



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

June 26, 2019

MEMORANDUM TO: Scott A. Morris, Regional Administrator  
Region IV

FROM: Ho K. Nieh, Director **/RA Michele Evans Acting for/**  
Office of Nuclear Reactor Regulation

SUBJECT: PLANS FOR ADDRESSING RECOMMENDATIONS FROM  
DIFFERING PROFESSIONAL OPINION DPO-2017-010  
RELATED TO A COOPER NUCLEAR STATION PROBLEM  
IDENTIFICATION AND RESOLUTION INSPECTION REPORT

By memorandum dated March 22, 2019 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML19123A035), the Division of Inspection and Regional Support (DIRS) was tasked with addressing the recommendations in differing professional opinion (DPO) 2017-010 (ADAMS Accession No. ML19078A362), which challenged the results of a problem identification and resolution (PI&R) inspection conducted by Region IV at Cooper Nuclear Station. The purpose of this memorandum is to communicate the plan for addressing these recommendations, which are listed below.

1. Clarify the regulatory requirements associated with licensee "operability determinations" and revise pertinent agency documents consistent with this clarifying information (i.e., inspection procedures, inspection manual chapters, et.al.).
2. Add guidance to Inspection Procedure (IP) 71152 that clarifies the regulatory requirements associated with trending "conditions adverse to quality" documented by licensees.
3. Consult with the Office of General Counsel (OGC) to clarify the intent and scope of Title 10 of the *Code of Federal Regulations* (CFR) Part 50, Appendix B, Criterion XVI, specifically as it relates to whether a licensee's corrective action program, and all its specific provisions, constitute regulatory requirements.
4. Develop clarifying guidance for 10 CFR Part 21, specifically with respect to what constitutes a "substantial safety hazard" to support future reportability assessments.

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5. Improve the process by which the US Nuclear Regulatory Commission (NRC) subject matter experts respond to inquiries from inspectors and license reviewers. For example, for each such inquiry, the process could entail a systematic mechanism that accurately documents the question being asked and the response provided and enables simple retrieval and review to enhance knowledge management and transfer.

In response to the March 22, 2019, memorandum, the staff plans to address the recommendations accordingly.

1. Recommendation 1 is currently being addressed by a working group that has been chartered to revise inspection manual chapter (IMC) 0326, "Operability Determinations & Functionality Assessments for Conditions Adverse to Quality or Safety." This working group is developing recommended changes to refocus the IMC on operability decisions as required by the regulations and remove sections that do not address operability or are not supported by regulatory requirements. Additionally, the working group is incorporating lessons learned from LaSalle as directed by memo from M. Johnson to H. Nieh and K. S. West, dated November 8, 2018 (ADAMS Accession No. ML18299A091). Changes are expected to clarify: 1) the distinction between corrective action versus operability determination, 2) that a component is either operable or inoperable, and 3) when ASME code compliance is required for operability. Substantive changes to IMC 0326 will be reflected in supporting and related documents such as inspection procedures.
2. The staff plans to charter a working group in the summer of 2019, responsible for a comprehensive review of IP 71152, "Problem Identification and Resolution." This working group will evaluate among other things, the regulatory requirements related to licensee trending of conditions adverse to quality in the corrective action program. The working group will develop guidance, if needed, to be added to the IP to assist inspectors in issues of trending conditions adverse to quality.
3. For recommendation 3, the staff consulted with OGC. The working group that will perform a comprehensive review of IP 71152 will consult with OGC during its assessment to determine if additional clarification of the intent and scope of 10 CFR Part 50, Appendix B, Criterion XVI is needed in the IP regarding regulatory requirements correlating to a licensee's corrective action program.
4. Recommendation 4 has been addressed in Regulatory Guide (RG) 1.234, "Evaluating Deviations and Reporting Defects and Noncompliance." RG 1.234 describes methods that the staff considers acceptable for complying with the provisions of 10 CFR Part 21, "Reporting of Defects and Noncompliance." RG 1.234 endorses NEI 14-09, "Guidelines for Implementations of 10 CFR Part 21 Reporting of Defects and Noncompliance," Revision 1 (ADAMS Accession No. ML16054A825). RG 1.234 was developed to: 1) incorporate previous guidance in NUREG-0302, "Remarks Presented (Questions/Answers Discussed) at Public Regional Meetings to Discuss Regulations (10 CFR Part 21) for Reporting of Defects and Noncompliance," 2) add additional clarity in the specific areas where issues have historically occurred, and 3) include experience gained from the nearly 40 years of complying with 10 CFR Part 21. Section 8 of NEI 14-09, Revision 1, provides a detailed description of the criteria for a substantial safety hazard, and evaluation methodology for determining whether a substantial safety hazard exists or could be created.

5. Recommendation 5 is currently being addressed by the task interface agreement (TIA) working group that has been chartered to revitalize the TIA program and develop a process for providing responses to technical requests that originate from anywhere in the Agency, including the regional offices. The process involves a graded approach for effectively and efficiently screening, evaluating, dispositioning and responding to inquiries, commensurate with the significance of the issue, in a timely manner. The working group responsible for this effort plans to implement the process by the end of calendar year 2019.

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