

UNITED STATES NUCLEAR REGULATORY COMMISSION

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PART IX

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EXHIBITS

2. The commitment to public meetings during the licensing process was reiterated in a Commission Policy Statement on recommendations for improving nuclear power plant licensing issued October 19, 1978, 43 FR 49082. See Exhibit 8. It is clear from this policy statement that the open meeting policy is applicable to the time period both prior to, and after, the docketing of a license application.
3. An additional Commission Policy Statement, 50 FR 41480, dated October 8, 1985, sets forth guidance for the conduct of meetings which involve coordination and exchange of technical information with personnel or organizations generally involved in the study of the nuclear industry. See Exhibit 9.
4. Guidance on requirements for notice of meetings and meeting summaries is provided in the Project Manager (PM) Handbook and Office Letters. This guidance generally requires a meeting notice for all meetings between the staff and the applicant. The meetings are open to the public to observe, but not participate.
5. Staff guidance for interacting with groups not composed strictly of Federal employees was provided in EDO correspondence, "Federal Advisory Committee Act," dated February 26, 1988. This guidance was issued to notify staff of the OGC's February 18, 1988 memo regarding Federal Advisory Committee Requirements II. See Exhibit 10. Additionally, on July 17, 1989, OGC issued an announcement concerning NRC's revised Advisory Committee Regulations (10 CFR Part 7). The OGC announcement provides a review of the major requirements and summarizes the salient provisions of the new regulations. This announcement is also at Exhibit 10.

July 11, 1995

H. NRC POLICY ON COMMUNICATIONS BETWEEN THE NRC AND LICENSEES

In 1991 the Commission established the NRC Principles of Good Regulation, a copy of which is attached for reference. As noted in the Principles, the Commission believes that good regulation must be transacted publicly and candidly and that open communications must be maintained with Congress, other government agencies, licensees, and the public. Regulatory actions should always be fully consistent with regulations and should be promptly, fairly, and decisively administered.

The Commission encourages and expects open communications at all levels between its employees and those it regulates. Licensees should feel unconstrained in communicating with the NRC. The Commission also expects that the NRC staff exercise initiative in maintaining open lines of communication and ensure that its regulatory activities are high quality, appropriate and consistent. The Commission recognizes that honest, well-intentioned differences in opinions between the staff and the licensee will occasionally occur, and therefore encourages open communications to foster an environment where such differences receive constructive and prompt resolution.

Open communication also extends to the reporting of perceived inappropriate regulatory actions by NRC staff when dealing with licensees. The Commission encourages licensees to provide specific information regarding such concerns.

The NRC will not tolerate inappropriate regulatory actions^{1/} by the NRC staff, nor will it tolerate retaliation or the threat of retaliation against those licensees who communicate concerns to the agency. NRC staff whose actions are found to be contrary to this policy could be subject to disciplinary actions in accordance with the NRC Management Directive 10.99, "Chapter 4171, Discipline, Adverse Actions and Separations," or in accordance with the Collective Bargaining Agreement Between the U.S. Nuclear Regulatory Commission and National Treasury Employees Union.

^{1/} Inappropriate regulatory actions include activities which exceed the agency's regulatory authority, involve improper application of agency requirements, or adversely affect the agency's regulatory functions.

Examples of inappropriate regulatory actions include, but are not limited to, unjustified inconsistent application of regulations and guidance by NRC staff or management that significantly affect licensee activities and inappropriate action on the part of NRC staff and management that disrupts effective communication with the licensee.



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

January 17, 1991

I. ***NRC PRINCIPLES OF GOOD REGULATION***

INDEPENDENT. Nothing but the highest possible standards of ethical performance and professionalism should influence regulation. However, independence does not imply isolation. All available facts and opinions must be sought openly from licensees and other interested members of the public. The many and possibly conflicting public interests involved must be considered. Final decisions must be based on objective, unbiased assessments of all information, and must be documented with reasons explicitly stated.

OPEN. Nuclear regulation is the public's business, and it must be transacted publicly and candidly. The public must be informed about and have the opportunity to participate in the regulatory processes as required by law. Open channels of communication must be maintained with Congress, other government agencies, licensees, and the public, as well as with the international nuclear community.

EFFICIENT. The American taxpayer, the rate-paying consumer, and licensees are all entitled to the best possible management and administration of regulatory activities. The highest technical and managerial competence is required, and must be a constant agency goal. NRC must establish means to evaluate and continually upgrade its regulatory capabilities. Regulatory activities should be consistent with the degree of risk reduction they achieve. Where several effective alternatives are available, the option which minimizes the use of resources should be adopted. Regulatory decisions should be made without undue delay.

CLEAR. Regulations should be coherent, logical, and practical. There should be a clear nexus between regulations and agency goals and objectives where explicitly or implicitly stated. Agency positions should be readily understood and easily applied.

RELIABLE. Regulations should be based on the best available knowledge from research and operational experience. Systems interactions, technological uncertainties, and the diversity of licensees and regulatory activities must all be taken into account so that risks are maintained at an acceptably low level. Once established, regulation should be perceived to be reliable and not unjustifiably in a state of transition. Regulatory actions should always be fully consistent with written regulations and should be promptly, fairly, and decisively administered so as to lend stability to the nuclear operational and planning processes.

J.

United States
Nuclear Regulatory Commission



EDO Procedure:

**Guidance for Management Resolution of
Inappropriate Regulatory Actions
By NRC Staff**

Office of the Executive Director for Operations
June 29, 1995

J.

GUIDANCE FOR MANAGEMENT RESOLUTION OF INAPPROPRIATE REGULATORY ACTIONS BY NRC STAFF

A. Purpose/Discussion

Avenues exist for any licensee employee or official to communicate with the Nuclear Regulatory Commission about staff regulatory actions that are perceived as inappropriate. These avenues include contact with regional and headquarters staff and management by telephone, through written correspondence and in face-to-face meetings. To augment those communication channels, this procedure establishes a formal process within the Office of the Executive Director for Operations (OEDO) for senior power reactor licensee managers (licensee officials¹) to report concerns involving perceived inappropriate regulatory actions by the NRC staff.

However, this procedure is not intended to prevent or inhibit any licensee employee or official from reporting perceived inappropriate regulatory actions by an NRC employee(s) to the regions, headquarters offices, or the Office of the Inspector General (OIG).

This procedure establishes guidance for the OEDO to receive, act on and resolve issues raised by licensee officials regarding perceived inappropriate regulatory actions by NRC staff, and is intended to be fair and objective in dealing with the NRC staff and the affected licensee organization. The Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research (DEDR), and the Chief, Regional Operations and Program Management Staff (CROS) have been designated as points of contact to facilitate the EDO's ability to resolve such concerns.

This procedure should be used to guide senior level NRC management in obtaining and evaluating reports of perceived inappropriate regulatory actions, in identifying and addressing NRC programmatic and personnel weaknesses, and in assuring that NRC regulatory functions are carried out effectively. Licensees are encouraged to provide specific information regarding the activities of concern, the identity of the affected NRC employee(s) and the identity of involved licensee officials and employees.

One of the primary means of addressing the cause(s) of inappropriate regulatory activities, should such a concern be substantiated, is to report the fact that such activities occurred, disclose the findings, develop recommendations and implement corrective measures to prevent similar occurrences. While the circumstances regarding a finding of inappropriate regulatory actions by an NRC employee(s) may be publicly disclosed, the identity of the individual(s) involved would remain confidential, to the extent permissible.

¹For the purposes of this process, senior power reactor licensee managers (licensee officials) include those persons who occupy the positions of plant manager and above.

B. Action

NOTHING IN THIS GUIDANCE IS INTENDED TO LIMIT LICENSEE OFFICIALS FROM CONTACTING THE OFFICE OF THE INSPECTOR GENERAL DIRECTLY TO REPORT FRAUD, WASTE, ABUSE OF AUTHORITY, OR OTHER WRONGDOING. OIG MAY BE CONTACTED DIRECTLY IN WRITING OR BY USING THE OIG HOTLINE (800-233-3497).

1. Upon receipt of information from a licensee official regarding perceived inappropriate regulatory actions by the NRC staff, the DEDR or the CROS will:
 - (a) Elicit and record as many specific details as possible about the claim of inappropriate action, including the name, mailing address, and telephone number of the licensee official and other individuals who might provide additional or corroborating information.
 - (b) Inform the licensee official that while their concern will be handled discreetly, the review may make it necessary to further involve the licensee official and other involved licensee employees, and the affected NRC employee(s) and other involved NRC employees in agency administrative actions should a serious NRC personnel issue arise.
 - (c) Inform the licensee official that the EDO will provide written feedback, if appropriate, on the disposition of the issue.
 - (d) Open a file regarding the concern.
2. The DEDR or the CROS will coordinate the resolution of the concern. The DEDR also may direct other agency managers to inquire into the concern. The following steps are guidance and are not necessarily intended to be implemented in the order listed.
 - (a) Prior to conducting inquiries, the DEDR or the CROS will discuss the matter with the Office of the Inspector General (OIG) to ensure that any issues under the OIG's jurisdiction are addressed.

Should the OIG indicate that it will initiate an investigation into any portion of the concern, further staff follow up in that area will be held in abeyance pending outcome of the investigation, unless the matter requires prompt staff action. The staff will coordinate with the OIG should prompt action in parallel with the OIG be deemed necessary.
 - (b) Inform the affected employee(s) of the issue(s) and obtain the employee's version of the events orally or in writing, as appropriate.

- (c) Advise the affected employee not to contact any licensee employee or official to pursue resolution of the issue.
 - (d) Decide whether the employee(s) should be assigned other work unrelated to the licensee and/or work activity identified in the concern pending resolution of the concern.
 - (e) Conduct further follow up actions, if any, to ascertain additional facts and to evaluate the significance of the issue, (e.g., interview licensee official(s), other licensee employees, and NRC co-workers, evaluate work patterns, etc.). Advise and consult with NRC management in the region and program offices as necessary and appropriate to resolve the concern.
 - (f) When the review is complete, the DEDR will:
 - (1) If the issue is found to be without merit, inform the employee(s), in writing, of that conclusion.
 - (2) If the issue is substantiated, develop recommendations, as appropriate, for corrective actions, and
 - (i) Develop a plan, including a schedule for implementation, to execute any remedial actions;
 - (ii) Advise the employee(s) of the findings; and
 - (iii) Initiate the corrective action plan.
3. The EDO will notify the licensee official in writing, if appropriate, indicating whether or not the issue was substantiated. Although the letter may indicate the corrective actions initiated resulting from a validated concern, no details of any personnel action should be included. A copy of all correspondence related to the issue will be placed in the designated EDO file.

II. GOVERNMENT AGENCIES

A. Guidance in Regard to DOE/NPC Relationships

This guidance was issued by the EDO on July 18, 1986 to establish a policy in regard to the release of information to DOE. See Exhibit 11.

B. Memorandum of Understanding between the Nuclear Regulatory Commission and the Department of Justice

The NRC and the DOJ entered into a Memorandum of Understanding to provide for coordination of matters that could lead both to enforcement action by the NRC as well as criminal prosecution by DOJ, and to facilitate the exchange of information relating to matters within their respective jurisdictions. See Exhibit 12.

C. Memorandum of Understanding Between the Nuclear Regulatory Commission and the Occupational Safety and Health Administration

The MOU between NRC and OSHA, effective October 21, 1988, delineates the general areas of responsibility of each agency, to describe generally the efforts of the agencies to achieve worker protection at facilities licensed by the NRC, and to provide guidelines for coordination of interface activities between the two agencies. See Exhibit 13.

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WASHINGTON, D.C. 20555-0001

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