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Entergy Operations, Inc.  
1340 Echelon Parkway  
Jackson, MS 39213-8298  
Tel 601 368 5758

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Rules and Directives  
Branch  
USNRC

Michael A. Krupa  
Director  
Nuclear Safety & Licensing

65FR53050

Aug. 31, 2000

October 12, 2000

Division of Administrative Services  
U. S. Nuclear Regulatory Commission  
Mail Stop T6-D69  
Washington, DC 20555-0001

Attention: Chief, Rules and Directives Branch

Subject: Request for Comments on Proposed Guidelines for Including Industry  
Initiatives in the Regulatory Process

Reference: *Federal Register* Vol. 65, No. 170, Pages 53050 – 53058, dated  
August 31, 2000

CNRO-2000-00033

Dear Sirs:

Entergy Operations, Inc. (Entergy) is pleased to submit our comments in the above captioned matter. We endorse the comments submitted by the Nuclear Energy Institute and Entergy offers our additional perspectives and comments herein. Methods for interaction between the staff and industry working groups have developed in an ad hoc manner and generally have been quite successful. We do not believe the proposed guidelines are needed.

The Nuclear Regulatory Commission (NRC) by a staff requirements memorandum (SRM) dated June 28, 2000, approved issuing for public comment proposed guidelines for including industry initiatives in the regulatory process, as described in SECY-00-0116, "Industry Initiatives in the Regulatory Process," dated May 30, 2000.

Entergy does not believe the program outlined by the staff is needed. A structured framework for processing issues already exists that includes appropriate public participation. The highly successful examples cited in the *Federal Register* are ample evidence of this.

The industry undertakes voluntary initiatives not in lieu of regulatory action but because of regulatory requirements or to address potential safety issues before they become actual safety issues and to conserve industry and NRC resources. In addition, each Owners Group has in place proven procedures through their Regulatory Response Groups to address potential near term safety significant common issues that arise. These methods have been successfully utilized for the past 20 years.

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E-R103-ADD-03  
Add: J. Foster (JWF)

In each industry initiative the same general approach has been followed:

- An issue with generic relevance is recognized by the affected organization or member
- Parties potentially affected by the issue are organized for a common understanding of the issue
- An approach specific for this particular issue is established
- Necessary regulatory involvement is determined and a meeting is set (with public participation). This step identifies issues of compliance with regulatory requirements (including adequate protection) or enhancements
- Implementation of actions is determined including the plan, schedule, industry and staff resources, needed prerequisites and approvals.

Common to these efforts is the desire to conserve industry and staff resources through a common approach with a schedule commensurate with the safety significance of the issue. Experience has shown that the details for the resolution of each issue so addressed have necessarily been unique. The flexibility needed in the staff plan to account for this reduces it to these steps already in common use. The extra steps add unneeded bureaucracy and are counter to the stated intent to accomplishing the issue resolution in the most efficient and effective manner.

Each standing industry group (e.g. owners group, NEI, etc.) has an assigned project manager to handle its frequent submittals and a structure for scheduling needed meetings and handling review fees when appropriate. As noted in the *Federal Register* notice, the agency's fee process already allows for the exempting of fees for reviews under Sec. 170.11 (a) (12).

Semi-annual meetings to identify potential industry initiatives are unnecessary. Applicable industry groups (AIG) already schedule meetings when the issue resolution demands them or on a periodic basis that is mutually agreeable. These periodic meetings cover multiple ongoing issues as well as potential new issues.

As noted in the *Federal Register* (at page 53054) enforcement would be available if violations of regulatory requirements occur. There is no basis for enforcement action for industry initiatives outside of regulatory requirements. In its simplest terms, a commitment is how a licensee intends to meet a regulatory requirement. Enforcement turns on whether violations of regulatory requirements have occurred, not on enforcement of the commitment per se. The regulatory process allows, and must allow, licensees to propose any technically viable alternative solution that meets regulatory requirements. Not to allow alternatives would not be legal.

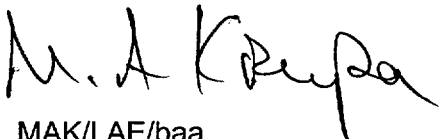
Commitment management is just that, a management tool and a vehicle for the licensee to keep the NRC informed of how it intends to meet its regulatory requirements. Licensees often find it to their financial advantage to adopt (i.e. to commit to) common approaches to avoid plant unique review efforts, expenses and fees. This practice is no different than adopting a published Regulatory Guide that establishes an acceptable way of meeting the Commission's regulations. But each licensee must, on its own docket, be responsible for its own licensing approaches and decisions. Adequate regulatory measures exist for both

avoid plant unique review efforts, expenses and fees. This practice is no different than adopting a published Regulatory Guide that establishes an acceptable way of meeting the Commission's regulations. But each licensee must, on its own docket, be responsible for its own licensing approaches and decisions. Adequate regulatory measures exist for both the NRC and the licensee who chooses a course different than that originally agreed upon. The industry has established through its Chief Executives criteria and procedures for formally agreeing to adopt certain common approaches (i.e. NEI industry initiatives). The NRC should not expect the Owners Groups to make commitments for its members.

Finally, Entergy is concerned about the informal 'information gathering' aspects of the proposed guidelines. The regulations provide prescribed controls for information gathering through 50.54(f) and other means. These regulations provide the needed discipline for the process and should not be circumvented.

In summary, Entergy believes the NRC should issue its generic communications for actual safety problems; issue new regulations to promulgate new requirements and allow for proactive industry initiatives where the industry seeks to mitigate the development of safety threats or reduce unnecessary regulatory burden. Where there is no regulatory requirement, the industry should remain unfettered by the NRC in sharing its resources as it sees fit. Continued encouragement of voluntary industry initiative by meeting with industry in open meetings as needed, providing staff resources for generic approaches and exempting fees that conserve industry and NRC resources will help assure both public safety and public confidence in the regulatory process. Thank you for the opportunity to provide these comments.

Sincerely,



MAK/LAE/baa

cc: Mr. C. G. Anderson (ANO)  
Mr. C. M. Dugger (W-3)  
Mr. W. A. Eaton (GGNS)  
Mr. R. K. Edington (RBS)  
Mr. G. J. Taylor (ECH)

Mr. T. W. Alexion, NRR Project Manager, ANO-2  
Mr. J. F. Harold, NRR Project Manager, RBS  
Mr. N. Kalyanam, NRR Project Manager, Waterford-3  
Mr. W. D. Reckley, NRR Project Manager, ANO-1  
Mr. S. P. Sekerak, NRR Project Manager, GGNS