

June 25, 2009

MEMORANDUM TO: Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

FROM: Renée Pedersen, Differing Views Program Manager /RA/
Office of Enforcement

SUBJECT: DIFFERING PROFESSIONAL OPINION INVOLVING CLOSURE
PROCESS FOR GENERIC SAFETY ISSUE -191 (DPO-2008-001)

The purpose of this memorandum is to advise you of an appeal that was addressed to the Executive Director for Operations (EDO) and provided to me on June 18, 2009, for Differing Professional Opinion (DPO)-2008-001. The DPO raises concerns about the NRC staff closure process for Generic Safety Issue (GSI)-191, including associated activities such as review of Generic letter (GL) 2004-02. The submitter believes that the process has resulted in a review that is unnecessarily focused on compliance versus a determination that the underlying safety issue has been satisfactorily addressed.

The employee's DPO appeal (enclosed) raises concerns about the DPO Decision that you issued on May 27, 2009.

In accordance with the guidance in Handbook section E.1.(b) of Management Directive (MD) 10.159, AThe NRC Differing Professional Opinions Program,@ you are required to provide a written statement of views (SOVs) on the contested issues to the EDO (through the DVPM). In providing your SOVs, please keep in mind that the scope of the DPO appeal is dictated by the scope of the DPO. Thus, notwithstanding any additional issues addressed in other documents (e.g., DPO Panel's report, DPO Decision, DPO appeal submittal), the DPO appeal evaluation conducted by the EDO will focus on the scope of the DPO.

In accordance with the EDO-approved milestones and timeliness goals for DPO appeals (enclosed), please forward your SOVs on the DPO appeal to me within 14 calendar days of receiving this request (**July 9, 2009**).

I will subsequently send the EDO the DPO appeal, your SOVs, and the DPO case file. In accordance with MD 10.159, the EDO has complete discretion to conduct the review of the DPO appeal in any manner deemed appropriate. As such, the EDO may choose to:

- conduct a series of interviews,
- establish another independent review of the issues, or
- implement another evaluation strategy.

Therefore, you, members of your staff responsible for the established position, members of the DPO Panel that you established to review this issue, and the DPO submitter may be contacted

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by the EDO to engage in a discussion on this case.

The EDO is responsible for reviewing the DPO appeal and providing the individual with a decision normally within 30 - 60 calendar days of the receiving the DPO appeal package.

Because DPO documents have specific handling instructions based on the MD guidance, please have your staff follow the processing instructions below when you generate your SOVs.

ADAMS Document Profile Properties for DPO Case Documents	
Property Name	Data to be Entered
Class	Draft
Document Type	Differing Professional Opinion Case File
Availability	Non-Publically Available
Title	NRR Office Director=s Statement of Views on Contested Issues
Case/Reference Number	DPO-2008-001
Keyword	MD 3.4 Non-Public A.7, OE-011
Document Sensitivity	Sensitive- Internal –periodic review reqd (all other sensitive Internal info)
Security Access Rights for DPO Case Documents	
Name	Access Level
NRR DPO Staff	Owner
DPO Staff	Owner

Please have your staff enter your signed and dated SOVs in ADAMS in accordance with ADAMS template OE-011 and file the ADAMS record in the applicable case folder within the DPO Case Files root folder in the ADAMS Main Library. DPO records are included in this limited access folder as **Draft Class** until the DPO process is complete and a decision has been made about the releasability of the documents.

Please send a confirmation email to DifferingViews.Resource@nrc.gov when the record has been filed in the appropriate DPO case folder in ADAMS.

DPO documents are packaged in ADAMS according to the DPO number. Therefore, it is important that your response include the DPO number in the subject line.

If you or your staff have any questions, please feel free to contact me or my secretary at (301) 415-2741.

Enclosures:

1. DPO Appeal Submittal
2. Milestones and Timeliness Goals for DPO Appeal

cc: (w/o attachments)

M. Virgilio, DEDMRT

V. Ordaz, AO

E. Leeds

E. Leeds

Distribution:

DPO-2008-001 file
C. Carpenter, D:OE
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M. Bailey DPO Panel Chair
K. Karwoski, DPO Panel Member
R. Tregoning, DPO Panel Member
R. Architzel, DPO Submitter

ADAMS Document Profile Properties for DPO Case Documents	
Property Name	Data to be Entered
Class	Draft
Document Type	Differing Professional Opinion Case File
Availability	Non-Publically Available
Title	Request for NRR ODs Statement of Views on Contested Issues
Case/Reference Number	DPO-2008-001
Keyword	MD 3.4 Non-Public A.7, OE-011
Document Sensitivity	Sensitive-Internal -periodic review reqd (all other sensitive Internal info)
Security Access Rights for DPO Case Documents	
Name	Access Level
DPO Staff	Owner
NRR DPO Group	Owner

File in ADAMS folder DPO-2008-001 in DPO Case Files root folder

ADAMS PACKAGE: ML091750703

OFFICE	DVPM:OE	D:OE
NAME	R. Pedersen	C. Carpenter
DATE	6/25/2009	6/25/2009

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