

Sarah Rich

From: Richard Conte, *RI*
Sent: Wednesday, December 24, 2008 9:56 AM
To: Darrell Roberts
Cc: Marsha Gamberoni
Subject: SENSITIVE MATTER
Attachments: ACTION ITEM TO ASSESS PLANS FOR IP 71003 IMPLEMENTATION; OC Exit Meeting_Inspection LsnsLrnd.doc

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From: Richard Conte <Richard.Conte@nrc.gov>
To: Darrell Roberts <Darrell.Roberts@nrc.gov>
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Date: Wed, 24 Dec 2008 09:55:41 -0500
Subject: SENSITIVE MATTER
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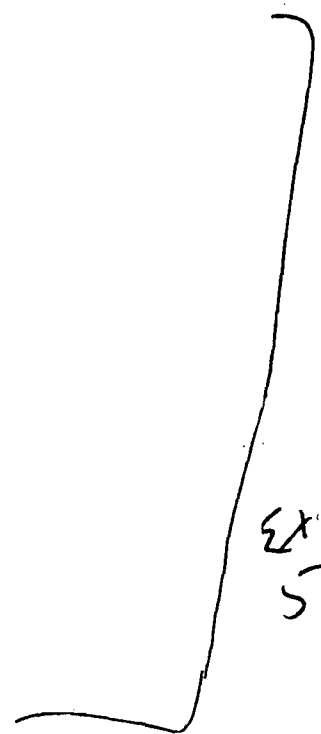
To: Michael Modes; Kay Gallagher
Cc: Glenn Meyer; John Richmond; Darrell Roberts; Brian Holian; Samson Lee; David Pelton
Subject: ACTION ITEM TO ASSESS PLANS FOR IP 71003 IMPLEMENTATION

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EX5



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OYSTER CREEK COMMITMENT INSPECTION
Per IP 71003 – App. C MC 2515, Infrequent Procedures
LESSONS LEARNED AND KEY QUESTIONS DEVELOPED
(As of 12/22/08)

DISCUSSION:

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Ex 5

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From the review a number of lessons were learned and there is a need to address a number of procedure issues.

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Ex 5

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[REDACTED]

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Ex 5

[REDACTED]

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EX5

INSPECTION PROCEDURE ISSUES:

The questionable areas surrounding the results of the OC commitments inspection were listed below. Consideration should be given to obtaining additional stakeholder input in the form of OE, for views on commitments and deviations, and DRIS, for views on assessment of commitments.

1. Is IP 71003 an ROP tool (2515 and reference to 0612) or is it a part of a licensing action (2516).
2. If 71003 is a 2516 tool, then what is the related documentation process to be used?
3. If 71003 is a 2516 tool, then what is the related assessment process to be used?
4. Isn't the real purpose of doing the 71003 before the PEO in order for the agency to assess a licensee's readiness for the Period of Extended Operations (PEO). If true, then why isn't it listed as an objective with guidance on how to do the assessment, quantitative (tasks done and remain tasks or actions open along with schedule) vs. qualitative (assessing procedure adequacy).
5. If IP 71003 is an ROP tool, does the standard objective statement "to verify implementation" (section 01.01) mean to very adequate or proper implementation for which performance deficiencies can be formulated.
6. With respect to 4, and, if it is true that adequacy is to be verified (on a sampling basis) or we are to verify that the AMP has been implemented (section 02.a (1)), then to what level of detail is this to be done?

NOTE: When the majority of 71003 is to be completed shortly before the period of extended operations, very little is in effect nor are there requirements for Aging Management Program (AMP) implementing procedures to be implemented until after the PEO.

- a. Is having the procedure issued without a reasonable NRC review for adequacy sufficient to say the commitment was met or the program is ready to be implemented?
- b. If a. is not true, then how much of a sample and review for adequacy of implementing procedures is enough to say the program is ready to implemented?
- c. On a team leader's status check, is it ok for more than 30% of the implementing procedures for any one program to be in some form of review and approval in order for the team to conclude the AMP is ready for the PEO? If 30% is not the right number then what is?
- d. Should all the new programs being reviewed to the standard determined above?
- e. How many modified programs need to be reviewed?
7. With respect to 4, and, if the answer is to NOT verify adequacy or proper implementation, then how does one reconcile that situation with sections 03.01.b 1 and 03.01.b.3?

- a. 03.01.b.1 says to review supporting documentation to determine if the licensee has taken appropriate actions, including corrective action, to satisfy a particular license condition or commitment. Appropriate technical expertise should be sought if needed.
 - b. 03.01.b.3 says to evaluate those commitments not met for NRC enforcement action using MC 0308 Reactor Oversight Process Basis Document and IMC 0609 significance Determination Process (implied is the use of 0612 which makes 0308 and 0609 jell including deviations from standards). The premise for evaluation and assessment is the determination that something was inadequately done.
8. With respect to 6.b above, section 03.01.b.3 implies that even commitments listed in the SER are enforceable. Its this true?
9. Also with respect to 7, how do we reconcile the marked difference between two types of standard license conditions for future activities noted between Ginna and NMP licenses. One says to implement the future activities of the USAR update required by another standard license condition (we don't expect the SER commitments to be listed in the updated USAR among all such licensees); the other says to implement the future activities as listed in the applicable NUREG SER (clearly enforceable if not done on time, adequately, or if not properly changed).
10. Does the following question need to be addressed by the 71003 team; and, if so, why isn't it an objective of the procedure: Were the commitments implemented such that there is REASONABLE ASSURANCE the affects of aging are managed?
 - a. Is this too high a level as an objective of the IP 71003?
 - b. Is the more important question for the 71003 team as follows: Is the licensee ready for the period of extended operations.
11. Is it true that there is no standard in license renewal rule called "adequate" or "inadequate"?
12. Is there a difference between NRC's treatment of regulatory commitments made as a part of Part 50 correspondence vs. Part 54 correspondence? Can you formulate performance deficiencies on failure to meet commitments if they are not enforceable?
13. How do we determine failures to implement license renewal commitments in light of the endorsed definitions and above noted standards? The agency endorsed reference is:

NEI 99-04 (endorsed by RIS 2000-17, dated September 21, 2000):

"A Regulatory Commitment means an explicit statement to take a specific action agreed to, or volunteered by, a licensee and submitted in writing on the docket to the NRC. Licensees frequently communicate their intent to take certain actions to restore compliance with Obligations, to define a certain method of meeting Obligations, to correct or preclude the recurrence of adverse conditions, or to make improvements to the plant or plant processes. A Regulatory Commitment is an intentional undertaking by a licensee to (1) restore compliance with regulatory requirements, or (2) complete a specific action to address an NRC issue or concern (e.g., generic letter, bulletin, order, etc.). With respect to corrective actions identified in a NOV response or LER, the specific method(s) used by licensee to restore compliance with an obligation are not normally considered a Regulatory Commitment. The regulatory commitment in this instance is the promise to restore compliance with the violated obligation."

This is not to be confused with a license condition or other requirement which is officially defined as an "obligation" as follows:

"Obligation refers to any condition or action that is a legally binding requirement imposed on licensees through applicable rules, regulations, orders and licenses (including technical specifications and license conditions). These conditions (also referred to as regulatory requirements) generally require formal NRC approval as part of the change-control process. Also included in the category of obligations are those regulations and license

conditions that define change-control processes and reporting requirements for licensing basis documents such as the updated FSAR, quality assurance program, emergency plan, security plan, fire protection program, etc."

NOTE: Nothing in the above reference addresses whether the commitments were relied on or made within the current licensing bases but they may be in effect by the very nature of the commitment at the time of the 71003 team just before the PEO.

14. What types of minor performance deficiencies should be document in the interest of public trust? With respect to Licensee identified vs. NRC identified/self revealing, this practice would appear to be contrary to MC 0612?

- a. Is there agreement that a commitment is a standard for which any licensee had reasonable control?
- b. Can we call them performance deficiencies with or without a renewed license?

IMC 0612 Section 03, Definitions, for Performance Deficiency states:

"An issue that is the result of a licensee not meeting a requirement or standard where the cause was reasonably within the licensee's ability to foresee and correct, and that should have been prevented. A performance deficiency can exit if a licensee fails to meet a self-imposed standard or a standard required by regulation." ... it goes on to discuss that cross cutting aspects in and of themselves are not performance deficiencies... mostly causal attribute information.

NOTE: Nothing in the above reference addresses whether the commitments were relied on or made within the current licensing bases

- c. Why document these issues if they are minor?

IMC 0612 Section 05 as an exception in a box:

EXCEPTION: "A minor violation or finding may be documented when it is necessary to close a licensee event report or to close an unresolved item, or if related to an issue of agency wide concern (e.g., in documenting the results of a temporary instruction). If it is necessary to document a minor violation, then it is done in accordance with the guidance contained in the Enforcement Manual."

15. If a license is not renewed and IP 71003 is conducted, how can you formulate performance deficiencies since the licensing action has not been taken on these commitments?

- a. Should we be only discussing factual based observations without context of meeting or not meeting the commitment and with no assessment of significance – how would this look and how receptive would the public be to the issue being written up without context, assessment, or action by NRC staff?
- b. How can we proclaim a finding if we are still deciding over wording in an SER listing of commitments – Should we not be waiting for a renewed license and waiting until they enter the period of extended operation before you can proclaim it a "finding".
- c. Until we know what is acceptable, should the issue be written as Unresolved – see definition of URI in MC 0612 (information needed in order to determine acceptability, violation or deviation)?

IMC 0612 Section 03 definitions for an Unresolved Item:

"An issue about which more information is required to determine if it is acceptable, if it is a finding., or if it constitutes a deviation or violation. Such a matter may require additional information from the licensee or cannot be resolved without additional guidance or clarification/interpretation of the existing guidance (e.g., performance indication reporting guidance.

16. Don't the resident inspectors and region based inspectors implementing the ROP at a plant with a renewed license and into the period of extended operations need special training and procedures in order to guide them through problems noted during the course of ROP implementation?
17. Should a TI be developed in order to keep track of time for future budgeting use, and provide that guidance commensurate with a reasonable amount of training (guidance would include when other ROP activities can be replaced by a review of aging managing issues both from a planned or reactive effort)?
18. Based on the results of 17, should a separate procedure (7100X) be developed for the IMC 2515 Program (App. C) or as a 2515 other planned activity? Impact on Budget?
19. Others based on consensus building ???