January 5, 1980

MEMORANDUM FOR: Roger Mattson

FROM: Guy Cunningham

SUBJECT: TMI ACTION PLAN -- PREREQUISITES FOR RESUMPTION OF LICENSING

At their meeting on January 4, the office directors were unanimously agreed that Commission approval of the recommendations of this paper should be obtained before their full implementation. There was disagreement, however, as to whether that approval should be in the form of a general statement of policy or one or more rules (made immediately effective as appropriate). OELD believes that the difference between the approaches should be highlighted and the consequences of the choice made clear. A good discussion of this subject is presented in Pacific Gas and Electric Co. v. FPC (D.C. Cir. 1974) 506 F.2d 33. In part, the Court said:

> The critical distinction between a substantive rule and a general statement of policy is the different practical effect that these two types of pronouncements have in subsequent administrative proceedings. A properly adopted substantive rule establishes a standard of conduct which has the force of law. In subsequent administrative proceedings involving a substantive rule, the issues are whether the adjudicated facts conform to the rule and whether the rule should be waived or applied in that particular instance. The underlying policy embodied in the rule is not generally subject to challenge before the agency.
>
> A general statement of policy, on the other hand, does not establish a "binding norm." It is not finally determinative of the issues or rights to which it is addressed. The agency cannot apply or rely upon a general statement of policy as law because a general statement of policy only announces what the agency seeks to establish as policy. A policy statement announces the agency's tentative intentions for the future. When the agency applies the policy in a particular situation, it must be prepared to support the policy just as if the policy statement had never been issued. An agency cannot escape its responsibility to present evidence and reasoning supporting its substantive rules by announcing binding precedent in the form of a general statement of policy.
>
> (Citations and footnotes omitted.)

In the present situation, utilization of a policy statement to announce the agency's intention to require implementation of the recommendations of this paper will mean that the proposed requirement will be a proper subject for litigation in every contested case before the issuance of any permit or license. OELD believes that immediately effective rules can be promulgated in the same

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period of time as a general statement of policy. Moreover, to the extent that the rules are merely "interpretive" of present regulations, they may be promulgated, as may a general statement of policy, without following APA rulemaking procedures.

Guy H. Cunningham, ~~III~~
Chief Regulations Counsel, OELD

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Attachment 2

ENCLOSURE 2

NEAR-TERM SCHEDULE OF TMI-2

ACTION PLAN EVENTS

Monday, January 7, 1980 9:00 a.m. - 5:00 p.m., H1042	Meet with ACRS Subcommittee (Action Item Managers attend in accordance with published schedule
Tuesday, January 8, 1980 9:00 a.m. - 12:00 p.m. (Noon) P422	TMI-2 Action Plan Task Item Managers' Meeting (all action item managers)
1:00 p.m. - 5:00 p.m., E/W (Room to be determined)	Briefing on TMI-2 Action Plan items needed to resume licensing (Designated RONS Branch Representatives, Designated Action Item Managers, selected people from Operator Licensing)
Wednesday, January 9, 1980 9:30 a.m. - 12:00 p.m. (noon) H1142	Commissioner Meeting on TMI-2 Action Plan items needed to resume licensing (all Action Item Managers)
2:00 p.m. - 5:00 p.m., E/W (Room to be determined)	Briefing on TMI-2 Action Plan licensee discussion program (same as meeting on 1/8/80 plus selected Licensing Project Managers for facilities to be visited, Regional representatives will be able to make airline flights after 6:00 p.m.)
C.O.B., E/W322	Action Item Managers submit copy of priority ranking number for cognizant sections.
Thursday, January 10, 1080 1:30 p.m. - 5:00 p.m., H1042	Meet with Full ACRS Committee on the entire TMI-2 Action Plan (All Action Item Managers)
Friday, January 11 thru Sunday, January 13, 1980	Action Item Managers revise their sections of the TMI-2 Action Plan in accordance with the guidelines presented on January 8.
Monday, January 14, 1980 a.m., P-422	Present revised Chapter I Action Items to Steering Group (appropriate Action Item Managers)
p.m., P-422	Chapter II
Tuesday, January 15, 1980 a.m., P422	Chapter III
p.m., P422	Chapter IV
January 16 & 17, 1980	Action Item Managers further revised their sections as appropriate based on Steering Group comments.

TMI-2 ACTION PLAN LICENSING RESUMPTION PREREQUISITES-LICENSEE ACTIVITY CROSSCUT

Title	Reference	Applicability	Already Approved	Comment
LICENSEE ORGANIZATION				
A. Plant Organization				
Safety Engineering Group	I.B.3.1	FL	New issue	Substantial licensee resources
a. Shift Technical Adviser	I.A.1.1	FL	STLL item	
b. Licensee Operating Experience Evaluation	I.E.1	FL	New issue	
c. Licensee Dissemination of Operating Experience	I.E.2	FL	New issue	
d. Reliability Assurance Program for Engineered Safety Features	II.C.1.8	~~FL~~ FP	New issue	
e. Quality Assurance				Not an NTOL item but could fit within S.E.G. organization

General Comment: The Safety Engineering Group has been visualized as an independent, on-site, multidisciplined engineering group of four to six people excluding the Shift Technical Advisers. The other functions listed, (b, c, d, e) could be included within the organization structure of the S.E.G.

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Title	Reference	Appli-cability	Already Approved	Comment
B. Shift Organization				
1. Shift Technical Adviser	I.A.1.1	FL	STLL item	
2. Shift Supervisor Duties	I.A.1.2	FL	STLL item	
3. Shift Manning	I.A.1.3	FL	New issues	SRO & RO always in Control Room, Operational/Administrative Aide, Restrictions on Overtime
4. Shift Relief & Turnover Procedure	I.C.1.2	FL	STLL item	
5. Written Responsibilities for Shift Personnel	I.C.1.3	FL	STLL item	
6. Control Room Access	I.C.1.4	FL	STLL item	
PROCEDURES				
A. Administrative Procedures				
1. Restrictions on Overtime	I.A.1.3(3)	FL	STLL item	
2. Shift Relief & Turnover Procedures	I.C.1.2	FL	STLL item	
3. Shift Personnel Responsibilities	I.C.1.3	FL	STLL item	
4. Control Room Access	I.C.1.4	FL	STLL item	
5. Dissemination of Oper. Experience	I.E.2	FL	New issue	
6. Technical Support Center	III.A.2.1	FL	STLL item	
7. Onsite Operational Support Center	III.A.2.2	FL	STLL item	
8. Near-Site Emergency Operation Center	III.A.2.3	FL	STLL item	
9. Upgrade Licensee Emergency Preparation Plans	III.A.3	FL	STLL item	

	Title	Reference	Applicability	Already Approved	Comment
B.	Operations Procedures				
1.	Procedure Modifications				
	a. Small Break LOCA	I.C.1.1(1)	FL	STLL item	
	b. Inadequate Core Cooling	I.C.1.1(2)	FL	STLL item	
2.	Vendor Review of Emergency, Low Power Test & Pwr Ascension	I.C.2	FP	New Issue	
3.	Special Training-Low Power Test Program	I.G.	FP	New Issue	
4.	Degraded Core Sampling	II.B.3	FP	STLL item	
5.	Emergency Power for Decay Heat Removal (Pressurizer Heaters)	II.E.3.1	FP	STLL item	
6.	Diverse Containment Isolation	II.E.4.3	FP	STLL item	
7.	Containment Purge/Purge Valves	II.E.4.5	FP	STLL item	
8.	Subcooling Meter	II.F.2(1)	FL	STLL item	
9.	Technical Support Center	III.A.2.1	FL	STLL item	
10.	In-plant Airborne Radioiodine Instruments	III.D.1.3(a)	FL	STLL item	
11.	Surveillance Testing for NON-ESF Filtration System	III.E.1.2(a)	FP	New issue	

Title	Reference	Applicability	Already Approved	Comment
C. Engineering Procedures				
1. Degraded Core Sampling	II.B.3	FP	STLL item	
2. Emergency Power for Decay Heat Removal & Pressurizer Heaters	II.E.3.1	FP	STLL item	
TRAINING				
A. Small Break LOCA and Inadequate Core Cooling	I.C.1.1	FL	STLL item	
B. Special Training During Low Power Test Program	I.G.	FP	STLL item	
C. Containment and Degraded Core Sampling	II.B.3	FP	STLL item	
D. Degraded Core - Training	II.B.4			
1. Establish Program		FL	New issue	
2. Complete Initial Training		FP	New issue	
E. Emergency Power for Pressurizer Heaters & Decay Heat Removal	II.E.3	FP	STLL item	
F. Containment Isolation	II.E.4.3	FP	STLL item	
G. Containment Purge/Purge Valve Operation	II.E.4.5	FP	STLL item	
H. Subcooling Meter Operation	II.F.2(1)	FL	STLL item	
I. Technical Support Center	III.A.2.1	FL	STLL item	

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	Title	Reference	Applicability	Already Approved	Comment
J.	Onsite Operational Support Center	III.A.2.2	FL	STLL item	
K.	Near-Site Emergency Operation Center	III.A.2.3	FL	STLL item	
L.	Emergency Preparedness Plans	III.A.3	FL	STLL item	
M.	In-plant Area Airborne Radioiodine Monitors	III.D.1.3(a)	FL	STLL item	
N.	Surveillance Testing of NON-ESF Filtration System	III.E.1.2(a)	FP	New issue	
	HARDWARE ADDITIONS/MODIFICATIONS				
A.	Relief and Safety Valve Position	II.D.1.5	FL	STLL item	
B.	Auxiliary Feedwater Auto-Start and Flow Indication	II.E.1.3	FL	STLL item	
C.	Emergency Power for Pressurizer Heaters & Decay Heat Removal	II.E.3	FP	STLL item	
D.	Install Diverse Containment Isolation Signal	II.E.4.3	FP	STLL item	
E.	Subcooling Meter	II.F.2(1)	FL	STLL item	
F.	Emergency Power for Pressurizer Relief Valves, Block Valves, & Level Indicators	II.G	FL	STLL item	
G.	Technical Support Center	III.A.2.1	FL	STLL item	
H.	On-Site Operational Support Center	III.A.2.2	FL	STLL item	

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Title	Reference	Appli-cability	Already Approved	Comment
I. Near-Site Emergency Operations Center	III.A.2.3	FL	STLL item	
J. Upgrade Licensee Emergency Preparedness	III.A.3	FL	STLL item	
K. Instruments for In-plant Airborne Radioiodine Level	III.D.1.3(a)	FL	STLL item	
CORPORATE ORGANIZATION				
A. Licensee Organization & Management Capabilities	I.B.1.1	FL	New issue	
LICENSEE ENGINEERING EFFORT				
A. Engineering Studies				
1. Mini IREP	II.C.1.1	FP	New issue	
2. Reliability Assurance of ESF Systems	II.C.1.8	FP	New issue	
3. RCS Relief & Safety Testing Program	II.D.1.1	FL	STLL item	
4. Reliability Analysis of AFW System	II.E.1.1	FP	New issue	
5. Control Room Habitability i.a.w. Existing Reg. Guide	III.D.2.1	FP	New issue	
6. Secondary Site Leakage & R/A Hazards From Major Accidents	III.D.2.2(b)	FP	New issues	

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	Title	Reference	Applicability	Already Approved	Comment
7.	Auxiliary Building R/A Leakage Reduction (Bldg. Exhaust Filtration)	III.D.2.2(c)	FP	New issue	
8.	Vent Gas & Leak Detection System Against New Criteria	III.E.1.1	FP	New issue	
B.	New Equipment Designs				
1.	Primary System Vent	II.B.1	FP	STLL item	
2.	Degraded Core Shielding	II.B.2	FP	STLL item	
3.	Degraded Core & Containment Sampling	II.B.3	FP	STLL item	
4.	Auxiliary Feedwater Auto-Start & Flow Indication	II.E.1.3	FP	STLL item	
5.	Emergency Power for Decay Heat Removal & Pressurizer Heaters	II.E.3.1	FP	STLL item	
6.	Redundant Dedicated Containment Penetrations for H_2 Recombiner (if needed)	II.E.4.1	FL	STLL item	
7.	Diverse Containment Isolation System	II.E.4.3	FP	STLL item	
8.	Subcooling Meter	II.F.2(1)	FL	STLL item	
9.	Vessel Water Level Indicator	II.F.2(2)	FL	STLL item	
10.	Emergency Power Supply for Pressurizer Relief & Block Valve & Level Indocators	II.G	FL	STLL item	
11.	Technical Support Center	III.A.2.1	FL	STLL item	

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	Title	Reference	Applicability	Already Approved	Comment
12.	On-site Operational Support Center	III.A.2.2	FL	STLL item	
13.	Near-Site Emergency Operations Center	III.A.2.3	FL	STLL item	
14.	In-plant Area Radioiodine Radiation Monitors	III.D.1.3(a)	FL	STLL item	

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ENCLOSURE 4

NRC MEETING WITH PACIFIC GAS AND ELECTRIC COMPANY

JANUARY 22, 1980

Diablo Canyon (Site)

Meetings

I. INTRODUCTION AND PURPOSE OF MEETING — D. Sternberg

II. ACTION PLAN LICENSING RESUMPTION PREREQUISITE ITEMS — D. Sternberg

A. Plant Organization (Corporate & Site)

1. Safety Engineering Group
2. Shift Organization

B. Corporate Organization (Corporate)

C. Procedures (Corporate & Site)

1. Administrative Procedures
2. Operations Procedures
3. Engineering Procedures

D. Training (Corporate & Site)

E. Modifications (Corporate & Site)

F. Engineering Studies (Corporate)

G. New Equipment Designs (Corporate & Site)

III. CLOSING COMMENTS — NRC STAFF

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ENCLOSURE 5

SUGGESTED ATTENDEES

(Both Meetings Held At Site)

CORPORATE MEETING

Vice President, Operations

Director, Operations

Manager, Licensing

Plant Manager + Staff as desired

Director/Manager, Engineering

Technical Adviser

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OPERATIONS MEETING

Shift Supervisor

SRO's

RO's