



**UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
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ARLINGTON, TEXAS 76011-4005**

February 24, 2004

MEMORANDUM FOR: Brendan Moroney
Office of Nuclear Reactor Regulation

FROM: Thomas P. Gwynn, /RA/
Deputy Regional Administrator

SUBJECT DOCUMENTATION OF THE DECISION MAKING PROCESS

This responds to the January 29, 2004 memorandum, from Sam Collins, Deputy Executive Director for Reactor Programs, regarding documentation of the decision making process. Our response is similar to that provided earlier by Region I.

The principal decisions made in the region, at least with respect to oversight of licensees, involve: (1) granting licenses or license amendments for material licensees, as well as licensed reactor operators; (2) addressing allegations; (3) the manner that inspection findings are characterized and assessment conclusions communicated to licensees; (4) decisions on the issuance of various enforcement actions such as Notice of Enforcement Discretion (NOED), Confirmatory Action Letters, and Notices of Violation; and (5) the level of inspection effort warranted and safety conclusions reached following significant operational events involving reactor and materials facilities licensed by the NRC.

Region IV has concluded that programs and processes currently exist to properly document the decision making processes in Items (1), (2), (3), and (4). Specifically for the part of Item (1) involving licensing actions in the materials area, we issue approximately 500 licensing actions annually, and we follow the guidance contained in NUREG 1556 Series documents. In addition, we perform self assessments on about 24 amendments annually to assure that the reviewers have followed all license guidance and that they have made the correct decisions when choosing to issue or not issue the requested licensing action. Additionally, IMPEPs are conducted to verify the adequacy and completeness of the staff decision making process on selected licensing actions. Occasionally, licensees or applicants provide information to our reviewers during telephone conversations, at site visits, and by e-mail. Material licensing guidance specifies that all substantive communications with the licensee or applicant must be clearly documented and entered into ADAMS.

For the other portion of Item (1) involving licensed reactor operators, specific guidance is provided by the program office in making decisions and documenting the licensing of reactor operators. Region IV deals with Item (2) with our weekly Allegations Review Board which has written guidance that details a formal decision making process for dispositioning all allegations received by the region. Similarly, the Reactor Oversight Process provides specific guidance related to Item (3), and has a formal process that covers the review and characterization of inspection findings, the way that these findings are communicated to licensees, and the manner

that these findings are used to assess overall licensee performance. Lastly, for Item (4), Enforcement Actions such as NOEDs, Confirmatory Action Letters, and Notices of Violation have detailed guidance provided by the Agency's Enforcement Policy. An initiative that we utilize for documenting decision processes for granting or denying verbal NOEDs is to always use a headquarters operation officer's recorded bridge. Region IV has used that recording as documentation for our decision process, and in one instance the recording was transcribed to provide further documentation.

As to Item (5), we consider the determination of the level of inspection effort to have appropriate guidance for documenting the decision within Management Directive 8.3, "NRC Incident Investigation Program," for those inspections that are chartered and performed. Region IV has determined that additional guidance may be warranted for documenting the decision process for those events or significant occurrences where inspections are not conducted. We will take action to determine the most appropriate manner to deal with these instances.

As an initiative following receipt of Mr. Kane's April 4, 2003 memorandum, Region IV distributed that information to all managers and supervisors, and asked that the information be given consideration during strategic decision making.

An example of how Region IV implemented actions involving documenting decision making processes include the manner that we recorded decisions while dealing with the South Texas Project reactor vessel bottom mounted instrumentation (BMI) penetration leakage. Region IV chartered a special inspection team, which included Region IV and NRR personnel, because of the uncertainties associated with the cause and the potential generic implications, although it was recognized that the risk significance might be low. NRR established a project team and a communications plan which included RIV participation. Many weekly conference calls between the licensee, RIV, and NRR were conducted to keep the parties informed. Notes from these calls were reviewed by both NRR and RIV and were placed on a special BMI leakage web site accessible to the public. Several public meetings were held at headquarters and near the site. Primary decision making was done in a formal way as NRR approved the various licensee relief request submittals. Other decisions, such as the determination of enforcement discretion and documentation of the safety bases for restart were made in writing, following appropriate discussions and agreements among the involved NRC offices.

Should you have any questions concerning this response, please contact Mr. Mark A. Satorius of my staff at 817/860-8291.

B. Moroney

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ADAMS: Yes No Initials: _mas ACCESSION NO: ML040560094
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