



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 15, 2009

MEMORANDUM TO: R. W. Borchardt
Executive Director for Operations
FROM: *Renee Pedersen*
Renee Pedersen, Differing Views Program Manager
Office of Enforcement
SUBJECT: DIFFERING PROFESSIONAL OPINION APPEAL 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 process (including the process for filing a DPO appeal) is addressed in Management Directive (MD) 10.159, "The NRC Differing Professional Opinions Program."

http://www.internal.nrc.gov/ADM/DAS/caq/Management_Directives/md10.159.pdf

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 raises concerns about the DPO Decision that was issued by Eric Leeds, Director, Office of Nuclear Reactor Regulation (NRR) on May 27, 2009.

In accordance with the guidance in Handbook 10.159 section E.1.(b), I forwarded the appeal to Eric Leeds on June 25, 2009, and asked him to provide a written statement of views (SOVs) on the contested issues in the employee's appeal for your consideration.

In accordance with the guidance in Handbook 10.159 section E.2, I am forwarding the DPO appeal package to you for your review and decision. The DPO appeal package includes the DPO appeal, Eric Leeds's written SOVs (dated July 9, 2009), and the core documents from the DPO case file. I am also providing additional information and guidance to assist you in your review (e.g., process checklist, DPO appeal milestones and timeliness goals, etc.).

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 (including one with the submitter),
- establish another independent review of the issues, or
- implement another evaluation strategy.

You are 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 (8/14/2009 - 9/13/2009).

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Once you issue a decision to the individual, the process is complete and the case is considered closed. You are also responsible for including a summary of your decision in the Weekly Information Report.

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 DPO Appeal Decision.

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-Publicly Available
Title	DPO Appeal Decision
Case/Reference Number	DPO-2008-001
Keyword	OE-011
Document Sensitivity	Sensitive- Internal –periodic review reqd (all other sensitive Internal info)
Security Access Rights for DPO Case Documents	
Name	Access Level
EDO	Owner
DPO Staff	Owner

Please have your staff enter your signed and dated DPO Appeal Decision 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 have your staff 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.

cc: M. Virgilio, DEDMRT
V. Ordaz, AO

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Distribution:

DPO-2008-001 file C. Carpenter, D:OE S. Magruder, DD:OE
E. Leeds, D:NRR T. Wertz, NRR DVOL M. Bailey DPO Panel Chair
R. Architzel, DPO Submitter R. Tregoning, DPO Panel Member
K. Karwoski, DPO Panel Member

ML091950398 X Sensitive X Non-public

OFFICE	DVPM:OE	DD:OE	D:OE
NAME	R. Pedersen	S. Magruder	C. Carpenter
DATE	7/14/2009	7/14/2009	7/15/2009