENT PURGE ISOLATION VALVES	04/06/91	G	REGION	04/09/91	
130	ARKANSAS 2	CEA OPERABILITY	04/09/91	N		04/09/91	
131	ARKANSAS 2	CONT. PURGE ISOLATION VALVES	04/05/91	G	NRR	04/10/91	
132	SAN ONOFRE 1	CONTROL AND SHUTDOWN ROD MISALIGN	04/17/91	G	REGION	04/17/91	
133	PALO VERDE 3	ESSENTIAL SPRAY POND SYSYEM INOP	04/19/91	G	REGION	04/22/91	YES
134	FITZPATRICK	APRM INST. FUNCTIONAL TEST FREQ	04/23/91	G	REGION	04/23/91	
135	NINE MILE POINT 2	INOPERABLE CONT. PURGE VALVE	04/24/91	G	NRR	04/26/91	
136	QUAD CITIES 1/2	RCIC CONTROLLER INOPERABLE	04/26/91	D		05/09/91	
137	BRUNSWICK 1/2	RWCU DIFFERENTIAL FLOW SETPOINT	04/26/91	N		05/10/91	
138	PRAIRIE ISLAND 1/2	FAILURE OF 2 HEAT TRACING CIRCUITS	05/09/91	D		05/10/91	
139	BEAVER VALLEY 1	SOURCE RANGE NEUTRON FLUX MONITOR	05/16/91	G	REGION	05/21/91	
140	FARLEY 1	MAIN STEAM LINE ISOLATION VALVE	05/17/91	G	NRR	05/21/91	
141	DUANE ARNOLD	EXERCISE OF MSIV	05/24/91	G	NRR	05/24/91	
142	SHOREHAM	CERTIFIED PLANT SIMULATOR	06/05/90	G	NRR	06/05/91	
143	TURKEY POINT 3	CRANE TRAVEL - SPENT FUEL AREA	06/07/91	G	REGION	06/11/91	
144	PALO VERDE 1	SPRAY CHEMICAL ADDITION PUMPS	06/13/91	G	REGION	06/14/91	
145	HADDAM NECK	FEEDWATER ISOLATION SYSTEM	06/20/91	G	NRR	06/21/91	
146	TROJAN	CHLORINE DETECTION SYSTEM	06/18/91	G	NRR	06/24/91	YES
147	CALLAWAY	ECCS OPERABILITY	06/28/91	G	REGION	06/28/91	
148	WNP 2	EFFLUENT MONITORING INSTRUMENTATION	07/01/91	D		07/01/91	
149	VOGTLE 1/2	PZ PRESSURE INJECTION SETPOINT	07/05/91	G	REGION	07/08/91	
150	COOPER	EMER BUSES LOSS OF VOLTAGE RELAYS	07/10/91	G	NRR	07/11/91	

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	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
151	COOPER	EMER BUSES LOSS OF VOLTAGE RELAY	07/10/91	G	NRR	07/11/91	
152	SUSQUEHANNA 1/2	RWCU ISOLATION	07/08/91	G	NRR	07/12/91	
153	COOK 1/2	DIESEL GENERATOR OPERABILITY	07/18/91	G	NRR	07/19/91	
154	QUAD CITIES 1/2	SECONDARY CONTAINMENT	08/14/91	G	REGION	08/14/91	
155	SAN ONOFRE 1	SI AND CONTAINMENT SPRAY	08/08/91	G	NRR	08/15/91	YES
156	SALEM 1	CROSS CALIBRATION OF Tcold RTD	08/15/91	W		08/15/91	
157	GRAND GULF 1	DIVISION 2 LOAD SHEDDING	08/16/91	G	REGION	08/16/91	
158	GRAND GULF 1	LOAD-SHEDDING & SEQUENCE PANEL TEST	08/16/91	G	REGION	08/16/91	
159	ARKANSAS 2	IMMOVABLE CONTROL ELEMENT ASSEMBLY	08/26/91	G	REGION	08/27/91	
160	ARKANSAS 2	FUNCTION OF GROUP 6 CEAs	08/26/91	G	REGION	08/27/91	
161	SAN ONOFRE 1	SI AND CONTAINMENT SPRAY SYSTEMS	08/27/91	G	NRR	08/29/91	YES
162	ARKANSAS 1	SEISMIC QUAL OF INST CABINETS	08/29/91	G	REGION	09/04/91	
163	BRAIDWOOD 1	EDG OPERATIONS	09/16/91	G	REGION	09/17/91	
164	CLINTON	STANDBY EDG 1B	09/06/91	N		09/18/91	
165	ROBINSON	ESF SURVEILLANCE TEST EXCEPTION	09/18/91	G	NRR	09/19/91	
166	DRESDEN 2	BATTERY TESTING	10/01/91	D		10/01/91	
167	CATAWBA 1/2	HYDROGEN MONITORS	10/02/91	G	REGION	10/03/91	
168	ARKANSAS 2	CONTAINMENT BUILDING POLAR CRANE	10/09/91	D		10/09/91	
169	SAN ONOFRE 2	FULL FLOW TESTING OF LPSI	10/09/91	G	REGION	10/10/91	
170	SEQUOYAH 1/2	DG FULL LOAD REJECT OVERVOLTAGE LIM	10/10/91	G	NRR	10/11/91	
171	SALEM 2	CHARCOAL ABSORBER BANKS	10/12/91	W		10/12/91	
172	POINT BEACH 1	NUCLEAR FLUX POWER RANGE, ET AL.	10/13/91	G	NRR	10/17/91	
173	PILGRIM	RCIC SYSTEM	10/15/91	G	NRR	10/22/91	
174	SAN ONOFRE 1/3	ISI OF RCP FLYWHEELS	10/25/91	G	REGION	10/28/91	
175	TURKEY POINT 3/4	AXIAL FLUX DIFFERENCE	10/29/91	G	NRR	10/31/91	
176	DRESDEN 2	REACTOR MODE SWITCH POSITION	10/31/91	G	REGION	11/04/91	
177	CALLAWAY	DG OPERABILITY TESTING	11/15/91	G	NRR	11/18/91	
178	BRAIDWOOD 1/2	EDG ESF BREAKER SURVEILLANCE	11/15/91	G	NRR	11/19/91	
179	BYRON 1/2	EDG ESF BREAKER SURVEILLANCE	11/15/91	G	NRR	11/19/91	
180	PEACH BOTTOM 3	FUEL LOADING W/O CONTROLS RODS IN	11/22/91	G	NRR	11/25/91	YES

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	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
181	CRYSTAL RIVER 3	QUADRANT POWER TILT	11/25/91	G	REGION	11/26/91	YES
182	BEAVER VALLEY 1	EXTEND TIME TO TEST AUX FW PUMPS	11/27/91	W		11/29/91	
183	PALO VERDE 1	REPLACEMENT OF "B" BATTERY	11/25/91	G	REGION	12/05/91	
184	CRYSTAL RIVER 3	QUADRANT POWER TILT	12/05/91	G	NRR	12/06/91	YES
185	FORT CALHOUN	CONTAINMENT SYSTEM	12/05/91	G	REGION	12/09/91	
186	CALLAWAY	MODERATOR TEMPERATURE COEFFICIENT	12/06/91	G	REGION	12/09/91	
187	DAVIS-BESSE	EDG OPERABLE IN MODES 1 - 4	12/06/91	G	REGION	12/10/91	
188	MADDAM NECK	ZIRCALOY CLAD FUEL CONVERSION	12/16/91	G	NRR	12/19/91	YES
189	FITZPATRICK	FIRE BARRIER PENETRATION SEALS	12/19/91	G	NRR	12/19/91	
190	CALVERT CLIFFS 1	SIT ISOLATION VALVE POSITION	12/31/91	G	NRR	12/31/91	
191	SOUTH TEXAS 1	ESSENTIAL CHILLED WATER SYSTEM	01/01/92	N		01/01/92	
192	WOLF CREEK	RHR RELIEF VALVES	01/01/92	W		01/01/92	
193	SOUTH TEXAS 1	ESSENTIAL COOLING WATER	01/08/92	N		01/10/92	
194	WNP 2	MSIV LEAKAGE CONTROL SYS SURV	01/16/92	G	NRR	01/17/92	
195	COOK 2	RWST BORON CONCENTRATION	01/23/92	G	REGION	01/24/92	
196	FORT CALHOUN	INNER PAL DOOR SEAL FAILURE	01/29/92	G	NRR	01/31/92	
197	SAN ONOFRE 2	AFW INJECTION VALVES	01/30/92	G	REGION	01/31/92	
198	PALISADES	MSIV SOLENOID VALVE EQ	02/06/92	G	REGION	02/07/92	
199	SOUTH TEXAS 1	TRAIN B CHILLER DIFF PRESS SWITCHES	01/16/92	N		02/12/92	
200	TURKEY POINT 3	CONTAINMENT AIR LOCK INTERLOCK	02/19/92	G	REGION	02/20/92	
201	CALVERT CLIFFS 1	WATERTIGHT DOORS	02/21/92	N		02/21/92	
202	BROWNS FERRY 2	RHR LOOP 1 VALVE LEAK	02/25/92	G	REGION	02/26/92	
203	COOPER	CAL. OF RX VESSEL LVL INSTRUMENT	03/01/92	N		03/01/92	
204	SOUTH TEXAS 1	ESSENTIAL COOLING WATER	02/27/92	G	REGION	03/02/92	
205	SURRY 1/2	STATION SERVICE TRANSFORMERS	02/27/92	N		03/02/92	
206	PILGRIM	SRO APPLICANT ELIGIBILITY	10/11/91	N		03/12/92	
207	PALO VERDE 2	ONE ECCS SYSTEM INOPERABLE	03/13/92	G	REGION	03/16/92	
208	WNP 2	OPERABILITY OF HYDROGEN RECOMBINER	03/03/92	G	NRR	03/19/92	
209	CATAWBA 1/2	CONTAINMENT SYSTEMS	03/18/92	G	REGION	03/20/92	
210	LIMERICK 1	INVERTER COOLING FAN	03/13/92	G	REGION	03/23/92	

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	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
211	CATAWBA 1/2	CONTAINMENT HATCHES	03/24/92	G	REGION	03/24/92	
212	SOUTH TEXAS 2	ESSENTIAL COOLING WATER	03/04/92	N		04/03/92	
213	PILGRIM	RV WATER LEVEL INSTRUMENTATION	04/07/92	G	REGION	04/08/92	YES
214	SAN ONOFRE 2	CONTAINMENT AIRLOCK HANDWHEEL	04/08/92	G	REGION	04/09/92	
215	SURRY 1	SNUBBER TESTING	04/24/92	G	REGION	04/27/92	
216	SURRY 1	CRDS URGENT FAILURE CIRCUITRY	05/05/92	G	REGION	05/07/92	
217	PALO VERDE 3	SURVEILLANCE TESTING INTERVAL	05/07/92	G	REGION	05/07/92	
218	BRUNSWICK 1/2	MAIN STACK MONITORING SYSTEM	05/08/92	G	REGION	05/15/92	
219	SAN ONOFRE 1	NITROGEN SIDE OF ACCUMULATOR	05/13/92	G	REGION	05/18/92	
220	FORT ST VRAIN	PCRV COOLING WATER TEMPERATURES	05/20/92	G	NRR	05/21/92	
221	SOUTH TEXAS 1/2	RTS INSTRUMENTATION REQUIREMENTS	05/20/92	G	NRR	05/21/92	
222	BROWNS FERRY 2	CREV OPERABILITY	05/20/92	G	REGION	05/22/92	
223	PEACH BOTTOM 3	REPLACEMNET OF RHR PUMP MOTOR	05/26/92	G	REGION	05/28/92	
224	VERMONT YANKEE	OPERATE WITH ONLY ONE EDG	06/03/92	G	REGION	06/04/92	
225	PRAIRIE ISLAND 1/2	AFW PUMP START TESTING	06/04/92	G	REGION	06/05/92	
226	PEACH BOTTOM 2/3	DG AVAILABILITY	06/08/92	G	REGION	06/08/92	
227	CRYSTAL RIVER 3	REFUELING OPS, CONTAINMENT PENETR.	06/10/92	G	REGION	06/11/92	
228	ROBINSON	HIGH-RANGE RADIATION MONITORS	06/08/92	N		06/16/92	
229	POINT BEACH 1/2	EMERG POWER SYSTEMS PERIODIC TESTS	06/12/92	G	NRR	06/19/92	
230	SAN ONOFRE 1	HYDRAULIC OIL FOR ACTUATOR VALVE	06/17/92	G	REGION	06/19/92	
231	SEABROOK	POWER TESTING RE: IN 92-40	06/26/92	G	REGION	06/30/92	
232	VERMONT YANKEE	OPERATE WITH ONLY ONE EDG	06/29/92	G	REGION	07/01/92	
233	ARKANSAS 1	LEAKING DHR CHECK VALVE	07/09/92	G	REGION	07/10/92	
234	ROBINSON	INOPERABLE SI PUMP	07/11/92	G	REGION	07/13/92	
235	HATCH 2	ELECTRICAL POWER SYSTEM, DC	07/15/92	G	REGION	07/16/92	
236	PEACH BOTTOM 2/3	THERMO LAG 330 - IN OP FIRE BARRIER	07/17/92	G	NRR	07/17/92	
237	FORT CALHOUN	TUBE INSPECTION AFTER LOCA	07/21/92	G	NRR	07/22/92	
238	COMANCHE PEAK 1	AUTO ACTUATION LOGIC & RELAYS	07/23/92	G	REGION	07/24/92	
239	WATERFORD	MONTHLY CHANNEL FUNCTIONAL TEST	07/29/92	G	NRR	07/30/92	
240	SEABROOK	TRIP ACTUATING DEVICE OP TEST	07/30/92	G	NRR	08/04/92	

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	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
241	PRAIRIE ISLAND 1/2	SAFEGUARDS BUS 26 SURVEILLANCE	07/29/92	G	NRR	08/05/92	
242	CALLAWAY	'B' SAFETY INJECTION ACCUMULATOR	08/06/92	G	REGION	08/07/92	
243	CALLAWAY	REACTOR TRIP SYS INSTRUM SURV	08/07/92	G	NRR	08/11/92	
244	WOLF CREEK	RTS INSTRUMENTATION REQUIREMENTS	08/17/92	G	NRR	08/19/92	
245	SOUTH TEXAS 2	FUEL HANDLING BUILDING FAN	08/18/92	G	REGION	08/19/92	
246	POINT BEACH 1	INST SYSTEM CABINETS - SEISMIC	08/18/92	G	REGION	08/20/92	
247	PEACH BOTTOM 2/3	THERMO LAG COMPENSATORY MEASURE	08/31/92	G	NRR	09/02/92	
248	TURKEY POINT 3/4	SPRAY AND/OR SPRINKLER SYSTEMS	09/04/92	G	REGION	09/08/92	
249	PERRY	CONTAINMENT ISOLATION VALVES	09/12/92	G	NRR	09/15/92	
250	FARLEY 1	FUEL PARAMETERS	09/18/92	G	REGION	09/18/92	
251	CATAWBA 1	STEAM GENERATOR REPAIR CRITERIA	09/21/92	G	NRR	09/23/92	
252	WNP 2	AC SOURCES	09/22/92	G	REGION	09/23/92	
253	WNP 2	INOPERABLE DIESEL GENERATOR	09/23/92	G	REGION	09/23/92	
254	BROWNS FERRY 2	RHR LOOP 1 TEST LINE	09/27/92	G	REGION	09/28/92	
255	OCONEE 1/2	LOW PRESSURE INJECTION SYSTEM	10/01/92	G	REGION	10/01/92	
256	LIMERICK 2	RHR - SUPPRESSION POOL MODE	10/01/92	G	NRR	10/05/92	
257	LIMERICK 1	ASME CODE PRESSURE TEST	10/15/92	N		10/15/92	
258	NORTH ANNA 1	TURBINE OVERSPEED PROTECTION SYS	10/14/92	G	NRR	10/19/92	
259	NORTH ANNA 1	RESPONSE TIME TESTING OF AFW CIRC.	10/22/92	G	NRR	10/22/92	
260	LIMERICK 1/2	MAINTENANCE ON DAMPER	10/23/92	N		10/23/92	
261	BRUNSWICK 1/2	ECCS ACTUATION & INJECTION PERM	10/07/92	W		10/28/92	
262	SEABROOK	COOLING TOWER FANS & ACTUATION	10/09/92	W		10/28/92	
263	SAN ONOFRE 1	SAFETY INJECTION SYSTEM	10/27/92	N		10/29/92	
264	LASALLE 2	RWCU RETURN LINE ISOLATION VALVE	10/29/92	G	NRR	10/30/92	
265	SEQUOYAH 1	ESFAS INSTR. - FW REG VALVES	10/30/92	G	REGION	10/30/92	
266	DRESDEN 2/3	DEGRADED VOLTAGE PROT. FEATURES	11/02/92	G	REGION	11/04/92	
267	ARKANSAS 1	STEAM DRIVEN EFW PUMP	11/03/92	G	REGION	11/04/92	
268	SEQUOYAH 1	ESFAS RESPONSE TIME	11/09/92	G	NRR	11/12/92	
269	SUSQUEHANNA 2	RWCU ISOLATION ACTUATION INSTR.	11/17/92	G	REGION	11/18/92	
270	ARKANSAS 2	STEAM GENERATOR TUBE INSPECTION	11/27/92	G	NRR	11/27/92	

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	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
271	CALLAWAY	ONSITE POWER DISTRIBUTION	11/27/92	G	REGION	12/01/92	
272	WNP 2	A.C. SOURCES	12/02/92	G	REGION	12/03/92	
273	MILLSTONE 3	OPERABILITY OF CHARGING PUMP	12/09/92	G	NRR	12/09/92	
274	SEQUOYAH 1/2	TESTING OF ERCW SYSTEM	12/23/92	G	REGION	12/23/92	
275	POINT BEACH 2	ECCS - RHR PUMP OUT OF SERVICE	12/21/92	G	REGION	12/24/92	
276	FORT CALHOUN	PERSONNEL AIR LOCK	12/24/92	G	NRR	12/29/92	
277	ZION 1	ECCS PUMPS INOPERABLE	01/05/93	G	REGION	01/07/93	
278	POINT BEACH 1/2	DEGRADED GRID VOLTAGE RELAY SET.	01/08/93	G	NRR	01/14/93	
279	MILLSTONE 1	MAIN STEAM LINE RAD MONITOR	01/12/93	G	NRR	01/15/93	
280	PALISADES	CONTROL ROD DRIVE TESTING	01/14/93	G	NRR	01/15/93	
281	CATAWBA 1/2	CONTROL ROOM AREA VENTILATION SYS	01/15/93	G	REGION	01/19/93	
282	MILLSTONE 3	SNUBBER SURVEILLANCE REQUIREMENTS	01/22/93	G	NRR	01/25/93	
283	ZION 1/2	LOW TEMPERATURE OVERPRESSURE PROT	01/28/93	G	NRR	01/29/93	YES
284	DUANE ARNOLD	FLOW BIAS SCRAM SETPOINT	02/07/93	N		02/07/93	
285	ST LUCIE 1	CONTAINMENT PENETRATION SURVEILL.	02/12/93	G	NRR	02/16/93	
286	POINT BEACH 1/2	AUX ELECTRICAL SYSTEMS	02/22/93	G	REGION	02/23/93	
287	SOUTH TEXAS 1/2	TURBINE DRIVE AFW PUMP	02/25/93	G	REGION	02/26/93	
288	SAN ONOFRE 2	125V DC BATTERY CHARGER	02/25/93	G	REGION	03/01/93	
289	ZION 1	CONT RECIRC SUMP LEVEL INSTRUMENT	02/26/93	G	NRR	03/02/93	
290	SALEM 1	RESETTING OF TORQUE SWITCH	03/18/93	N		03/18/93	
291	MILLSTONE 2	STURCTURAL INTEGRITY OF SW LINE	03/26/93	G	REGION	03/26/93	
292	NORTH ANNA 2	ESF REACTOR TRIP INSTRUMENTATION	03/26/93	G	NRR	03/26/93	
293	RIVER BEND	ROD PATTERN CONTROL SYSTEM	03/26/93	G	REGION	03/26/93	
294	SOUTH TEXAS 1	DIGITAL ROD POSITION INDICATION	03/29/93	G	REGION	03/30/93	
295	WNP 2	RCIC AUTO SUCTION TRANSFER	04/02/93	G	NRR	04/02/93	
296	BEAVER VALLEY 2	REACTOR TRIP BREAKER TESTING	04/06/93	G	NRR	04/09/93	
297	VERMONT YANKEE	SCRAM INSERTION TIME LIMITS	04/07/93	G	NRR	04/09/93	
298	POINT BEACH 2	RPS & SAFEGUARDS CIRCUIT TESTING	04/09/93	G	NRR	04/15/93	
299	LIMERICK 1/2	TS SURVEILLANCE ON BATTERIES	04/23/93	N		04/23/93	
300	DUANE ARNOLD	APP J EXEMPTION-CONTAINMENT AIRLOCK	04/29/93	G	NRR	04/30/93	

TEMPORARY WAIVERS OF COMPLIANCE/
NOTICES OF ENFORCEMENT DISCRETION

	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
301	CLINTON	DIVISION II BATTERY CHARGER	05/01/93	N		05/01/93	
302	SURRY 2	PRESSURIZER SAFETY VALVES	05/03/93	G	REGION	05/03/93	
303	DIABLO CANYON 1	OFFSITE POWER DISTRIBUTION	05/04/93	G	REGION	05/05/93	
304	OCONEE 1	CONTROL ROD TRIP INSERTION TIME TST	05/04/93	G	NRR	05/06/93	
305	SURRY 2	HIGH PRESSURIZER PRESS. RX TRIP SP	05/04/93	G	NRR	05/06/93	
306	PALO VERDE 1/2/3	SNUBBER OPERABILITY	05/14/93	G	NRR	05/18/93	YES
307	BROWNS FERRY 2	LPCI OP. WITH RHR ALIGNED FOR SD	05/17/93	G	NRR	05/19/93	
308	SUMMER	TESTING STEAM DRIVEN ESW PUMP	05/25/93	G	NRR	05/27/93	
309	INDIAN POINT 3	EDG OPERABILITY	06/01/93	G	REGION	06/03/93	
310	SEQUOYAH 1	FUEL MOVE USING AUXILIARY HOIST	06/21/93	G	REGION	06/23/93	
311	BRAIDWOOD 2	DEGRADED FLOW OF CCSW	07/01/93	N		07/01/93	
312	GRAND GULF	LOAD SHEDDING AND SEQUENCING SYSTEM	07/07/93	N		07/07/93	
313	COOK 2	WEST CENT CHARGING PUMP OPERABILITY	07/09/93	G	REGION	07/13/93	
314	FERMI 2	CCNVAC DIV II SUPPLY FAN REPAIRS	07/09/93	G	REGION	07/13/93	
315	NINE MILE POINT 2	N2 ANALYZERS CONT. ISOL. VALVES	08/05/93	G	NRR	08/06/93	
316	SOUTH TEXAS 1	AOT FOR AUX. FEEDWATER PUMP	08/04/93	G	REGION	08/13/93	
317	BEAVER VALLEY 1	CONTAINMENT AIRLOCK LEAK TESTING	08/11/93	G	NRR	08/13/93	
318	MCGUIRE 1	EDG HOT RESTART TEST	08/17/93	G	REGION	08/18/93	
319	DRESDEN 3	CONTAINMENT COOLING SUBSYSTEM LOOPS	08/17/93	G	REGION	08/19/93	
320	SALEM 1	125 VOLT DC BATTERY	08/25/93	G	REGION	08/26/93	
321	CALVERT CLIFFS 1	CONTROL ROOM EMERGENCY VENTILAQTION	08/27/93	W		08/27/93	
322	ST LUCIE 1/2	PHYSICAL SECURITY PLAN	08/27/93	G	REGION	08/27/93	
323	SEABROOK	ESFAS INST. SURV. REQUIREMENTS	08/25/93	G	NRR	08/30/93	
324	FERMI 2	MODULAR POWER UNIT	09/07/93	G	REGION	09/08/93	
325	SUSQUEHANNA 2	INOPERABLE CONTAINMENT PURGE VALVE	09/08/93	G	NRR	09/10/93	
326	INDIAN POINT 2	UC&PPS OPERABILITY REQUIREMENTS	09/13/93	G	REGION	09/15/93	
327	PRAIRIE ISLAND 1/2	MELB EFFECTS ON 4160 V BUS	09/13/93	G	REGION	09/15/93	
328	BRAIDWOOD 1	INOPERABLE CHARGING PUMP	09/17/93	G	REGION	09/21/93	
329	GRAND GULF 1	JET PUMPS	09/21/93	G	REGION	09/21/93	
330	WATERFORD	CONTAINMENT SPRAY SYSTEM	09/28/93	G	REGION	10/01/93	

TEMPORARY WAIVERS OF COMPLIANCE/
NOTICES OF ENFORCEMENT DISCRETION

	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
331	WNP 2	ISOL SYS RESPONSE TIME SURVEILLANCE	10/02/93	G	NRR	10/06/93	
332	SURRY 1	INOP CONTROL ROD ASSEMBLIES	10/21/93	G	REGION	10/22/93	
333	ARKANSAS 2	ECCS OPERABILITY	10/23/93	G	REGION	10/26/93	
334	MILLSTONE 3	SUPPL LEAK COLLECTION & RELEASE SYS	10/22/93	G	NRR	10/27/93	YES
335	KEWAUNEE	A RHR PUMP CASING LEAK	11/03/93	G	REGION	11/05/93	
336	MILLSTONE 3	SUPPLEMENTARY LEAK COLLECTION ...	11/04/93	G	NRR	11/05/93	YES
337	NORTH ANNA 2	HIGH HEAD SAFETY INJECTION FLOW	11/09/93	G	NRR	11/10/93	
338	WNP 2	ISOLATION SYSTEM RESPONSE TIMES	11/17/93	G	REGION	11/18/93	
339	BRAIDWOOD 1	SG LEAKAGE LIMIT	11/12/93	G	NRR	11/24/93	YES
340	FARLEY 2	H2 RECOMBINER OPERABILITY	11/29/93	G	REGION	11/30/93	YES
341	SALEM 2	EXTEND EDG ALLOWED OUTAGE TIME	12/03/93	N		12/03/93	
342	POINT BEACH 1/2	EDG ALLOWED OUTAGE TIME	12/03/93	G	REGION	12/07/93	
343	LASALLE 1	INOPERABLE SRVs	12/06/93	G	NRR	12/13/93	
344	SURRY 2	CONTROL ROD REPAIRS	12/15/93	G	REGION	12/16/93	
345	DIABLO CANYON 2	OFFSITE POWER DISTRIBUTION	12/20/93	G	REGION	12/22/93	
346	LASALLE 1	CRD POSITION INDICATION SYSTEM	01/05/94	G	REGION	01/05/94	
347	SALEM 1	AFW PUMP AOT	01/21/94	G	REGION	01/19/94	
348	OYSTER CREEK	APRM SCRAM TRIP SURVEILLANCE	01/21/94	N		01/21/94	
349	SOUTH TEXAS 1	DIGITAL ROD POSITION INDICATION SYS	01/15/94	G	REGION	01/25/94	
350	LASALLE 1	RPS INSTRUMENT SURVEILLANCE	01/20/94	G	REGION	01/26/94	
351	PEACH BOTTOM 2	MSL RADIATION MONITOR	01/24/94	G	REGION	01/26/94	
352	THREE MILE ISLAND 1	CONTROL ROD MOVEMENT SURVEILLANCE	01/20/94	G	REGION	01/27/94	
353	SUSQUEHANNA 2	ACOUSSTIC MONITOR ON SRV	01/24/94	G	NRR	01/27/94	YES
354	LIMERICK 1/2	MSV AND INTERCEPT VALVE WEEKLY TEST	01/25/94	G	REGION	01/27/94	
355	PERRY	PRIMARY CONTAINMENT AIRLOCKS	01/29/94	G	NRR	02/02/94	
356	POINT BEACH 1/2	ALL EDGs INOPERABLE	02/09/94	G	REGION	02/11/94	
357	POINT BEACH 1/2	EDG OPERABILITY	02/09/94	G	REGION	02/11/94	
358	RIVER BEND	EXTENSION OF SURVEILLANCE INTERVAL	02/03/94	G	NRR	02/15/94	
359	GINNA	MANUAL CONT. ISOLATION PUSHBUTTONS	02/15/94	G	REGION	02/16/94	
360	BRAIDWOOD 1/2	CONTROL ROOM VENTILATION SYSTEM	02/19/94	G	REGION	02/22/94	

TEMPORARY WAIVERS OF COMPLIANCE/
NOTICES OF ENFORCEMENT DISCRETION

	PLANT(S)	TITLE	DATE OF REQUEST	STATUS	ACTION BY	DATE OF ACTION	STARTUP
361	DRESDEN 3	SBGTS AUTO-ACTUATION	02/22/94	G	REGION	02/24/94	
362	RIVER BEND	PENETRATION VALVE LEAKAGE CONTROL	02/17/94	G	REGION	02/28/94	
363	GRAND GULF	STANDBY SERVICE WATER SYSTEM	03/04/94	G	REGION	03/08/94	
364	QUAD CITIES 1	RCIC OUTBOARD ISOLATION VALVE	03/06/94	G	REGION	03/09/94	
365	NORTH ANNA 2	STEAM DRIVEN AUX FEED PUMP OPER	03/11/94	G	REGION	03/14/94	
366	BRAIDWOOD 2	MSSV LIFT SETPOINTS	03/11/94	G	NRR	03/15/94	
367	BYRON 1/2	MSSV LIFT SETPOINTS	03/11/94	G	NRR	03/15/94	
368	DIABLO CANYON 2	MSSV LIFT PRESSURE SETPOINTS	03/14/94	G	REGION	03/15/94	
369	BRAIDWOOD 2	UNCAPPED CONCRETE POURING VENTS	03/15/94	G	REGION	03/16/94	
370	THREE MILE ISLAND 1	CONTROL ROD DROP TIMES	03/22/94	W		03/22/94	
371	SALEM 1	INCREASED TIME TO REACH HOT SD	04/08/94	G	REGION	04/07/94	
372	PALO VERDE 2	AC SOURCES - EDG B OUT OF SERVICE	04/09/94	G	REGION	04/12/94	
373	MILLSTONE 2	CR EMER VENTILATION SYSTEM	04/14/94	G	NRR	04/21/94	
374	ARKANSAS 2	OPER OF TURBINE DRIVEN AFW PUMP	04/22/94	G	REGION	04/22/94	

Question 16.(c). Which were granted orally?

Answer.

The situations giving rise to a NOED request require prompt response. Consequently, in the majority of the cases, NOED decisions are conveyed orally after appropriate review by the staff, followed by prompt documentation of the licensee's request.

Question 16.(d). Please provide a list of all enforcement actions taken for the root causes that led to the reason for the request for the exercise of enforcement discretion.

Answer.

Prior to issuance of the policy and guidance on NOEDs in March 1993, there was no explicit guidance that temporary waivers of compliance or other exercises of enforcement discretion should be followed up with a consideration of enforcement action for root cause violations. The following is a list of enforcement actions for root cause violations that were issued subsequent to the NOED guidance that was promulgated in March 1993.

NOED #/Date	Site	Subject	Enforce. Action
93-I-001 6/3/93	Indian Pt. 3	Emergency Diesel Generator operability	EA 93-180, SLIII no CP, 11/30/93)
93-I-002 8/26/93	Salem	125 Volt DC Battery	SLIV, 11/30/93
93-2-002 6/23/93	Sequoyah	movement of fuel using aux. hoist	SLIV, 7/21/93
93-2-003 8/18/93	McGuire	TS surveillance 4.8.1.2.E.8	SLIV, 9/14/93
93-4-001 10/1/93	Waterford	Containment spray TS	EA 93-239, $25,000 12/7/93
93-4-002 10/26/93	ANO-2	Containment sump screens	EA 93-278, SLIII, no CP, 12/14/93
93-5-002 11/18/93	WPPSS	relay surv (TS 3.3.2)	EA 93-293, NOV SLIV, 12/29/93
93-6-013 4/30/93	Duane Arnold	Appendix J exemption - contmnt airlock	EA 93-106, NCV, 6/4/93
93-6-028 12/13/93	Lasalle	inoperable SRVs SLIV, no CP, part of civil penalty package, 4/4/94	EA 93-300
94-3-003 2/11/94	Point Beach	EDG operability	SLIV, 3/17/94
94-3-007 2/22/94	Braidwood	control room ventilation system	EA 94-068, pending

Question 17.(a). How many license amendments have been issued since September, 1989?

Answer.

4276 amendments have been issued. While we believe the list is accurate, time constraints have prevented a confirmation check.

Question 17.(b). For how many of these were comments received?

Answer.

15 comments were received. One of the 15 comments received was associated with a NOED.

Question 17.(c). How many requests for a hearing were received?

Question 17.(d). How many hearings were held?

Answer.

The attached list identifies proceedings and related actions on which a hearing was requested and indicates the disposition of the request.

HEARING REQUESTS ON PART 50 LICENSE AMENDMENTS

The following listing identifies proceedings involving hearing requests on license amendments, license transfers and decommissioning plans related to facilities licensed under 10 CFR Part 50 from September 1989 to May 1994:

1	Vermont Yankee OLA-4	- intervenor withdrew
2	Turkey Point OLA-5	- intervention denied
3	Perry OLA-2	- summary affirmance of amendment based on parties' stipulations
4	Vogtle OLA	- intervention denied
5	Shoreham OLA	- 3 amendments, intervention denied
6	Turkey Point OLA-6	- intervention denied
7	Shoreham OLA-2	- intervention denied (poss. only license)
8	Palo Verde OLA-2	- intervenor withdrew after settlement with licensee
9	Rancho Seco OLA	- intervention denied (poss. only license)
10	Cintichem OLA	- amendment withdrawn
11	Seabrook OLA	- intervention denied (license transfer)
12	Shoreham OLA-3	- settled prior to ruling on intervention (license transfer)
13	Three Mile Island-2	- settled prior to ruling on intervention (poss. only license)
14	Ohio Edison	- decided on summary disposition (denial of application to amend antitrust conditions)
15	Vogtle OLA-2	- license application withdrawn
16	Palo Verde OLA-3	- intervention petition withdrawn
17	Pilgrim OLA	- intervention petition withdrawn
18	Perry OLA-3	- summary disposition motion pending on admitted contention
19	Vogtle OLA-3	- parties in discovery (transfer of operating authority)
20	River Bend OLA	- in discovery (transfer of operating authority)
21	Shoreham DCOM	- intervention petition withdrawn after settlement (decommissioning plan)
22	Millstone 2 OLA	- amendment approved after summary disposition of contention
23	Diablo Canyon OLA-2	- hearing held; pending before ASLB
24	Vermont Yankee OLA-5	- application withdrawn
25	Sequoyah (TVA) OLA	- hearing request withdrawn
26	Rancho Seco DCOM	- discretionary intervention permitted; in discovery

Prepared by OCAA 5/12/94

Question 18. -- Please explain the Commission's role and policy regarding the exten to which the NRC will either formally approve in advance or sanctio steps taken by a licensee to mitigate or prevent harm to the public health and safety in the event of an emergency? In an emergency situation, will the NRC perform an advisory role, or will the NRC formally approve measures proposed by a licensee?

Answer.

Attached is the NRC Incident Response Plan, NUREG-0728, Rev. 2, which reflects current Commission policy and assigns responsibilities for responding to any potentially threatening incident involving NRC licensed activities and for assuring that the NRC will fulfill its statutory mission. Sections 2.1 and 2.2 outline the licensee's responsibilities and the NRC's responsibilities.

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NRC Incident Response Plan

U.S. Nuclear Regulatory Commission

Office for Analysis and Evaluation of Operational Data

NOTICE

Availability of Reference Materials Cited in NRC Publications

Most documents cited in NRC publications will be available from one of the following sources:

1. The NRC Public Document Room, 1717 H Street, N.W.
   Washington, DC 20555
2. The Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082,
   Washington, DC 20013-7082
3. The National Technical Information Service, Springfield, VA 22161

Although the listing that follows represents the majority of documents cited in NRC publications, it is not intended to be exhaustive.

Referenced documents available for inspection and copying for a fee from the NRC Public Document Room include NRC correspondence and internal NRC memoranda; NRC Office of Inspection and Enforcement bulletins, circulars, information notices, inspection and investigation notices; Licensee Event Reports; vendor reports and correspondence; Commission papers; and applicant and licensee documents and correspondence.

The following documents in the NUREG series are available for purchase from the GPO Sales Program: formal NRC staff and contractor reports, NRC-sponsored conference proceedings, and NRC booklets and brochures. Also available are Regulatory Guides, NRC regulations in the *Code of Federal Regulations*, and *Nuclear Regulatory Commission Issuances*.

Documents available from the National Technical Information Service include NUREG series reports and technical reports prepared by other federal agencies and reports prepared by the Atomic Energy Commission, forerunner agency to the Nuclear Regulatory Commission.

Documents available from public and special technical libraries include all open literature items, such as books, journal and periodical articles, and transactions. *Federal Register* notices, federal and state legislation, and congressional reports can usually be obtained from these libraries.

Documents such as theses, dissertations, foreign reports and translations, and non-NRC conference proceedings are available for purchase from the organization sponsoring the publication cited.

Single copies of NRC draft reports are available free, to the extent of supply, upon written request to the Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Copies of industry codes and standards used in a substantive manner in the NRC regulatory process are maintained at the NRC Library, 7920 Norfolk Avenue, Bethesda, Maryland, and are available there for reference use by the public. Codes and standards are usually copyrighted and may be purchased from the originating organization or, if they are American National Standards, from the American National Standards Institute, 1430 Broadway, New York, NY 10018.

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NRC Incident Response Plan

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Office for Analysis and Evaluation of Operational Data
U.S. Nuclear Regulatory Commission
Washington, DC 20555

ABSTRACT

The Nuclear Regulatory Commission (NRC) regulates civilian nuclear activities to protect the public health and safety and to preserve environmental quality. An Incident Response Plan had been developed and has now been revised to reflect current Commission policy. NUREG-0728, Rev. 2 assigns responsibilities for responding to any potentially threatening incident involving NRC licensed activities and for assuring that the NRC will fulfill its statutory mission. This report has also been reproduced for staff use as NRC Manual Chapter 0502.

CONTENTS

INTRODUCTION

1.1 Statutory Responsibility

The U.S. Nuclear Regulatory Commission (NRC) regulates nuclear activities, through licensing and other means, to protect the health and safety of the public and to preserve environmental quality. In the event of an incident involving NRC-licensed activities that has the potential to threaten the public or the environment, the NRC must be prepared to respond quickly. This Incident Response Plan assigns individual and group responsibilities which collectively assure that NRC will fulfill its statutory responsibility.

1.2 Parallel Responsibilities

During an incident at a licensed facility, the licensee is at all times responsible for mitigating the consequences of the incident. The licensee is also responsible for providing appropriate protective action recommendations to State/local officials.

The underlying foundation for all Federal response activities is coordination with and support for State and local government and licensee response efforts. As part of its role as Federal technical coordinator, i.e., Cognizant Federal Agency (CFA) during an emergency, the NRC is responsible for providing (to the Governors of affected states) Federal recommendations for actions to protect the public.

The licensee must be prepared to perform essential technical activities to protect the public in the event of an incident at a licensed facility. The NRC must be ready to support and assist the licensee by (1) monitoring the incident to be ready to advise the licensee based on NRC's assessment of the plant situation, and by (2) locating and obtaining needed expertise and equipment. Both the NRC and the licensee must be prepared to cooperate in all their activities with local, State, and Federal agencies that have related responsibilities.

The Federal Emergency Management Agency (FEMA) has published the Federal Radiological Emergency Response Plan (FRERP) for coordinating all Federal activities in response to a radiological emergency at a commercial nuclear power plant (Ref. 1). The plan defines the responsibilities of each Federal organization with a role in such emergencies, including the responsibility of the NRC for coordinating all Federal support for licensee activities and all Federal technical activities off site. FEMA has the complementary responsibility for coordinating all offsite nontechnical activities of Federal organizations. The NRC also has signed a Memorandum of Understanding with the Federal Bureau of Investigation (FBI) for incidents involving possible terrorist activity or other safeguards violations and another with the Department of Transportation (DOT) for transportation accidents. To assure operational consistency between this NRC Incident Response Plan and the planned radiological activities of several other agencies, NRC participated in preparing the Federal Radiological Monitoring and Assessment Plan (FRMAP), which is included in the FRERP.

1.3 Purposes and Scope of the Plan

This Incident Response Plan governs NRC response to incidents involving NRC licensees as defined by the Atomic Energy Act of 1954.

The plan is intended to serve the following major purposes:

(1) Guide NRC managers who must assure that all appropriate tasks are under way at any stage of a response.

(2) Remind each NRC participant of his or her responsibilities (either as an individual or as a team member) throughout a response.

(3) Identify NRC interrelationships with other organizations.

(4) Serve as a training aid to maintain personnel readiness.

(5) Emphasize the primary responsibility of the licensee in responding to an incident.

The Incident Response Plan describes the functions and kinds of decisions that constitute an NRC response. Taken as a whole, the plan provides an overview of NRC functions before and during an incident. The responsibilities assigned by the plan are exercised through a set of implementing procedures (NUREG-0845, Agency Procedures for the NRC Incident Response Plan [Ref. 5] and corresponding Headquarters and Regional Supplements) that delineate the manner in which each function will be performed (Fig. 1). The implementing procedures (such as call lists) are not included in this plan; they are operational tools that are subject to more frequent change than the plan and so are contained in separate documents.

The need for resources is dictated by the implementing procedures. Therefore, this plan and its implementing procedures will be used as the basis for allocating resources among the functions.

2. EMERGENCY RESPONSE ORGANIZATION AND OPERATIONS

An effective emergency response demands not only a simplified management concept but also a clear organization of task responsibilities. This plan is intended to do the following:

(1) Provide for definite decisions to increase or decrease the scope of the NRC response so that all participants will be aware of the correct response mode, and of their corresponding responsibilities, at all times.

(2) Identify clear responsibilities for advising offsite authorities, advising the licensee, directing the licensee, and making other decisions.

(3) Provide for informing NRC personnel and other organizations about NRC response actions and about any delegation of authority particularly when the focus of the response is shifted from Headquarters to the Director of Site Operations (DSO).

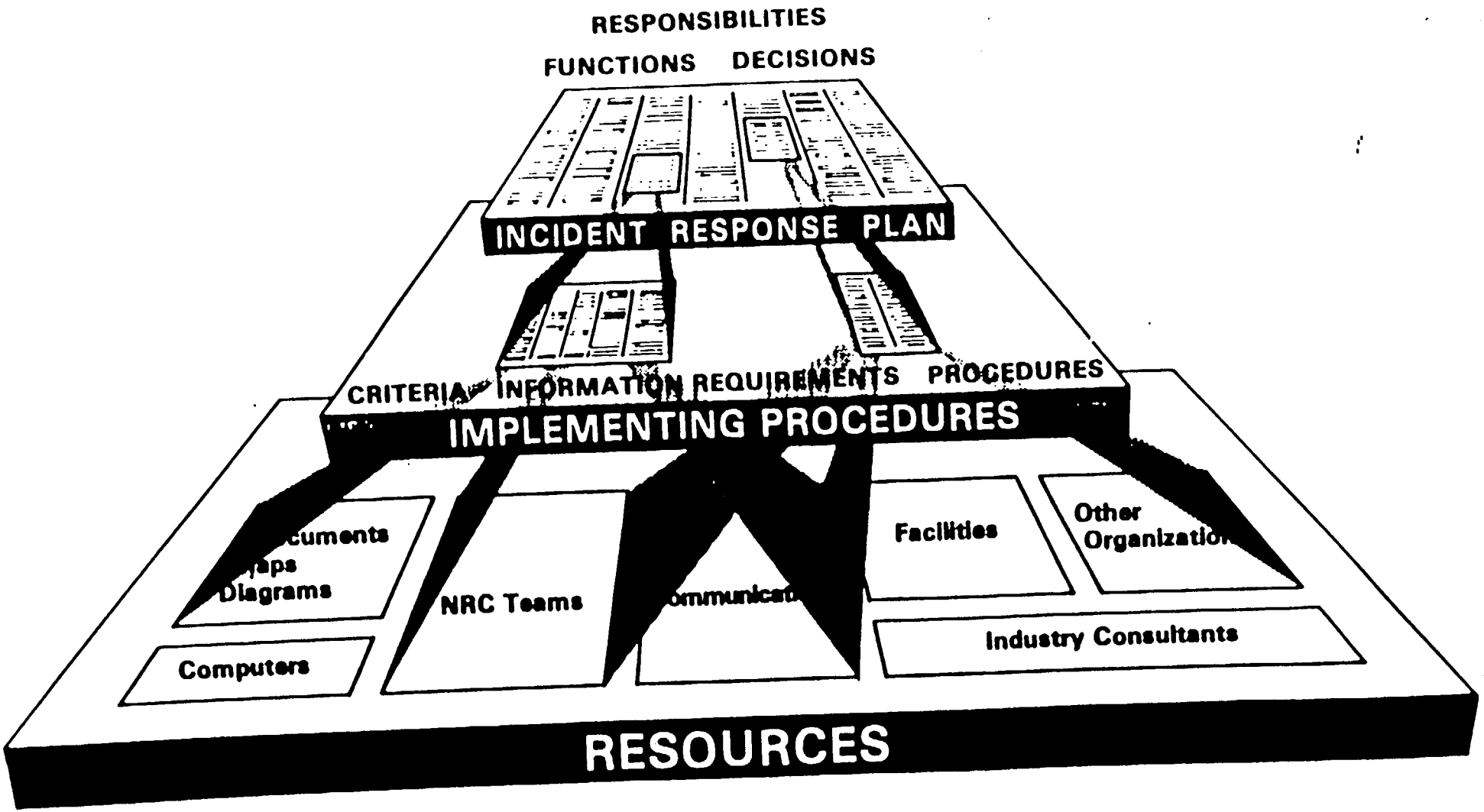


FIGURE 1

RELATIONSHIP OF PLAN, PROCEDURES, AND RESOURCES

2.1 Licensee's Responsibilities During an Emergency

2.1.1 Limiting the Consequences. The licensee has the immediate and primary continuing responsibility for limiting the consequences of an incident at a nuclear power reactor. Limiting the consequences to public health and safety should take clear precedence over limiting financial loss or adverse publicity. During a radiological emergency the licensee should take whatever action is deemed necessary to limit the consequences to public health and safety, even if that action violates the NRC license technical specifications. If time does not permit in an emergency, notification of and consultation with NRC is not required prior to the licensee taking action he deems appropriate.

2.1.2 Recommending Protective Actions The licensee is responsible for keeping local, State and Federal authorities (as specified in the approved plant emergency plan) informed on the status of the emergency as it relates to protection of the public health and safety. The licensee should recommend to local, State and Federal authorities specific protective actions to limit the danger to the public, including evacuation.

2.1.3 Notifying NRC. Licensee notification to NRC must be in compliance with 10 CFR Part 50.72, "Notification of Significant Events."

2.2 NRC's Responsibilities During An Emergency

2.2.1 General. NRC staff at the Operations Center is limited in its ability to provide detailed recommendations to plant personnel or overrule plant managers at the site. It is the Commission's policy that the emergency should be managed from the site. The Director (this and all future reference to Director will mean the NRC Chairman or his or her designee) may transfer authority for managing the NRC's emergency response efforts to a senior onsite NRC representative, Director of Site Operations (DSO), when the Director is confident that the onsite NRC representative is prepared to receive the authority and if the Director deems it appropriate. The NRC Regional Administrator or other senior manager, upon arrival on site, will contact the NRC HQ Operations Center for a status report, talk to licensee management to assess the situation from their perspective, assess the status of nonlicensee activities, deploy his site team, contact the resident inspector and then again report to the Director. Transfer of authority to the DSO will be discussed in Section 2.5.

Once the NRC response is in an Activation Mode and until the Regional Administrator arrives at the site (normally expected to be from 2-6 hours after initial notification), and is designated Director of Site Operations (DSO), the NRC Operations Center will be the primary location where this agency will monitor and evaluate licensee actions. During that time the normal response roles for the NRC Operations Center will be to monitor, inform, and, upon request, advise licensees and other local, State and Federal authorities.

Although the Director has the authority to issue orders and directives to the licensee, this authority need not be exercised by the Director but may be delegated to the DSO after one is established. The reason for this is that there may be more complete information available to the DSO at the site, and therefore there may be a firmer basis for such orders or directives.

In any incident, NRC may exercise more than one role, sometimes concurrently, as the incident progresses. However, it is important that all participants in an incident (NRC and others) be made fully aware of changes in the NRC role. These major roles are presented in ascending order of responsibility. Role alternatives are not discreet or mutually exclusive, but instead are successive increments in which one is added to another.

2.2.2 Monitoring-Only Role. In this role, NRC response is essentially passive and confined to information acquisition and assessment. The licensee, in conjunction with State and local authorities, has primary responsibility for dealing with the incident. NRC keeps itself apprised of both the situation and the status of response actions, based on data supplied by the licensee as well as any data obtained independent of the licensee via a data system, reported by NRC personnel on site, or provided by offsite authorities. NRC also maintains cognizance of offsite conditions and activities related to the incident. Additional ad hoc information may be requested by NRC, as deemed necessary. Data from all sources is collated, verified, analyzed, and evaluated by NRC to arrive at an independent estimate of the situation and of the adequacy of the operational protective measures being recommended or implemented. NRC serves as the focal point at the Federal level for providing authoritative technical information on the incident related to the onsite situation and licensee offsite activities.

The monitor role is exercised by both NRC Headquarters and the DSO throughout the course of an incident. Upon transfer of authority to the DSO on site, however, the DSO becomes the primary contact with the licensee, State and local authorities.

2.2.3 Inform Role. Based on the monitoring role, the NRC may find it appropriate to inform affected officials, and the public about the status of the emergency. This role would be exercised only when it is clear that responsible parties are not aware of pertinent information or when information is specifically requested by other interested parties (e.g., news media, Congress, White House). Primary interaction with the news media will transfer from the Headquarters Executive Team to the DSO when the DSO assumes control.

2.2.4 Advisory Role. The NRC role in this case is expanded to include exerting influence on the response process, using information gathered by continued monitoring. Primary responsibility for coping with the incident, however, still resides with the licensee. NRC gives advisory support, to assist in diagnosing the situation, isolating critical problems, and determining what remedial courses of action and additional precautionary measures are indicated. Advice is made available to the licensee, State and local authorities. and to other Federal agencies concerned.

In coordination with FEMA, NRC will advise State and local authorities on actions to mitigate the consequences of the incident and for protecting the public. This advice may confirm the licensee's recommendation or provide additional recommendations.

In addition, in selected cases the NRC may, upon request, assist the licensee by obtaining onsite and external support relating directly to onsite response needs. In this capacity, NRC may serve as an intermediary for the licensee and various other participants involved.

2.2.5 Limited Direction Role. In addition to monitoring and advisory activities, in some unusual and very rare situations, the NRC could find it necessary to intervene in a limited fashion to direct the licensee's onsite response. It is not expected that NRC will be required to assume this role, but plans must be made for such a contingency. In such an unlikely event the NRC would issue formal orders to the licensee to take certain measures and then monitor implementation of the actions ordered. In this role, the licensee continues to make other key operational decisions and to operate and manage the facility with licensee personnel. NRC advice and direction would be channeled to licensee management. Although the Director has the authority to issue orders and directives to the licensee, this authority may not normally be exercised by the Director at headquarters but may be delegated to the DSO after one is established. The reason for this is that there may be more complete information available to the DSO at the site, and thus there may be a firmer basis for such orders or directives.

2.3 State and Local Government Responsibilities

While the licensee has the primary role in mitigating incident consequences, the State and local authorities have ultimate responsibility for assuring the protection of the public from such consequences offsite. The licensee, the NRC, and FEMA will assist the State and local authorities in assuring protection of the public.

2.4 Response Modes

NRC incident response operations are divided in this plan into five distinct modes dependent upon the licensee event classification and an independent NRC perception of relative severity or uncertainty of accident conditions:

(1) NORMAL

This mode includes all activities designed to maintain readiness; it continues through the initial discussion of any call. Headquarters and Regional personnel jointly assess the initial information, and the senior Headquarters official along with his regional counterpart jointly determine NRC actions in the Normal response mode. If so instructed, the Headquarters Operations Officer establishes and maintains a telephone conference linking the person reporting a problem with the Headquarters and Regional personnel responding to it. Any number of specialists may be consulted, but the Operations Center is not formally activated.

Transition to STANDBY:

The NRC Standby response is initiated by a decision of the Regional Administrator in consultation with and Executive Team Member (or if neither is available, the Emergency

Officer) when the incident is judged to be sufficiently uncertain or complex that there is a need to use the facilities of the Operations Center. The NRC response will generally go on Standby, whenever a licensee declares an Alert at a site. (See Appendix 1 of NUREG-0654 Rev. 1 [Ref. 3].)

(2) STANDBY

The primary Regional Office will appropriately staff its Incident Response Center. The Headquarters Operations Center will be staffed by a Standby Team and will be lead by an Executive Team member or designee. Each location will evaluate the available information, make appropriate notifications and prepare for rapid activation should it become necessary. The Regional Administrator will lead the NRC response in this mode, except under the following circumstances, in which case an Executive Team member will lead:

- The Regional Administrator is not available.
- The Regional Administrator requests NRC Headquarters to take the lead.
- An Executive Team member determines that the NRC Headquarters should have the lead in that particular situation.

If available, the NRC Resident Inspector will go to the facility to assist in the assessment of the situation. Licensees will designate someone to provide data requested by NRC.

Transition to INITIAL ACTIVATION:

The Regional Administrator will generally provide a recommendation to activate to an ET member who makes the decision. The NRC response system will activate upon either of the following actions:

- Licensee declaration of a reactor Site Area or General Emergency that is not an obvious overclassification. (See Appendix 1 of NUREG-0654, Rev. 1 [Ref. 3].)
- Decision by an Executive Team member (see page 11) to activate the NRC response for any other reason. This may occur before declaration of a Site Area or General Emergency by the licensee.

(3) INITIAL ACTIVATION

Response teams report to the Operations Center and other duty stations. The Incident Response Center (IRC) of the affected Regional Office staffing is appropriately adjusted when a designated Site Team is dispatched under the leadership of the Regional Administrator. Other Regional Offices are alerted. The focus of NRC response operations is at Headquarters.

Transition event to EXPANDED ACTIVATION:

The NRC response enters an Expanded Activation mode whenever, after receiving a report from the Regional Administrator or other senior NRC official from the site, the Director (i.e., the NRC Chairman or his designee) decides to augment the response. The Regional Administrator or other qualified senior NRC official on site will be designated as the NRC Director of Site Operations (DSO) and the Director will delegate specific authority to the DSO.

(4) EXPANDED ACTIVATION

The focus of NRC response operations is at the site although Headquarters will retain any authority not specifically delegated to the DSO. The Executive Team or a member of the Executive Team designated by the Director draws on all Regional and Headquarters personnel to provide support to the NRC Director of Site Operations. The DSO will be the primary spokesman for the NRC.

Transition to DEACTIVATING

The NRC response enters the deactivating mode when the DSO, after consultation with the Director, so decides. The NRC response deactivates from Initial or Expanded Activation when the Director so decides, usually on the basis of an Executive Team or DSO recommendation.

(5) DEACTIVATING

Response operations during the early part of this mode are similar to those during the Standby mode, except that a Site Team may remain active. In addition, tapes, logs, and other records of the incident are assembled and catalogued for review. Responsibilities for reviews and investigations are assigned. Responsibilities for recovery operations will also be assigned, and some recovery operations will usually continue as the NRC response returns to normal.

Table 1 relates the NRC response modes to those defined for licenses in Appendix 1 of NUREG-0654, Rev. 1. As noted in the table, licensees report many events under the requirements of 10 CFR 50.72 or 10 CFR 73.71 (Ref. 2) which do not meet the thresholds defined in NUREG-0654, Rev. 1, for "Notification of an Unusual Event." These reports, which this plan denotes as "Early Notification," may cause the NRC response to go on Standby under some conditions. When the licensee reports the Notification of Unusual Event as defined in Appendix 1 of NUREG-0654, Rev. 1, NRC may remain in Normal Mode, go on Standby or may activate. When NRC enters its Standby mode, preparations are made to activate quickly, if necessary. Activation of the NRC response will be initiated by an ET member upon notification of conditions which cause the licensee to declare a Site Area or General Emergency.

Table 1 Typical Relationship Between NRC and Licensee Response Modes

NRC Mode	LICENSEE MODE				
	*Early Notification	Notification of Unusual Event	Alert	Site Area Emergency	General Emergency
Normal	X	X			
Standby	X	X	X		
Initial or Expanded Activation		X	X	X	X

*Licensee event required to be reported to NRC by 10 CFR 50.72 or 10 CFR 73.71, but not categorized in NUREG-0654, rev. 1.

Table 2 Description and Purpose of Emergency Classes of NUREG-0654, Rev. 1

CLASS			
NOTIFICATION OF UNUSUAL EVENT	ALERT	SITE AREA EMERGENCY	GENERAL EMERGENCY
Class Description	Class Description	Class Description	Class Description
Unusual events are in process or have occurred which indicate a potential degradation of the level of safety of the plant. No releases of radioactive material requiring offsite response or monitoring are expected unless further degradation of safety systems occurs.	Events are in process or have occurred which involve an actual or potential substantial degradation of the level of safety of the plant. Any releases expected to be limited to small fractions of the EPA Protective Action Guideline exposure levels.	Events are in process or have occurred which involve actual or likely major failures of plant functions needed for protection of the public. Any releases not expected to exceed EPA Protective Action Guideline exposure levels except near site boundary.	Events are in process or have occurred which involve actual or imminent substantial core degradation or melting with potential for loss of containment integrity. Releases can be reasonably expected to exceed EPA Protective Action Guideline exposure levels offsite for more than the immediate site area.
Purpose	Purpose	Purpose	Purpose
Purpose of offsite notification is to (1) assure that the first step in any response later found to be necessary has been carried out, (2) bring the operating staff to a state of readiness, and (3) provide systematic handling of unusual events information and decisionmaking.	Purpose of offsite alert is to (1) assure that emergency personnel are readily available to respond if situation becomes more serious or to perform confirmatory radiation monitoring if required, and (2) provide offsite authorities current status information.	Purpose of the site area emergency declaration is to (1) assure that response centers are manned, (2) assure that monitoring teams are dispatched, (3) assure that personnel required for evacuation* of near site areas are at duty stations if situation becomes more serious, (4) provide consultation with offsite authorities, and (5) provide updates for the public through offsite authorities.	Purpose of the general emergency declaration is to (1) initiate predetermined protective actions for the public, (2) provide continuous assessment of information from licensee and offsite organization measurements (3) initiate additional measurements as indicated by actual or potential releases, (4) provide consultation with offsite authorities and (5) provide updates for the public through offsite authorities.

*Note: It is expected that if appropriate personnel are available to respond to the need to evacuate, there will [illegible] for other protective actions.

2.5 Response Management

The NRC response need not escalate through all modes, but may be ordered into activation immediately. There will nearly always be two modes of activation, however: (1) Initial (when activities are directed from Headquarters), and (2) Expanded (when most or all activities are directed from the site). The transition occurs when the Director (i.e., the Chairman of the Commission or designated alternate) shifts authority to the NRC Director of Site Operations. Figures 2 and 3 show the management concept before and after the appointment. The concept permits the management focus to shift from headquarters to the site without disrupting response operations.

The Chairman of the Commission is the senior NRC authority for all aspects of a response and, in carrying out his or her responsibility for directing NRC activities, may choose to make, modify, or set aside any decision. During an emergency, the Chairman will become the "Director" of all NRC response activities and personnel, a title meant to imply that the Chairman has not only the authority but also the responsibility for taking direct charge of any particular activity should the need arise.

Certain authorities may be predelegated by the Chairman to the "Deputy Director" upon activation of the Operations Center. The Deputy Director, who normally would be the Executive Director for Operations (EDO) or another member of the Executive Team (ET), will exercise the delegated authorities unless the Chairman specifically directs otherwise. Other members of the ET are:

- Director of the Office for Analysis and Evaluation of Operational Data
- Director of the Office of Nuclear Reactor Regulation
- Director of the Office of Nuclear Material Safety and Safeguards
- Director of the Office of Nuclear Regulatory Research

Together, the Director and Deputy Director assure that preplanned actions are under way during Initial Activation; they also identify other necessary actions unique to the particular incident. Headquarters and Regional teams carry out those actions. The Director (i.e., the Chairman) may also call on the other Commissioners to advise him and to perform key missions.

The Director will normally transfer any or all of the following authorities to an NRC Director of Site Operations after a qualified official (usually the cognizant Regional Administrator) arrives at the site with his site team, obtains a briefing from licensee management, assesses the situation and reports back to the Director that he or she is prepared to assume the following authorities.

(1) Authority to recommend actions to the licensee.

(2) Authority to recommend offsite actions, where necessary, either confirming the licensee's recommendation or providing additional NRC recommendations.

(3) Authority to direct the licensee to take specified actions when such actions are necessary to protect the public from imminent danger.

INITIAL ACTIVATION MANAGEMENT

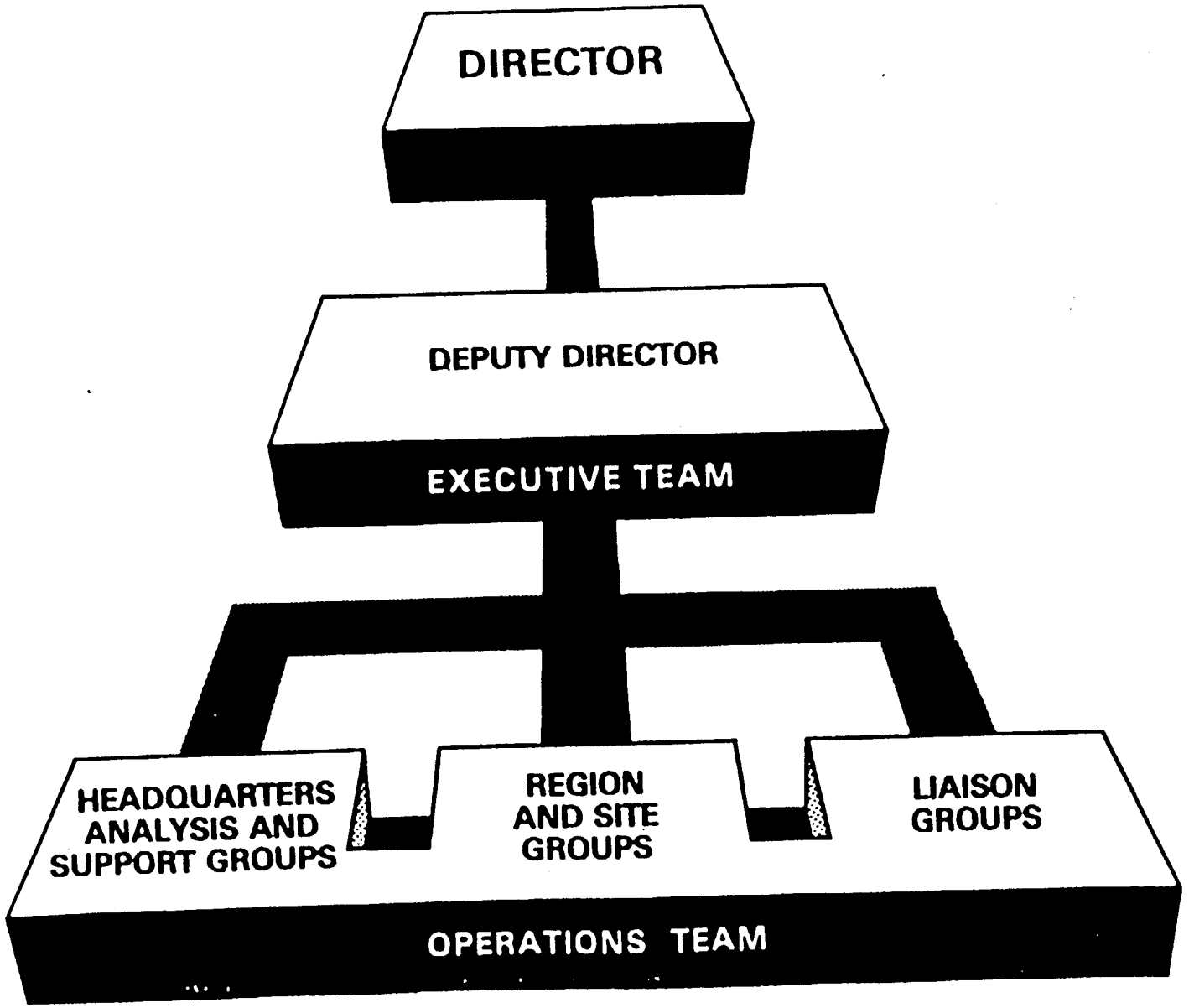


FIGURE 2

EXPANDED ACTIVATION MANAGEMENT

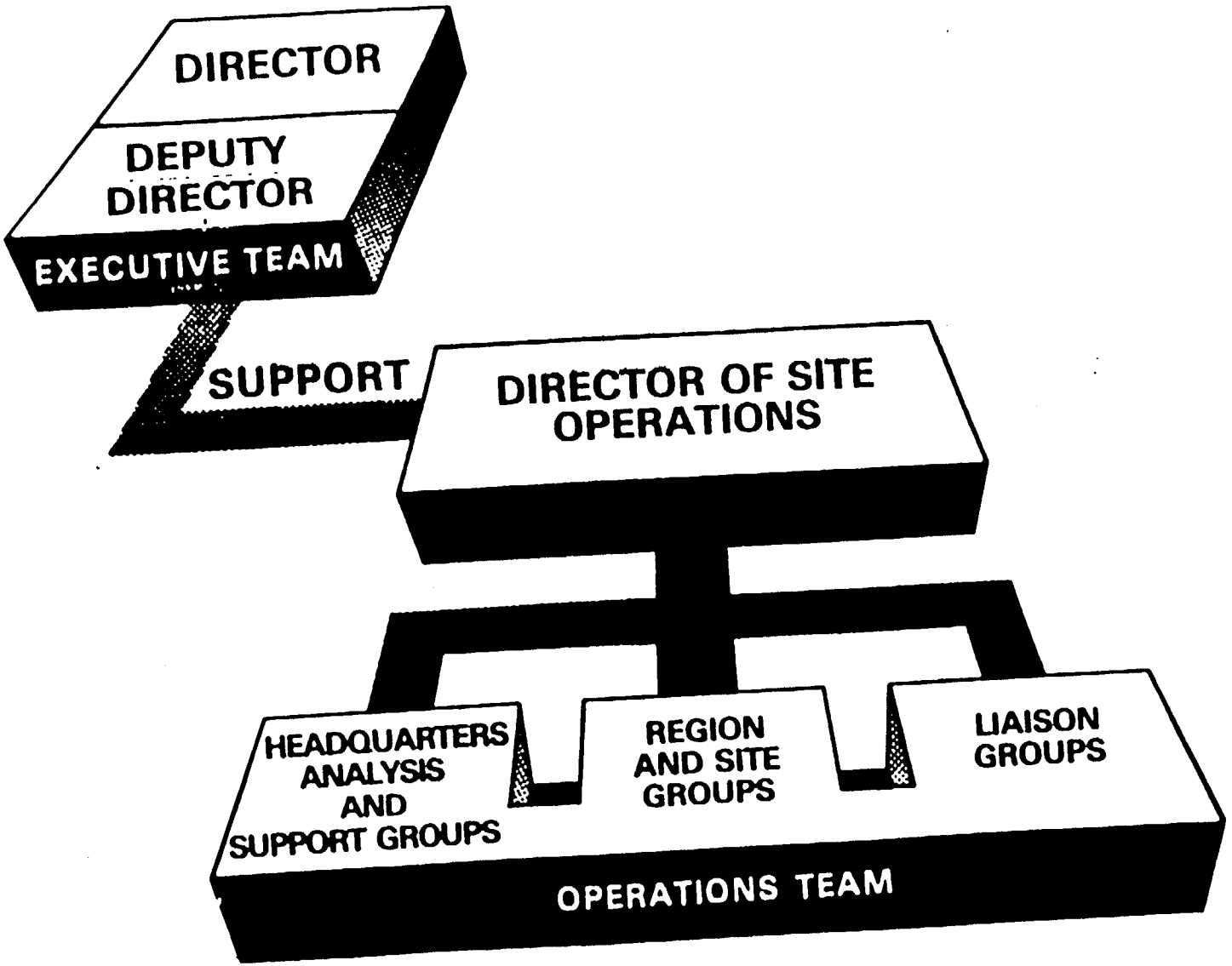
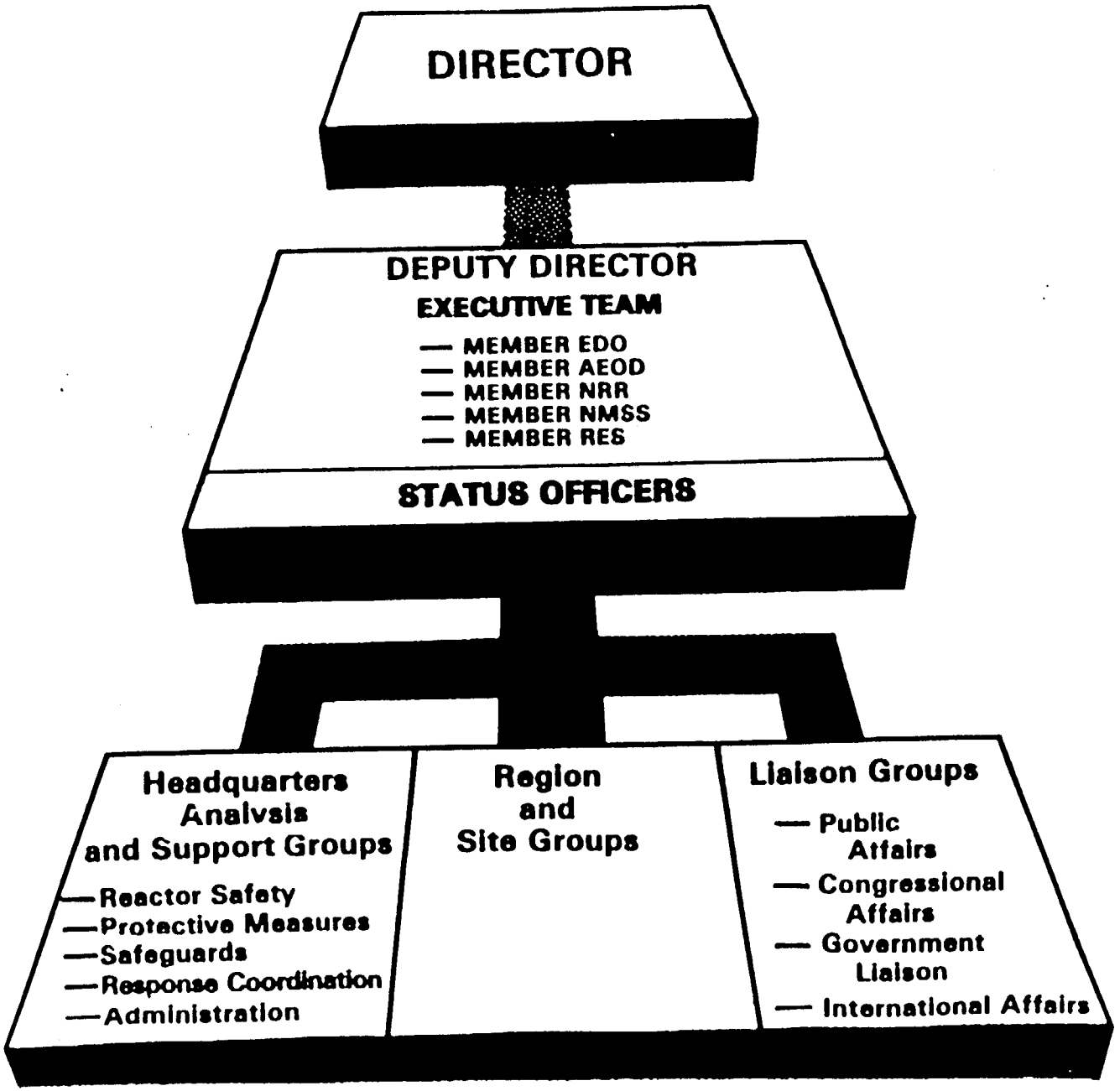


FIGURE 3

HEADQUARTERS INTERNAL ORGANIZATION
INITIAL ACTIVATION



Other officials and organizations will be immediately informed of the appointment and delegated authority. The Director of Site Operations will assume supervision of all NRC personnel at the site, will represent NRC in interactions with other agencies and the news media, and will decide what response actions must be taken, consistent with the delegated authority. The DSO may obtain direct support from any element of NRC. If the Director of Site Operations is uncertain how best to obtain support, the Executive Team or a designated member of the Executive Team will assist and will assign any agency personnel to such tasks as are needed, as indicated in Figure 3.

2.6 Principal Participants

NRC response personnel are denoted as follows in this plan (see Figure 4):

(1) Executive Team

Director (Chairman of the Commission)
Deputy Director (appointed by the Director in Initial activation, usually EDO)
Members (Directors of AEOD, NRR, RES and NMSS)

(2) Other executives

Other Commissioners

(3) Site and regional participants

Director, of Site Operations (appointed by the Director after onsite evaluation by senior official, usually a Regional Administrator)
Regional Administrators (those not appointed Director of Site Operations)
Site Team (except Resident Inspector)
Resident Inspector
Regional Offices (personnel not at the site [Base Team])
Regional Duty Officer
Recovery Team

(4) Headquarters analysis and support participants

Headquarters Operations Officer
AEOD management
Emergency Officer
Standby Team (designated at beginning of Standby mode)
Deactivating Team (designated at beginning of Deactivating mode)
Protective Measures Analysis Team
Reactor Safety Analysis Team
Safeguards Analysis Team
Status Officer(s)
Response Coordination Team
Administrative Support Team

(5) Liaison

Government Liaison
Congressional Affairs
Public Affairs (Headquarters and Region)
International Affairs

Other groups and organizations with which the NRC expects to interact directly (but with varying frequency) during an incident are:

Executive Office of the President ("White House")
Federal Emergency Management Agency (FEMA)
Department of Energy (DOE)
Environmental Protection Agency (EPA)
Department of Health and Human Services (HHS)
Federal Bureau of Investigation (FBI)
Department of State (DOS)
Department of Transportation (DOT)
Congress
State Executive (Governor)
State radiological and logistical personnel
State emergency services
Local emergency services (Civil Defense)
Licensee management (at corporate headquarters, at the onsite Technical Support Center, and at the offsite Emergency Operations Facility)
Licensee operating personnel
Public and the media
Plant architects and engineers, construction contractors, nuclear steam system suppliers, and other vendors
Nuclear industry advisory groups
Consultants
Intervenor groups

The NRC will interact with other organizations through one of the listed groups.

2.7 Response Functions

The functions described below are those that must be performed to some degree in preparation for, and response to, any incident of sufficient severity. These functions are defined in further detail in NUREG-0845 (Ref. 5).

(1) Maintain response capability. This function includes those tasks requir to maintain readiness, such as training personnel and maintaining communications systems.

(2) Man emergency communications systems. This function includes those task that assure proper receipt and handling of all communications during any response mode.

(3) Evaluate and categorize initial information. This function includes those tasks that culminate in decisions as to the severity of an event and the extent of the initial NRC response.

(4) Decide to escalate the NRC response. This function includes those tasks which address responsibilities both for recommending and for deciding on a need for greater NRC participation at any time after the initial response decision.

(5) Enter Standby Mode. This function includes those tasks that must be completed as soon as possible upon transition to the Standby Mode.

(6) Enter Initial Activation Mode. This function includes those tasks that must be completed as soon as possible upon transition to the Initial Activation Mode.

(7) Enter Expanded Activation Mode. This function includes those tasks that must be completed as soon as possible upon transition to the Expanded Activation Mode.

(8) Enter Deactivating Mode. This function includes those tasks that must be completed as soon as possible upon transition to the Deactivating Mode.

(9) Evaluate incident and plant status. This function includes those tasks needed to assure that response personnel have a complete and accurate overview of the evolution and status of the problem at any time.

(10) Evaluate licensee actions. This function includes those tasks that provide an overview of the licensee's actions with respect to mitigating the actual or potential consequences of an incident and with respect to the adequacy of licensee recommendations to offsite authorities for protective actions for the public.

(11) Project incident consequences and plant status. This function includes those tasks needed to develop timely projections of the likely future course of an incident.

(12) Advise, assist or direct licensee

(a) Advise. This function includes those tasks needed to assure that advice is stated clearly, developed from the best information and projections, and transmitted accurately.

(b) Assist. This function also includes those tasks needed to assure that the licensee is provided the expertise, equipment, and authority to take such action as is necessary to mitigate the consequences of the incident.

(c) Direct. This function also includes those tasks needed to assure that sole authority to issue orders in an emergency is delegated f the Director to the DSO, in the event such action is necessary to protect the public from imminent danger, and that the orders are based on accurate information, clearly stated, and accurately conveyed by the DSO.

(13) Request other-agency support. This function includes those tasks that clarify responsibilities among participating agencies for identifying needs, requesting support, and resolving conflicts in priorities or actions.

(14) Maintain liaison with the Congress, White House, other Federal, State, International and local agencies. This function includes those tasks that identify primary liaison responsibilities for helping to assure that information exchange is adequate, accurate, timely, and consistent

(15) Inform public and monitor public information. This function includes those tasks needed to assure first, that NRC information releases are complete, accurate, and consistent, available to all response personnel coordinated with other response organizations and accurately relayed to the public; and second, that public reactions are brought to the attent of NRC managers.

(16) Recommend protective actions for public. This function includes those tasks that culminate in NRC decisions to endorse licensee recommendatic for protective action or to recommend additional offsite actions to prc tect the public health and safety, based on technical actions and NRC projections of plant status. Implementation of protective actions in response to a fast moving severe accident (General Emergency) should nc await NRC approval or review.

(17) Provide administrative and logistical support. This function includes those tasks needed to assure the availability of adequate transportatic housing, information resources, and any other support needs of NRC response personnel that may be identified during an incident.

(18) Decide to deescalate. This function includes those tasks that provide for orderly reduction of the NRC response.

(19) Review, investigate, and document response actions. This function includes those tasks that formalize the responsibilities for assuring complete and timely documentary followup to an incident.

(20) Recover. This function includes those tasks that formalize the responsibilities for assuring appropriate technical followup to an incident.

3. RESPONSIBILITIES

The Office for Analysis and Evaluation of Operational Data is responsible for developing and maintaining an effective NRC response capability. That office will maintain and revise this plan and its implementing procedures and will continue to assure readiness through a comprehensive assessment, training and exercise program.

Individual and team responsibilities for incident response tasks and decisions are presented in agency procedures for the NRC Incident Response Plan, that are NUREG-0845 (Ref. 5). These procedures are designed primarily to aid NRC managers in assuring that all appropriate response activities are under way during any of the five response modes. It is also to be used by all response personnel to define individual or team responsibilities. The procedures permit users to identify readily:

- functions that should be under way in a particular response mode;
- responsibilities and authorities for accomplishing those functions;
- responsibilities for key interfaces with other organizations.

The task assignments are intended to assure that each function is properly performed without unnecessary duplication of effort.

3.1 Summary of Interfaces With Other Organizations

The most frequent interface for the NRC is with the licensee. The NRC depends on the licensee for initial notification of any incident in accordance with guidelines set forth in 10 CFR 50.72, NUREG-0654 (Rev. 1.) and 10 CFR Part 73.71(c). Direct telephone lines (Emergency Notification System [ENS]) have been installed to facilitate the notification call. With the first decision by NRC Headquarters or a Regional Office that a report cannot be handled routinely, a continuous communications link with the licensee may be established over the direct lines to be maintained for as long as necessary. Additional telephone conferences may also be established (including those using the Health Physics Network [HPN]).

Other than electronic links, there are three major facets to the interface with the licensee:

(1) Essential facility design data for each nuclear power reactor will be maintained at the Headquarters Operations Center and Regional Incident Response Center.

(2) Resident Inspectors at each site provide independent assessments of the early stages of an incident prior to arrival of the NRC site team from one or more of the Regional Offices.

(3) An onsite Technical Support Center (TSC) and an offsite Emergency Operations Facility (EOF) will provide for effective communication without crowding the reactor control room (Ref. 4). Upon transfer of NRC authority to a Director of Site Operations, face-to-face communication at those facilities is expected to become the dominant means of exchanging information and of interacting with the licensee.

The interface with offsite authorities (local and State government) is also extensive. These offsite authorities (the Governor or his designated representative) have responsibilities for deciding what protective actions will be taken for the public. It is the responsibility of local government to assure that the appropriate actions are carried out. A major emphasis in the NRC response to emergencies will be the ability and capability to provide offsite authorities with an evaluation of license recommendations and provide a clear and concise recommendation for protective actions that represents the position of the Federal government. These recommendations will normally be presented to offsite authorities in coordination with FEMA. In order to effectively perform this task, NRC will establish communication channels primarily with various State officials (e.g., the Governor or his office, emergency management agencies and radiological health organizations).

NRC interface with other organizations is less extensive. In general, NRC personnel at Headquarters will deal with the Headquarters personnel of other agencies; NRC site personnel will deal with all others. NRC will also work with most other organizations through the Federal Emergency Management Agency (FEMA), whenever possible (Ref. 1). NRC must also work directly with certain other organizations, however, to exchange radiological data and to assure that radiological effects of an incident are completely monitored for the protection of the public. These other organizations include the Department of Energy (DOE), the Environmental Protection Agency (EPA), the Department of Health and Human Services (HHS), and State agencies. DOE will coordinate radiological monitoring operations of these organizations and will correlate the data from such operations at or near the site under terms of the Federal Radiological Monitoring and Assessment Plan. All organizations will thus be able to draw from the same pool of correlated data.

Table 3 summarizes the extent of the NRC interface with organizations other than licensees. The purpose of the table is to alert other organizations to the need to identify appropriate contacts for each kind of interface.

Different kinds of interface may require different contacts. Immediate notification is a one-time action, for example, but technical assistance, which means any kind of help other than a brief explanation of an incident, may require nearly continuous information exchange. The table shows that NRC will be ready to offer technical assistance to DOE and State agencies, among others, as early as the NRC Standby mode. NRC will periodically verify each contact as part of the implementing procedures for this plan.

4 REFERENCES

(1) Federal Emergency Management Agency, "Federal Radiological Emergency Response Plan," published in 50 FR 46542, November 8, 1985.

(2) Code of Federal Regulations, Title 10, Chapter 1, Part 50, Section 72, and Part 73, Section 71, General Services Administration, revised January 1980. Available from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(3) U.S. Nuclear Regulatory Commission and Federal Emergency Management Agency, "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," USNRC Report NUREG-0654, Rev., 1, FEMA-Rep-1, November 1980. Available from GPO Sales Program, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. This document has been endorsed by NRC Regulatory Guide 1.101.

(4) U.S. Nuclear Regulatory Commission, "Functional Criteria for Emergency Response Facilities," USNRC Report NUREG-0696, February 1981. Available from GPO Sales Program, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5) U.S. Nuclear Regulatory Commission, "Agency Procedures for the NRC Incident Response Plan," USNRC Report NUREG-0845, February 1983. Available from GPO Sales Program, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

5. LIST OF ACRONYMS

AEOD	Office for Analysis and Evaluation of Operational Data
CFA	Cognizant Federal Agency
DOE	Department of Energy
DOS	Department of State
DOT	Department of Transportation
DSO	Director of Site Operations
EDO	Executive Director of Operations
ENS	Emergency Notification System
EOF	Emergency Operations Facility
EPA	Environmental Protection Agency
ET	Executive Team
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FRMAP	Federal Radiological Monitoring and Assessment Plan
FRERP	Federal Radiological Emergency Response Plan
HHS	Department of Health and Human Services
HPN	Health Physics Network
HQ	Headquarters
IRC	Incident Response Center (Region)
NMSS	Office of Nuclear Material Safety and Safeguards
NRR	Office of Nuclear Reactor Regulation
NRC	U.S. Nuclear Regulatory Commission
RES	Office of Nuclear Regulatory Research
TSC	Technical Support Center

Table 3 NRC Interfaces with Other Organizations (except licensee)

Organization	NRC Outputs To Organization			Expected Inputs To NRC	
	Immediate Notification	Periodic Status Reports	Technical Assistance	Periodic Status Reports	Technical Assistanc
DOE	S,I,E	S,I,E	S,I,E	S,I,E	S,I,E
DOT*	S,I,E	S,I,E	S,I,E	S,I,E	S,I,E
FEMA	S,I,E	S,I,E	I,E	S,I,E	I,E,
EPA	S,I,E	S,I,E	I,E,	I,E,	I,E,
HHS	S,I,E	S,I,E	I,E,	I,E,	I,E,
FBI**	S,I,E	S,I,E	S,I,E	S,I,E	S,I,E
Congress	I,E,	I,E,			
White House	S,I,E	I,E,			
State	S,I,E	S,I,E	S,I,E	I,E,	I,E,
Consultants***			S,I,E		S,I,E
Public, media		S,I,E		S,I,E	
International	S,I,E	S,I,E	S,I,E	S,I,E	I,E

Note: S - during Standby
I - during Initial Activation
E - during Expanded Activation

* Transportation Only
** Safeguards Only
*** Industry advisors, plant vendors, contractors

U.S. NUCLEAR REGULATORY COMMISSION

NRC FORM 335
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NRCM 1102,
3201, 3202

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13 ABSTRACT (200 words or less)

The Nuclear Regulatory Commission (NRC) regulates civilian nuclear activities to protect the public health and safety and to preserve environmental quality. An Incident Response Plan had been developed and has now been revised for the second time to reflect current Commission policy. NUREG-0728, Rev. 2 assigns responsibilities for responding to any potentially threatening incident involving NRC licensed activities and for assuring that the NRC will fulfill its statutory mission. Revision 2 was necessary to reflect organizational changes.

14 DOCUMENT ANALYSIS - a KEYWORDS/DESCRIPTORS

Incident Response
Radiological Emergencies
Emergency Response
Nuclear Accidents

b IDENTIFIERS/OPEN ENDED TERMS

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

CHAIRMAN

May 6, 1994

The Honorable Joseph I. Lieberman
Chairman, Subcommittee on Clean Air and
Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Lieberman:

This is in response to your letter of April 20, 1994, raising a number of questions concerning the Nuclear Regulatory Commission's policies and practices for the exercise of enforcement discretion for violations of nuclear power plant technical specifications and license conditions.

The Commission wishes to assure you that we agree with the regulatory principles which underlie the concerns raised in your letter. We have programs in place to review, evaluate, and update licenses. The Commission has not in any sense adopted a policy of routinely excusing licensees from compliance with the requirements of their licenses or the plant technical specifications for operation. Nor is the use of enforcement discretion a procedural device invoked by the agency as an avenue for avoiding the procedures for amending a license. It is our expectation that licensees will comply with the terms and conditions of their licenses, will seek amendments to their licenses in accordance with established procedures when those terms or conditions are no longer appropriate, and will be subject to enforcement action when their operations deviate from the established requirements. But we are clearly acting within our authority and consistent with good safety practices if, in certain limited circumstances, we deem it appropriate to take no enforcement action where a technical specification or license condition has been or will be violated if that violation is neutral or positive from the point of view of safety.

As you requested, we have reexamined the issue of whether to make publicly available the pre-decisional, attorney/client privileged SECY paper from the General Counsel which discussed the agency's use of enforcement discretion and recommended adoption of the current agency policy on its use. Given the fact that the policy itself has been published as a part of our enforcement policy guidelines, we believe that the adverse impact on future legal advice to the Commission, which the precedent or practice of release of the SECY paper could create, outweighs the benefits of such release. Consequently, we cannot approve release of the document.

The responses to the specific questions contained in your April 20 letter will be provided shortly in separate correspondence from the NRC staff.

Sincerely,

Ivan Selin

cc: Senator Alan K. Simpson

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

CHAIRMAN

August 14, 2000

The Honorable Joseph I. Lieberman
United States Senate
Washington, D.C. 20510

Dear Senator Lieberman:

I am responding to your letter dated July 13, 2000, concerning the use by the Nuclear Regulatory Commission (NRC) of Energy Savings Performance Contracts (ESPC) and "share-in-savings" contracting. The NRC has taken several actions to explore participation in these programs. These actions are detailed in the enclosed Summary of Participation in Energy Savings Performance Contracting and Share-In-Savings Pilot Program for IT Management Initiatives.

The Commission appreciates the interest you have expressed in the NRC's participation in these initiatives. Please contact me if I can be of any further assistance.

Sincerely,

Richard A. Meserve

Enclosure: As stated

cc: Senator Fred Thompson

Enclosure

U.S. NUCLEAR REGULATORY COMMISSION
Summary of Participation in
Energy Savings Performance Contracting and
Share-In-Savings Pilot Program for IT Management

1. Has your agency used ESPCs? If so, please describe your experience under those contracts, including contractor investment and financial benefit, and any savings realized by your agency. If your agency has not entered into any ESPCs, please explain why.

On September 28, 1999, the NRC entered into an agreement with the Department of Energy (DOE) to obtain the services of a DOE Super ESPC contractor, Equitable Resources, Inc., to evaluate the suitability of an ESPC for the NRC's One White Flint North (OWFN) building.

The NRC headquarters occupies two high-rise buildings located in Rockville, Maryland. The OWFN building, occupied in Fiscal Year 1988, is Federally-owned and is therefore eligible to participate in DOE's Super ESPC. The Two White Flint North (TWFN) building, occupied in Fiscal Year 1994, is privately owned and leased by the General Services Administration (GSA) under a long-term lease. Because the TWFN building is a leased building, it is not eligible for participation in the ESPC program.

The DOE Super ESPC contractor has concluded the preliminary energy audit of our OWFN building. The DOE Contracting Officer and NRC technical staff are now in the process of reviewing the results of the audit to determine if NRC's participation in the Super ESPC would result in long-term energy conservation cost saving measures.

2. Has your agency considered participation in the information technology share-in-savings pilot program authorized in the Clinger-Cohen Act? If your agency has decided against being involved in the pilot program, why?

Major NRC operations and maintenance contracts for Information Technology (IT) were awarded for five-year periods in 1996. During the ongoing review and market research phase for new contracts in these areas, the NRC will consider the potential for using share-in-savings contracts.

3. Has your agency been involved in any other share-in savings contracts? If so, please describe your agency's experience under those contracts, including contractor investment and financial benefit, and any savings realized by your agency.

NRC is presently exploring options for share-in-savings opportunities under GSA's area-wide Utility Energy Service Contract (UESC). PEPCO, GSA's contractor, conducted a preliminary audit of the NRC's leased building (Two White Flint North) this spring and proposed several energy conservation measures. Following evaluation of these proposed conservation measures, NRC will work with GSA and DOE to determine the appropriate contract vehicle for implementation of selected cost saving measures.

4. Please explain why your agency is not making greater use of share-in-savings contracting, including a description of any internal or external, legal, budgetary, or cultural obstacles.

The NRC is making use of the share-in-savings contracting opportunities that are currently available to us. The NRC will continue to consider share-in-savings contracting methods in the future.

5. Please provide the names and telephone numbers of senior personnel with primary responsibility for your agency's involvement in share-in-savings contracting, whether in the energy efficiency, information technology, or any other context.

Mr. Thomas O. Martin, Director, Division of Facilities and Security, Office of Administration, is responsible for the NRC's involvement in energy efficiency share-in-savings contracting. Mr. Martin can be reached at (301) 415-8080. Mr. Myron Kemerer, Administration and Resource Management Branch, Planning and Resource Management Division, Office of the Chief Information Officer, is responsible for the NRC's involvement in information technology share-in-savings programs. Mr. Kemerer can be reached at (301) 415-8735. Mr. Timothy F. Hagan, Director of NRC's Division of Contracts and Property Management, is the Head of the Contracting Activity as defined in the NRC Acquisition Regulation. Mr. Hagan can be reached at (301) 415-7305.

United States Senate

COMMITTEE ON
GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

July 13, 2000

The Honorable Richard A. Meserve
Chairman
Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Chairman Meserve:

I am writing to inquire about your agency's use of "share-in-savings" contracting.

As you know, share-in-savings is a contracting method by which a private contractor provides some or all of the up-front funding and operating capital for an agency's cost-saving project. In return, the agency promises the contractor a share of the financial savings the project is expected to generate. Congress has explicitly encouraged share-in-savings programs in two areas — energy efficiency and information technology.

Perhaps the best known share-in-savings vehicle is the Energy Savings Performance Contract (ESPC), authorized by Congress in the Energy Policy Act of 1992, and further supported in Executive Order 13123, which increases the government's energy conservation goals. Under an ESPC, an energy service company covers the up-front costs of identifying a federal building's potential for energy efficiency improvements and then installs, operates and maintains the appropriate equipment to cut the facility's energy usage. The contractor also guarantees that the agency will enjoy a certain level of cost savings from this reduced energy consumption. In return, the company receives the benefit of the remaining portion of the cost savings realized by the agency.

Congress has also authorized share-in-savings contracting with regard to information technology improvements. The Clinger-Cohen Act of 1996 (P.L. 104-106) authorized the General Services Administration (GSA) to set up pilot programs at two agencies to test share-in-savings contracting in the information technology context. Under such a contract, for example, a contractor might install new information management equipment; the agency would subsequently pay the contractor out of the cost savings resulting from increased efficiency provided by the new equipment.

The old adage that you need to have money to make money is no longer true. While it is true that energy efficiency and information technology improvements that will save funds in the long-run may be outside budgetary constraints in the short-run, share-in-savings contracting offers federal agencies an innovative way to achieve efficiencies that otherwise would be out of reach.

Unfortunately, the potential of share-in-savings contracting as envisioned by Congress in passing these two statutory provisions has not been realized. According to the Department of Energy's Federal Energy Management Program, agencies are not fully tapping the energy-saving potential of ESPCs. Likewise, despite a year spent searching for projects that might serve as the pilot programs Congress authorized in the Clinger-Cohen Act, GSA has not found a willing qualified candidate.

In order to assist me in evaluating the extent to which agencies are implementing share-in-savings programs, and any obstacles to further implementation, please respond to the following questions by Friday, August 18, 2000:

1. Has your agency used ESPCs? If so, please describe your experience under those contracts, including contractor investment and financial benefit, and any savings realized by your agency. If your agency has not entered into any ESPCs, please explain why.

2. Has your agency considered participation in the information technology share-in-savings pilot program authorized in the Clinger-Cohen Act? If your agency has decided against being involved in the pilot program, why?

3. Has your agency been involved in any other share-in-savings contracts? If so, please describe your agency's experience under those contracts, including contractor investment and financial benefit, and any savings realized by your agency?

4. Please explain why your agency is not making greater use of share-in-savings contracting, including a description of any internal or external, legal, budgetary, or cultural obstacles.

5. Please provide the names and telephone numbers of senior personnel with primary responsibility for your agency's involvement in share-in-savings contracting, whether in the energy efficiency, information technology, or any other context.

Government must lead by example. The federal community should demonstrate that the United States government is serious about operating efficiently and is willing to take on bold, new initiatives implementing nontraditional ways of conducting business, including share-in-savings contracting.

Thank you for your prompt response to this inquiry. If you have any questions, please feel free to contact Kenneth Bolcy or Peter Ludgin of my staff at 202-224-2627.

Sincerely,

Joseph I. Lieberman

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 8, 2000

The Honorable Joseph I. Lieberman
United States Senate
Washington, DC 20510-0703

Dear Senator Lieberman:

I am responding to your letter of May 15, 2000, regarding a concern raised by one of your constituents, Richard Petrocelli, about the sale of any American nuclear power plants to Great Britain. Sections 103 d. and 104 d. of the Atomic Energy Act of 1954, as amended, contain certain prohibitions regarding foreign ownership, control, or domination of nuclear power plant licensees. Consequently, no license for a nuclear power plant has been issued to a citizen of Great Britain and no sale has occurred in violation of the statutory prohibitions.

We believe that your constituent's concern may be with regard to license transfers involving a recently formed company, AmerGen Energy Company, LLC (or its wholly owned subsidiary AmerGen Vermont, LLC). AmerGen is a limited liability company that was formed to acquire and operate nuclear power plants in the United States. AmerGen is organized under the laws of the State of Delaware pursuant to an agreement among PECO Energy Company, a Pennsylvania company; British Energy (BE), plc, a Scottish corporation; and British Energy, Inc., a Delaware corporation that is a wholly owned subsidiary of BE, plc. BE, plc, is a party to the AmerGen Limited Liability Company Agreement, but only PECO and BE, Inc., which are U.S. companies, are members of AmerGen, with each holding a 50-percent ownership interest in AmerGen. As of this date, AmerGen holds two operating licenses for nuclear power plants in the United States: Three Mile Island Nuclear Station, Unit 1, in Pennsylvania and Clinton Power Station in Illinois. It has applied to become the owner and operator of the Oyster Creek Nuclear Power Plant in New Jersey. AmerGen Vermont has applied to become the owner and operator of the Vermont Yankee Nuclear Power Station in Vermont.

The Commission has stated that a statutory foreign control determination is to be made with an orientation toward safeguarding the national defense and security. In this regard, the U.S. Nuclear Regulatory Commission (NRC) has required that the officers and employees of any applicant for a license who will be responsible for nuclear safety-related decisions and materials must be U.S. citizens. In addition, any proposed partial foreign ownership of a nuclear power plant must be considered in light of all of the information that bears on who, in the corporate structure, exercises control over what issues and what rights may be associated with certain types of ownership interests or shares. The NRC has considered the issue of foreign ownership, control, or domination in every license transfer case and has carefully evaluated the membership of the management committees of AmerGen and AmerGen Vermont in the conduct of its reviews. In light of the considerable interest that has resulted from the restructuring of the utility market in the United States and potential investment from foreign entities, the NRC has recently issued a communication to holders of licenses to operate nuclear power plants reminding them of the prohibitions contained in the Atomic Energy Act.

B/2

These prohibitions do not necessarily prevent some degree of foreign investment in companies that own or operate nuclear power plants. The NRC conducts a thorough review of any license transfer to ensure that national defense and security is safeguarded by examining the corporate structure for foreign ownership, control, or domination. I have also enclosed a copy of the recent NRC communication to illustrate the NRC's oversight of this matter. We trust that this information is helpful in responding to your constituent's concern.

Sincerely,

Frank J. Miraglia

for William D. Travers
Executive Director
for Operations

Enclosure:
As stated

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

February 1, 2000

NRC REGULATORY ISSUE SUMMARY 2000-01
CHANGES CONCERNING FOREIGN OWNERSHIP, CONTROL, OR DOMINATION OF NUCLEAR REACTOR LICENSEES

Addressees

All holders of operating licenses for nuclear reactors.

Intent

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to remind addressees of the prohibition against foreign ownership and control and, in a manner consistent with NRC Administrative Letter 96-02 ("Licensee Responsibilities Related to Financial Qualifications"), to remind addressees of their ongoing responsibility to bring to the NRC's attention changes with respect to a licensee or a parent company. This RIS also points out the desirability of providing the NRC advance notice of any plans for such changes so that staff resources can be allocated and NRC decisions are not unnecessarily delayed. This RIS does not transmit or imply any new or changed requirement or staff positions. The submittal of advance notice of your planning in this area is strictly voluntary; therefore, no specific action or written response is required.

Background Information

The NRC's final Standard Review Plan (SRP) on Foreign Ownership, Control, or Domination was approved by the Commission on August 31, 1999. The SRP contains the review procedures used by the staff to evaluate applications for the issuance or transfer of control of a production or utilization facility license in light of the prohibitions in Sections 103 d. and 104 d. of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 50.38 against issuing such licenses to aliens or entities that the Commission "knows or has reason to believe" are owned, controlled, or dominated by foreign interests. Although addressees may be generally aware of such prohibitions, the NRC believes that it is appropriate to issue a reminder because of the recent increased interest foreign entities have shown in ownership of U.S. utilities with nuclear reactors.

Addressees should be aware of changes with respect to foreign ownership, control, or domination in ways that include, but are not limited to the following: (1) a license holder becomes aware of changes in foreign ownership or control of its company or of its parent company, for example, by receiving Securities and Exchange Commission Schedules 13D or

13G indicating such changes; (2) a license holder, or its parent company, plans to merge with or be acquired by an entity that is owned, controlled, or dominated by foreign interests; or (3) a license holder's Board of Directors becomes controlled or dominated by board members who are not U.S. citizens.

Summary of Issue

This RIS reminds addressees of the prohibition against foreign ownership, control, or domination of domestic reactor facilities and reminds addressees of their ongoing responsibility to bring to the NRC's attention changes with respect to a licensee or a parent company.

Federal Register Notification

A notice of opportunity for public comment was not published in the *Federal Register* because this RIS is informational and pertains to a matter that was open to public comment during its promulgation. In this regard, an earlier interim version of the SRP on Foreign Ownership, Control, or Domination was published in the *Federal Register* on March 2, 1999 (64 FR 10166), for public comment.

If there are any questions about this matter, please contact one of the persons listed below or the appropriate Office of Nuclear Reactor Regulation project manager for a specific nuclear reactor.

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

Technical Contacts: Robert S. Wood
301-415-1255
E-mail: rsw1@nrc.gov

Alex F. McKeigney
301-415-1221
E-mail: axm1@nrc.gov

Attachment: List of Recently Issued NRC Regulatory Issue Summaries

LIST OF RECENTLY ISSUED NRC REGULATORY ISSUE SUMMARIES

Regulatory Issue Summary No.	Subject	Date of Issuance	Issued to
99-06	Voluntary Submission of Performance Indicator Data	12/01/99	All holders of OLs for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel
99-05	Implementing Procedure for Power Reactor NOEDs Processed During the Y2K Transition	12/01/99	All holders of OLs for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel
99-04	Sources of Information Previously Published in the AEOD Annual Report	11/23/99	All NRC licensees
99-03	Resolution of Generic Issue 145 Actions to Reduce Common-Cause Failures	10/13/99	All holders of OLs for nuclear power reactors, except for those licensees who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel
99-02	Relaxation of Technical Specification Requirements for PORC Review of Fire Protection Program Changes	10/13/99	All holders of OLs for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel
99-01	Revision To The Generic Communications Program	10/04/99	All NRC licensees

OL = Operating License
CP = Construction Permit

These prohibitions do not necessarily prevent some degree of foreign investment in companies that own or operate nuclear power plants. The NRC conducts a thorough review of any license transfer to ensure that national defense and security is safeguarded by examining the corporate structure for foreign ownership, control, or domination. I have also enclosed a copy of the recent NRC communication to illustrate the NRC's oversight of this matter. We trust that this information is helpful in responding to your constituent's concern.

Sincerely,

Original signed by F. Miraglia for

William D. Travers
Executive Director
for Operations

Enclosure:
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*See previous concurrence

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SENATE OFFICE BUILDING
WASHINGTON, DC 20510
(202) 224-4041

STATE OFFICE:
ONE STATE STREET
14TH FLOOR
HARTFORD, CT 06103
860-549-8463
TOLL FREE: 1-800-225-5605

INTERNET ADDRESS:
senator_lieberman@lieberman.senate.gov

HOME PAGE:
http://www.senate.gov/~lieberman/

May 15, 2000

Hon. Richard A. Meserve
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Chairman Meserve:

I have been contacted by one of my constituents, Richard Petrocelli, who expressed concern over the sale of any American nuclear power plants to Great Britain.

I would appreciate it if you would provide me with any information you have that responds to the concerns my constituent has raised.

Thank you for your attention to this matter.

Sincerely,

Joseph I. Lieberman

JIL:vh