

Statement of Concerns

The Panel and the Submitters reached mutual understanding on the Statement of Concerns, expressed in the form of a set of tasks for the Panel to perform. Specifically, the panel would:

1. Determine whether the Policy Memo is consistent with the requirements of the licensing process contained in 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material." Specifically, address whether:

- a. The Policy Memo is consistent with the requirements contained in sections 70.21 – 70.23, and 70.60 – 70.66. **(b)(1) & (b)(5)**
- b. The Policy Memo is unclear and self-contradictory regarding the level of completeness required for the ISA Summary. **(b)(1)**
- c. The level of information provided on instrumentation and control design is sufficient to make the required finding; *i.e.*, were the applicant's commitments to industry standards and inspections required by 10 CFR 70.32(k) to verify conformance to commitments acceptable in lieu of sufficient design detail. **(2nd para, pg 4)**
- d. 10 CFR 70.65(b) requires that all hazards, accident sequences and IROFS be identified in order to issue a license (*i.e.*, is the level of detail described in Chapter 3 of NUREG-1520 necessary to meet 10 CFR 70.65(a), or do equally acceptable alternatives exist [*i.e.*, the level of detail allowed by the Policy Memo]?). **(b)(1)**
- e. The Policy Memo approach that the licensing review is programmatic in nature is an acceptable interpretation of Part 70 (*i.e.*, relies on programmatic elements such as commitment to industry standards). **(b)(3) – recommend this item be combined with 1.c, above, as a specific example**
- f. A complete ISA can be developed without a sufficiently complete design. **(b)(4)**
- g. A license issued in accordance with the Policy Memo would result in a reduced assurance of safety as compared to a license issued in accordance with Part 70 and NUREG-1520. **(c)(1)**
- h. As a result of using the Policy Memo, the Safety Evaluation Report does not state decisively that all the requirements of 10 CFR 70.66(a) have been met. **(c)(3) – recommend this concern be deleted, as it is redundant to 1.a, above, and the answer is implicit through the issuance (or not) of a license.**

2. Determine whether the Policy Memo is consistent with the staff review guidance in NUREG-1520. Specifically, address whether:

- a. The Policy Memo is consistent with the guidance contained in the NUREG, specifically Section 3.4.3.2, pages 3-13 through 3-21. **(b)(1)**

- b. The Policy Memo is consistent with NUREG-1520 as to whether identification of all accident sequences and IROFS must be “absolutely complete.” **(b)(2)**
3. Evaluate whether the following criteria represent an acceptable definition for Integrated Safety Assessment (ISA) completeness and, if not, what would. **(from pg 5 of DPO)**
 - a. All credible accident sequences have been identified and evaluated.
 - b. All items relied on for safety (IROFS) needed to meet the performance requirements have been identified.
 - c. The process is described in sufficient detail for the staff to understand the theory of operation and evaluate whether all credible sequences have been identified.
 - d. The IROFS are described in sufficient detail for the staff to understand their safety function and to have reasonable assurance that they will perform their safety function commensurate with the level of likelihood assumed in the ISA Summary.
4. Determine whether use of the Policy Memo was inconsistent with the Agency’s Strategic Goal of Openness, in that it did not allow stakeholder participation in the same manner provided for rulemaking or NUREG development. **(c)(2)**
5. Make recommendations, if the Panel agrees in whole or in part with the issues, of the ramifications of decisions made in accordance with the August 4, 2006, Policy upon both future and past licensing. **Delete as a concern; the Panel is required to make recommendations, and plans to address this in the Recommendations section.**