From: Criscione, Lawrence
Sent: Tuesday, December 14, 2010 6:51 AM
To: Beasley, Benjamin
Subject: Non-Concurrence of Draft IN for Reactivity Management

Ben,

I have been added to the Draft IN which NRR is preparing on Reactivity Management so that I can officially "non-concur". Part of that process is discussing my concerns with my immediate supervisor. I discussed this incident with Jose Ibarra about 10 months ago; he may still be familiar with it if you want to include him in our discussion.

The recent history of this issue can be found in the email trails below which have been cobbled together from three different email strings. It's a difficult and confusing history to wade through on your own; if you have time today, it should take less than 30 minutes to discuss this. I think the reason you (the immediate supervisor) are involved is to ensure that other (informal) methods have been first resorted to before going forward with formal non-concurrence. I believe Stacey Rosenberg and Dave Beaulieu will agree that I have pursued resolution of my concerns through informal processes. I did not copy Stacey on this email because I did not want to bog her down with this issue any more than she already is, but please feel free to share this email with her if you wish to discuss the history so far.

I'm free today, but I'm still wading through MD 10.158. Once I figure out exactly which section of the 10.158 apply to you and I, I'll come by and let you know.

Please note that I am not officially non-concurring at this time since I have not yet been formally provided the official routing of the draft IN. But Dave and Stacey have asked that I prepare my paperwork so that if I still feel I need to non-concur, then I can submit it promptly. There is no time limits set for non-concurrence paperwork, but Dave and Stacey have milestones they would like to meet and I have been waiting for this IN since it was first discussed as a solution to the Callaway shutdown between me and Region IV during mid-summer 2009.

V/r,
Larry

From: Rosenberg, Stacey
Sent: Monday, December 06, 2010 10:51 AM
To: Criscione, Lawrence
Subject: RE: draft IN

Larry,

Since we made a few changes to the IN, we sent it back through concurrence. I believe it is with the tech Branch Chief now, and as soon as he concurs it will go to you because you are next on the concurrence block. Dave is out of the office today, but he will be back tomorrow if you would like more specifics.

Stacey

From: Criscione, Lawrence
Sent: Monday, December 06, 2010 10:19 AM
To: Rosenberg, Stacey
Subject: FW: draft IN

Stacey,

I never received the draft IN. I know Dave has more on his place than drafting this IN. I assume the delay is just from the holidays and Dave's other work, but if anything changes (e.g. the IN is put on hold or I am removed from the routing) please let me know.

Thanks,
Larry

From: Criscione, Lawrence
Sent: Friday, November 19, 2010 3:08 PM
To: Rosenberg, Stacey
Subject: RE: draft IN

Thanks Stacey.

From: Rosenberg, Stacey
Sent: Thursday, November 18, 2010 5:52 PM
To: Criscione, Lawrence
Subject: RE: draft IN

Larry,

I just wanted to let you know that Dave is still working on the draft IN. We will send you the latest version early next week. I understand your request to be included on the routing. Information on the non-concurrence process can be found in draft MD 10.158. Call me if you have any questions.

Regards,
Stacey

From: Criscione, Lawrence
Sent: Wednesday, November 17, 2010 12:14 AM
To: Rosenberg, Stacey
Subject: draft IN

Stacey,

I appreciate the efforts you and Dave have made to incorporate my input into the IN being drafted on the Callaway Plant passive reactor shutdown.

I have been involved in getting this issue addressed since February 2007, when I was an employee of the utility and accidently uncovered the data while analyzing past shutdowns for a major revision to the utility's Reactor Shutdown procedure. It has been a frustrating three years. To me, it is unfathomable that the NRC would accept that operators, whom we license, would intentionally allow a large commercial reactor to passively shut down and then delay inserting the control rods for nearly two hours. Although I recognize the difficult situation Region IV is in (to a large extent our system relies on honesty and the operators at Callaway Plant have not been honest regarding what occurred that day) it is still frustrating nonetheless.

I think we have reached a point where we will just have to agree to disagree. At this point I ask that you please include me on the routing of the Information Notice to give me an opportunity to formally document my points of disagreement.

The IN you and Dave have drafted is a good document and, although I disagree with the scope of it, I recognize the constraints of the IN process and I appreciate the extraordinary efforts you and Dave have put forth to develop it.

V/r,
Larry Criscione

The email immediately below was addressed during a meeting between me and Dave Beaulieu in his cubicle on the morning of Tuesday, November 16, 2010. We could not come to terms on my suggestions to the draft IN, all of which Dave had agreed to in late October but for some reason were now unacceptable. My suggestions to the draft IN are attached to this email and were originally attached to the email below. I was promised a copy of the Draft IN by the end of the day (11/16/2010) via email so that I could officially "non-concur". I left for INL in the early afternoon and never

received an email with the draft IN. As of today (12/14/2010) I am still waiting to officially receive the draft. I have, however, been assured by Stacey and Dave on multiple occasions that the draft will be coming to me and they have requested that I be prepared to send in my non-concurrence paper work when it arrives. The purpose of sharing these email is to meet my commitment for keeping my supervisor informed under MD 10.158. - Criscione 12/14/2010

From: Criscione, Lawrence
Sent: Monday, November 15, 2010 9:18 PM
To: Beaulieu, David; Rosenberg, Stacey; Jones, William
Subject: Suggestions for IN on Callaway passive shutdown

Thank you for meeting with me today.

[This email is included elsewhere]

The email trail below ended with Renee Pedersen. I never heard back from Renee, however, since sending this email I have been added to the Concurrence of the draft IN and am now able to use the Non-Concurrence Process. I intend to follow up with Renee on the DPO process after I see how my September 1-CFR2.206 Request plays out. Since my concerns are no longer Callaway Plant but how the US NRC handles dishonesty from the licensees, I believe the DPO might be appropriate. - Criscione 12/14/2010

From: Criscione, Lawrence
Sent: Monday, November 08, 2010 8:25 AM
To: Pedersen, Renee
Cc: Zimmerman, Roy
Subject: DPO and Non Concurrence processes

Renee,

[This email is included elsewhere]

Criscione, Lawrence

From: Criscione, Lawrence
Sent: Monday, November 15, 2010 9:18 PM
To: Beaulieu, David; Rosenberg, Stacey; Jones, William
Subject: Suggestions for IN on Callaway passive shutdown
Attachments: IN Reactivity - markup - Nov15.pdf

Thank you for meeting with me today.

Attached is my suggested additions to the Information Notice. I have a trivial comment on page 1 and two trivial comments on page 2. I also have two major comments on page 2.

Not counting the trivial comments, my comments amount to five sentences. Just 138 words and 11 lines of text in a document which currently has 2170 words and 308 lines of text. I am asking you to inflate the document by 5%. I am not trying to change the message; I just wish to drive it home with the strength that it deserves. This was a significant human performance incident and we need to bring that out. Read the final paragraph of IN 97-62 to see how we (the NRC) have strongly stated our opinion in the past.

I will be meeting with Dave Beaulieu tomorrow morning around 8 am. I have a 10 am meeting at Church Street and leave for Idaho National Labs at 11 am. I will not return until November 29th (the Monday following Thanksgiving).
Ex6 Please do not hesitate to call me at (b)(6) if there is anything you wish to discuss. I will be checking both my
Ex6 personal email (b)(6) and my NRC email. I cannot receive attachments via my NRC email since I will be using webmail. Contact me however you feel is appropriate, but please do not leave me any messages on my NRC telephone as I will not receive them until November 29th.

Thank you for your patience with this. This IN is essentially the final shot we have to get this issue properly addressed.

Larry

Lawrence S. Criscione
Reliability & Risk Engineer
RES/DRA/OEGIB
Church Street Building
Mail Stop 2A07
(301) 251-7603

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
WASHINGTON, DC 20555-001

NRC INFORMATION NOTICE 2010-XX: OPERATOR PERFORMANCE ISSUES INVOLVING REACTIVITY MANAGEMENT AT NUCLEAR POWER PLANTS

ADDRESSEES

All holders of operating licenses for nuclear power reactors under the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor.

PURPOSE

The U.S. Nuclear Regulatory Commission (NRC) is issuing this information notice (IN) to inform addressees of events in which deficiencies with reactivity management planning and implementation resulted in transients or unexpected conditions. The NRC expects recipients to review the information for applicability to their facilities and to consider actions, as appropriate, to avoid similar problems. Suggestions contained in this IN are not NRC requirements; therefore, no specific action or written response is required.

DESCRIPTION OF CIRCUMSTANCES

Callaway Plant

During a Callaway Plant shutdown in October 2003, the control room operators did not effectively control reactivity during low-power operations. The event began on the morning of October 20, 2003, when the Callaway Plant experienced an inverter failure on a safety-related bus that put the unit in a 24-hour technical specification action to restore the inverter or be in Mode 3 (hot standby) within the next 6 hours. The next morning, because the inverter had not yet been restored, operators initiated a plant shutdown at approximately 10 percent per hour. With the main turbine on line and with turbine bypass valves closed, operators attempted to stabilize the plant at approximately 8-percent power. However, reactor coolant temperature continued to decrease about 10 degrees Fahrenheit over a half-hour period because operators did not withdraw control rods or dilute boron concentration to compensate for negative reactivity which was being inserted by xenon buildup. As a result of the lowering temperature, the pressurizer level lowered enough to cause letdown to isolate and the reactor coolant temperature went below the technical specification required minimum temperature for criticality for several minutes. With power at approximately 5 percent, the operators manually tripped the main turbine. Tripping the main turbine reduced main steam flow, increasing reactor coolant temperature and adding negative reactivity, which together with the addition of negative reactivity by xenon buildup, caused the reactor to become subcritical. Tripping the main turbine

ML101810282

Summary of Comments on Microsoft Word - IN Reactivity - markup - Nov15.docx

Page: 1

Number: 1 Author: lsc4Subject: Sticky Note Date: 11/15/2010 8:15:00 PM -05'00'

Trivial comment: I believe "which" is needed here to make the sentence grammatically correct.

permitted the turbine bypass valves to open and control steam pressure, causing reactor coolant temperature and pressurizer level to return to normal. Operators did not insert the control rods until almost 2 hours after the reactor became subcritical.

A subsequent review of this plant shutdown found that control room operators did not effectively control reactivity to maintain the reactor in the desired condition during low-power operations by properly anticipating, controlling, and responding to changing plant parameters. Operators did not use control rods or boron concentration—two means that operators can use to directly control the amount and timing of reactivity changes—to adjust for reactivity changes by xenon buildup and reactor coolant temperature changes. Specifically, (1) operators did not sufficiently anticipate and compensate for xenon buildup when they attempted to stabilize and hold the plant at approximately 8 percent power which caused reactor coolant temperature to continue to decrease below the technical specification required minimum temperature for criticality; (2) operators did not shut down the reactor in a deliberate manner (e.g., by inserting control rod banks). Rather the reactor became subcritical in an atypical passive manner, that is by xenon buildup and the increase in reactor coolant temperature resulting from the operators manually tripping the main turbine, and (3) operators did not insert control rods for nearly 2 hours after the reactor became subcritical to provide assurance that the reactor remained shut down. During these two hours, shutdown margin was assured by the control rods being above their rod insertion limits. Although there was no procedural requirement to insert control rods immediately following a passive reactor shutdown, once the reactor fission reaction had shut down it was unnecessary and poor practice to rely on the Reactor Protection System to ensure shutdown margin.

Operator performance in not effectively controlling reactivity was attributable, in part, to weaknesses with management oversight, training, and procedural guidance. The pre-evolution practice ~~training~~ did not cover plant operations below 10-percent power and did not include operation after the point where the operators tripped the main turbine. The reactivity management plan did not address the possibility that the expected reactivity change from tripping the main turbine together with the xenon buildup could cause the reactor to become subcritical. The licensee's initial post-shutdown review did not identify and evaluate the atypical manner that the reactor became subcritical. This omission delayed application of the lessons learned to operator qualification and requalification training and significantly delayed procedure changes to address weaknesses in operator control of reactivity during low-power operation.

Although the actual event did not pose a risk to the health and safety of the public, the event is significant from a human performance perspective. Despite having active means available to insert negative reactivity and ensure shutdown margin, the operators instead relied on the passive build up of xenon to prevent the reactor from inadvertently restarting and unnecessarily relied on the Reactor Protection System to ensure shutdown margin. Active control of core reactivity is fundamental to operational safety. Additional information is available in "Callaway Plant—NRC Integrated Inspection Report 05000483/2007003," dated August 2, 2007, which can be found on the NRC's public Web site in the Agencywide Documents Access and Management System (ADAMS) under Accession No. ML072140876.

River Bend Station

Page: 2

Number: 1 Author: lsc4Subject: Sticky Note Date: 11/15/2010 8:14:52 PM -05'00'

Trivial comment: I believe "use to" is needed here to make the sentence grammatically correct.

Number: 2 Author: lsc4Subject: Sticky Note Date: 11/15/2010 8:20:20 PM -05'00'

Major comment: I am not insistent to this exact wording, but it needs to be clearly pointed out that although there is nothing that specifically forbids allowing the reactor to passively shutdown and then relying on the RPS for shutdown margin, it is poor practice and should never be done INTENTIONALLY.

Number: 3 Author: lsc4Subject: Sticky Note Date: 11/15/2010 8:28:09 PM -05'00'

Trivial comment: Pre-Evolution Practice is for all intents and purposes "training". The operators invariably learn things during PrEP and so they consider it training. However, although it is "training" in the common usage of the word, it is not "training" in the way INPO classifies "training" in the ACAD. I was an operator and never a trainer, so I do *not know the finer details of why PrEP should not be called "training", I just know the trainers were all sticklers that it was "practice" and not "training". INPO requires certain* things of "training" (e.g. formal/reviewed lesson plans, formally stated objectives, critiques, etc.) which are not required of PrEP. I am not insistent that you delete the word "training", but to be consistent with industry terminology you may wish to consider removing the word "training" (even though, to the operator, it really is training).

Number: 4 Author: lsc4Subject: Sticky Note Date: 11/15/2010 8:49:31 PM -05'00'

Major comment: I am not insistent on the exact wording (although I have tried to use phraseology consistent with IN 97-62) but I feel strongly we must note this was a significant human performance error. As a former Senior Reactor Operator and a former "navy nuke" it is unimaginable to me that licensed operators would intentionally allow the reactor to passively shutdown and then rely on an informal estimation of Xenon-135 levels to prevent the reactor from restarting. I have discussed this incident with Eric Leeds, Roy Zimmerman, Marty Virgilio, Anton Vegel, Kristy Bucholz, Eric Thomas and John Kramer - all of whom have operated naval reactors and some of whom have held SRO licenses. Any of these individuals can attest to you that "Active control of core reactivity is fundamental to operational safety" and to intentionally allow a commercial reactor to passively shut down and delay inserting control rods for 106 minutes is "significant from a human performance perspective". We need to strongly note that intentionally allowing a large commercial reactor to passively shut down is exceptionally poor practice and should not occur. As I have stated, I am not insistent on this exact wording but I believe the wording I have chosen is strong enough to transparently drive the point home yet general enough to meet the tradition of language used in information notices (as I said, I have stolen the phraseology from the end of IN 97-62).

On March 8, 2008, with River Bend Station at 25-percent power, control room operators were withdrawing control rods to increase reactor power. The operating procedure for plant startup directs operators to withdraw control rods a using a withdrawal sequence specified in a reactivity control plan that is provided to them by licensee reactor engineering. However, the dedicated reactor operator at the controls stated an incorrect target position when reading aloud a rod movement step in the reactivity control plan. As a result, this operator individually withdrew six consecutive rods to position 24 rather than the target position 20 specified in the reactivity control plan. The dedicated peer-check reactor operator did not identify that the stated target position was incorrect because he could not readily see the reactivity control plan that was resting on the lap of the reactor operator at the controls. The operator at the controls halted the withdrawal of the seventh rod at position 18 after the dedicated peer-check reactor operator identified the error. The licensee determined that the reactor operator at the controls and the peer-checker did not follow the procedures to prevent human performance errors and that the senior reactor operator did not maintain effective oversight of the activity. Additional information is available in "River Bend Station—NRC Integrated Inspection Report 05000458/2008002," dated May 9, 2008 (ADAMS Accession No. ML081300838).

Diablo Canyon Power Plant, Unit 2

In August 2009, Diablo Canyon Power Plant Unit 2 was shut down in order to troubleshoot and repair a main transformer bushing. In preparation for the shutdown, the control room operators performed simulator training on a ramp downpower using a draft copy of a ramp plan provided via e-mail by reactor engineering. Before the actual shutdown, a revised ramp plan was provided by reactor engineering, approved by the operations manager, and issued in the shift orders. This revised ramp plan was also e-mailed to all shift members. The oncoming shift foreman and shift manager did not review the approved ramp plan located in the shift orders nor did they review the ramp plan as part of the reactivity brief. Operators began the ramp downpower using the original (unapproved) draft ramp plan. After the first 2 hours of the downpower, the control room operator questioned plant conditions that were inconsistent with the simulator scenario and contacted the reactor engineer. The reactor engineer provided a copy of the approved ramp plan. No reactivity manipulations outside of the approved plan had been made. Operators continued the downpower using the approved ramp plan.

The licensee performed an apparent cause evaluation and determined that the shift foreman did not validate that the ramp plan in use was the same as the one that the operations manager had approved. Licensee corrective actions included revising existing procedures to require validation of the ramp plan by the shift foreman and shift manager during the reactivity briefing. Additional information is available in "Diablo Canyon Power Plant—NRC Integrated Inspection Report 05000275/2009005 and 05000323/2009005," dated February 3, 2010 (ADAMS Accession No. ML100341199).

Arkansas Nuclear One

On April 25, 2010, following the completion of a refueling outage, Arkansas Nuclear One, Unit 1 was at approximately 20-percent reactor power determined by heat balance (approximately 30-percent reactor power indicated on nuclear instrumentation (NI)) and holding to allow instrumentation and controls (I&C) technicians to calibrate the NI, which involves adjusting the gain on the NI excore detectors so that NI indicated reactor power level matches the reactor

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power determined by heat balance. To prevent the integrated control system (ICS) from automatically moving control rods in response to the changing input of NI reactor power level from the gain adjustment, the calibration procedure first directs a control room operator to place the control rod station in manual. The I&C technician who was implementing the procedure stated to a control room operator, "We are ready to place ICS to manual." The control room operator responded, "ICS is in manual." However, this exchange did not result in the operator placing the control rod station in manual and it remained in automatic. When I&C technicians subsequently adjusted the gain on the NIs, control rods automatically withdrew for approximately 38 seconds and resulted in an automatic reactor trip because of high reactor power (49.55 percent NI indicated reactor power) and high RCS pressure. The rapid event succession did not afford operators time to complete diagnosis of the rod withdrawal and initiate manual corrective action.

The causes of the event included failure to follow the NI calibration procedure, miscommunication between the I&C technician and the reactor operator, failure to conduct a pre-job brief, and lack of supervisory oversight. Additional information is available in "Arkansas Nuclear One—NRC Integrated Inspection Report 05000313/2010003 and 05000368/2010003," dated August 5, 2010 (ADAMS Accession No. ML102180209).

BACKGROUND

The following are related NRC generic communications:

- NRC IN 92-39, "Unplanned Return to Criticality during Reactor Shutdown," dated May 13, 1992, discussed events involving unplanned returns to criticality caused by the cooldown of the reactor coolant system during reactor shutdowns (ADAMS Accession No. ML031200314).

- NRC IN 96-69, "Operator Actions Affecting Reactivity," dated December 20, 1996, highlighted several events in which poor command and control during reactivity evolutions have led to unanticipated and unintended plant conditions (ADAMS Accession No. ML031050475).

DISCUSSION

One of the most important responsibilities of an on-duty licensed reactor operator and senior reactor operator is reactivity management in order to maintain the reactor in the desired condition, consistent with plant technical specifications, by properly anticipating, controlling, and responding to changing plant parameters. Reactivity management involves establishing and implementing procedures for operators to use in determining the effects on reactivity of plant changes, and to operate the controls associated with plant equipment that could affect reactivity. Although there is no specific NRC requirement, before conducting planned evolutions involving reactivity changes (e.g., power decreases and increases), many licensee reactor engineering staffs prepare a reactivity management plan that helps control room operators maintain the reactor in the desired condition by providing expected plant responses and expected alarms. Required training is expected to give licensed operators an understanding of facility operating characteristics during steady-state and transient conditions, including causes and effects of temperature, pressure, coolant chemistry, and load changes, as well as,

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operating limitations and their bases. Licensee post-transient reviews are important for determining the cause of transients or unexpected plant responses and for taking corrective actions, such as procedure changes and training, to prevent recurrence.

During one of the events discussed above, after the reactor became subcritical through xenon buildup and a reactor coolant temperature increase, operators delayed inserting control rods to establish adequate shutdown margin for nearly 2 hours. NRC IN 92-39 discusses an event in which, after the operators brought the reactor subcritical by inserting control rods, an inadvertent unplanned return to criticality occurred because operators delayed actions to continue inserting control rods while changing shifts. Although not specifically required, licensees may revise procedures and train operators so that, after the reactor becomes subcritical, the operators will proceed without delay to establish adequate shutdown margin by inserting control rods or adding boron.

CONTACT

This IN requires no specific action or written response. Please direct any questions about this matter to the technical contact listed below or to the appropriate Office of Nuclear Reactor Regulation project manager.

Timothy J. McGinty, Director
Division of Policy and Rulemaking
Office of Nuclear Reactor Regulation

Technical Contact: Geoffrey Miller
817-860-8141
geoffrey.miller@nrc.gov

Note: NRC generic communications may be found on the NRC public Web site, http://www.nrc.gov, under Electronic Reading Room/Document Collections.

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proceed without delay to establish adequate shutdown margin by inserting control rods or adding boron.

CONTACT

This IN requires no specific action or written response. Please direct any questions about this matter to the technical contact listed below or to the appropriate Office of Nuclear Reactor Regulation project manager.

Timothy J. McGinty, Director
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ADAMS Accession No.: ML101810282

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Criscione, Lawrence

From: Criscione, Lawrence
Sent: Monday, November 08, 2010 10:51 AM
To: Rosenberg, Stacey
Cc: Zimmerman, Roy; Monninger, John; Pedersen, Renee; Beaulieu, David
Subject: November 15th

Stacey,

Thank you for calling me this morning. I've copied Roy, John and Renee on this email just so they know that the IN regarding Callaway will not be issued until I've had a chance to discuss it with you and whomever else you wish to have involved in that discussion.

I am travelling to Washington next Monday morning. The earliest I will be able to meet is 13:00, but a later time might be better in case I run into any unexpected delays. I have no commitments on Monday afternoon so anytime after 13:00 will work for me.

With regard to the markups I gave to Dave, I am adamant that certain information be conveyed in the Information Notice. Specifically, I want it clearly stated that the NRC licensed operators allowed the reactor to passively shut down. I am flexible about how this is stated, as long as it is stated transparently and is not hidden in broad language. Everything else in the markups I provided to Dave I am neutral on. I believe - looking forward - nuclear safety will be well served if we suggest to utilities that they do not attempt to hold reactor power in MODE 2-Descending, but I am not adamant that this make it into the Information Notice.

At Dave's request, I provided a lot of input to him in the form of hard copies and avoided using email. As a result, I have no email record of some of what I provided Dave. I ask that at our meeting Dave bring my hardcopy input so we can discuss what, if anything, should make it into the Information Notice.

Please see the email below to Renee Pedersen. If we cannot come to an agreement about transparently stating that the reactor had been allowed to passively shut down, then I intend to use either the DPO or non concurrence process to get the issue evaluated at a higher level than just ourselves.

Information Notices are not designed to take the place of INPO Significant Event Reports, however when the utility is refusing to report to INPO a highly abnormal incident which has important lessons to be learned, then it is not out of line for us to address some items that would normally be addressed by INPO. The lessons to be learned about temperature-reactivity feedback and about human factors of power instruments at low power should all be addressed - but I am not adamant that we address them via this IN.

If you or Dave wish to speak with me prior to Monday, please call me on my cell phone and do not use my NRC voice mail.

Thank you for working with me to get this issue addressed,
Larry Criscione
(b)(6)

From: Criscione, Lawrence
Sent: Monday, November 08, 2010 8:25 AM

To: Pedersen, Renee
Cc: Zimmerman, Roy
Subject: DPO and Non Concurrence processes

Renee,

Late last winter (I believe it was January but may have been February or early March) I discussed an incident with Jose Ibarra which occurred at a nuclear plant I once worked at in Missouri. The incident involved an OI investigation during which plant operators misled the OI investigators. I went to Jose seeking information on the DPO process. After discussing the incident and concerns in length (well over an hour) Jose advised me that the DPO process did not apply because I was involved in the incident due to my work at the utility and not due to my employment at the NRC. I accepted that decision, but just for good measure Jose and I discussed it with you for about five minutes. You may remember that conversation, but if you don't Jose laid out for you a case on why it might meet the DPO (i.e. I am now an NRC employee and I have a differing professional opinion about how the NRC is handling an investigation) but in the end we (I accepted your and Jose's advice) decided that since the differing professional opinion was not part of my official job duties the DPO was not appropriate. Based on this decision, I went the route of a 10CFR2.206 petition.

Since last winter, some things have changed:

1. Since early May, I have been informally advised by several NRC peers that, although NRC employees are allowed to use the 10CFR2.206 process, it is expected that they find internal ways of addressing their concerns.
2. On August 13, 2010 the Chief Nuclear Officer of Ameren met with the EDO and one of his deputies to discuss the incident that was the basis for my concern (a passive reactor shutdown in 2003 at Ameren's Callaway Plant). I discussed this meeting with Mike Weber who told me that since I am now an NRC employee he expects me to work to ensure any safety concerns I have are professionally addressed, regardless of how I initially became involved with the concern.
3. In September, Eric Leeds told me I would get a chance to review and comment on an Information Notice being written regarding the 2003 Callaway Plant passive reactor shutdown. Although I was not told I would be formally placed on the review routing, I was told that I would be part of the review. Since then I have nominally been given the chance to review the document but none of my suggested edits were accepted and I have not been provided detailed information as to why any of the edits cannot be made. John Monninger has suggested that the "Non Concurrence" process should apply, but since I was not a formal reviewer a literal interpretation of the Management Directive would prevent me from using that process.

My dilemma is that since I am now an NRC employee, I do not believe it is appropriate for me to use methods I have had to resort to in the past (e.g. speaking with journalists, appealing to legislators, working with intervener groups). Although I recognized I am allowed to still use these methods, I never cared for using them in the past and continuing to use them degrades my working relationship with my NRC peers. I would like to use the DPO process to address my concerns. Please note that my concerns have evolved in the past four years. The utility's handling of the incident is no longer my chief concern. My chief concern is the NRC's inability to effectively deal with dishonesty on the part of the licensees.

If possible, I would like to meet with you in November or December to discuss the DPO and my options. In the meantime, if you believe my concerns regarding the IN meet the spirit of the "Non concurrence process", I would appreciate it if you could ask NRR to refrain from issuing their draft IN until I have had a chance to formally address my concerns through the Non Concurrence Process.

V/r,