AUG 31 1987

MEMORANDUM FOR: William H. Foster, Director, DRMA

FROM: Dale A. Powers, Regional Training Officer

SUBJECT: REQUESTED REGIONAL TRAINING

On various occasions in January 1987, Mr. Martin, Mr. Check, and I discussed with Mr. A. Spector (Office of Personnel) the need for conducting certain kinds of training in Region IV. The need for such training had been identified as a result of the review of the OIA report on Comanche Peak. Subsequent to that time, Mr. Spector sent us selected course descriptions, and 2 of those courses were chosen. The chosen courses were Conflict Resolution and Performance Management Workshop. We requested that Conflict Resolution be offered first. The workshop was held in March, however, we have to date been unable to arrange for the former course to be brought to the Region. Moreover, other courses that are EDO-required training per the NRC Mandatory Supervisory Development Program are to be completed no later than May 8, 1987. These courses are Supervising Human Resources, Management Workshop, Personnel Management Practices, and Critical Elements and Performance Appraisal. These courses have not been made available to Region IV personnel although your staff has been requesting such training since late 1986.

I request your assistance in arranging for these five courses (especially Conflict Resolution) to be made available to Region IV personnel.

Original Signed By
D. A. POWERS

Dale A. Powers
Regional Training Officer

cc:
R. Martin
P. Check

RIV:EO dlp
DAPowers:vsg
8/31/87

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

FEB 17 1987

Regional Office Policy Guide No. 0001, Revision 0

SYSTEM OF POLICY GUIDES AND NOTICES

A. Purpose:

To describe the system for issuing, revising, and superseding Regional Office Policy Guides (PG) and Notices (RON).

B. Discussion:

The system of PGs and RONs is designed to require a minimum of effort in writing, issuing, and filing PGs and RONs. Although copies of PGs and RONs will be provided to appropriate Region IV personnel, only one full set is required to be maintained in each Division and URFO. The master set will be maintained by the Regional Administrator's secretaries.

The subject areas covered by this system are shown in Enclosures 1 and 2; the distribution list codes are shown in Enclosure 3; and the standard format and content of PGs and RONs are indicated in Enclosures 4 and 5, respectively.

PGs and RONs should be brief and to the point and may be used to disseminate, implement, clarify, or amplify policy or other information contained in other NRC documents. Although distribution must adequately serve the purpose of the PG or RON, the least necessary distribution should be specified.

PGs and RONs are defined as follows:

- Policy Guides - Instructions, policies, procedures, or guidance intended to be of a permanent nature.

- Notices - Information of a temporary nature which is intended to inform the staff, but not to establish comprehensive policy for the staff to follow.

  However, RONs can be used to disseminate interim policy changes which will later be incorporated into the underlying Policy Guide. All RONs will contain either an established calendar date for cancellation or the statement, "This Notice remains in effect until superseded." Examples of subjects appropriately covered by an RON would include personnel actions, announcement or cancellation of an event or meeting, information regarding administrative services (e.g., travel, mail, files, and records), etc. RONs which pertain to, or further clarify, the same subject matter as a previously issued PG should reference the number and title of that PG in the 'Discussion' paragraph.

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C. Action

1. Creating Policy Guides/Notices

a. The contents of PGs and RONs are the responsibilities of the originating division or staff. Any employee may be assigned the responsibility for preparing a PG or RON; however, preparation, processing, and approval must be in accordance with this Policy Guide.

(1) General Practice Categories (0001-0099)

These PGs will be general expressions of desired or required practices for the staff to follow on selected subjects. They will not be as prescriptive as other PGs but will establish the approach this office is to use to broad issues. They will usually be prepared by the Office of the Regional Administrator.

(2) General Categories (0100 - 2600, 3200)

When a PG/RON impacts on the staff responsibilities or assigns action across divisional lines, the PG/RON will be routed through the affected division for their concurrence prior to being submitted to the Regional Administrator, or his designee, for signature.

Responsibility for determining and assigning the PG/RON general category numbers outside of a particular division or URFO is assigned to the RA secretaries.

(3) Unique Categories (2700 - 3100, 3200)

Additional subject categories have been added for division and URFO use. Basically, each division and URFO have been assigned a block of numbers to use when preparing PG/RONs unique to their particular office.

- When this number system is used simply to provide information to other division(s), it will be concurred in and signed by the originating division.

- When this numbering system is used to require coordination from another division(s), the PG/RON must be routed for the concurrence of the affected division(s) prior to being submitted to the Regional Administrator, or his designee, for signature.

Responsibility for determining and assigning PG/RON category numbers for a particular division or URFO is assigned to that division or URFO secretary.

(4) Training Policy Guides (4000)

These PGs will be used to document regional policy on specific issues and for which regional management wants those items addressed separate from general category Policy Guides.

b. After signature, the PG/RON will be sent to the RA secretaries for duplication and distribution, including those intended for division and URFO use. The original and concurrence copies of all PG/RONs will be maintained by the RA secretaries.

Since the PGs are only useful if they are kept current, the originator's division secretary will receive the division's copy on colored paper to assist that division in identifying all PGs that must be periodically reviewed (each 6 months) in order to assure that their PGs are current.

2. Revisions to, or Recommending Cancellation of PGs

a. RON 3200 may be used to either cancel a PG or make minor pen-and-ink modifications. Revisions to PGs may also be accomplished by reissuing the affected page(s) marked with a vertical line in the right margin next to that part which has been revised.

Procedures for processing revisions are the same as discussed in paragraph C.1, above.

b. After signature, the revised PGs will be sent to the RA secretaries for final processing.

D. Contact

Any comments or questions should be directed to the RA secretaries (ext. 290).

E. Effective Date

This PG is in effect when issued and supersedes Regional Office Policy Guide No. 0200, Rev. 3, dated March 27, 1986.

Robert D. Martin
Regional Administrator

Enclosures:
1. Listing of Subject Matter by Sequential Numbers
2. Listing of Subject Matter Alphabetically
3. Distribution List Codes
4. Standard Format for Policy Guides
5. Standard Format for Notices

DISTRIBUTION LIST: C

Regional Office Policy Guide
No. 0001, Revision 0

ENCLOSURE 1

LISTING OF SUBJECT MATTER BY SEQUENTIAL NUMBERS

0001 GENERAL PRACTICES

Safety Responsibility
Communications
Resolution of Issues
Other General Regional Office Operational Practices

0100 ORGANIZATION (GENERAL)

Office of the Regional Administrator
Division of Reactor Safety and Projects
Division of Radiation Safety and Safeguards
Division of Resource Management and Administration
Collateral Assignments
Delegation of Authority

0200 ADMINISTRATIVE SERVICES (GENERAL)

Reports and Correspondence
Mail and Reproduction
Files and Records
ADP Support
Property Control
FOIA and Privacy Act
Word Processing
Library Services
Telecommunications
Space
Blood Drive
Toy Drive
Combined Federal Compaign

0300 PERSONNEL (GENERAL)

Recruitment
Time and Attendance
Personnel, Reference, Appraisals, Promotions, and Transfers
Incentive Awards
Compensation
Handling of New Employees
Items of Interest

0400 TRAINING AND EMPLOYEE DEVELOPMENT (GENERAL)

Regional Training Sessions
Middle Management Seminars
Training Equipment
Regular Training Requirements and Responsibilities
Technical Qualification Program
Administrative Qualification Program
Study Tours
Career Development

0500 RESOURCE MANAGEMENT (GENERAL)

Budget
Contracts
Accounting
Purchasing
Travel
Imprest Fund
Resource Oversight

0600 PROJECT AND RESIDENT PROGRAMS (GENERAL)

Planning and Operations
Documentation
Files and Records
Intra Branch Assignments of Functional Responsibilities
Intra and Inter Branch Guidance
Assignment of Collateral Duties
Evaluations of Facilities

0700 ENGINEERING AND OPERATIONAL PROGRAMS (GENERAL)

Planning and Operations
Documentation
Files and Records
Intra Branch Assignments of Functional Responsibilities
Intra and Inter Branch Guidance
Assignment of Collateral Duties
Construction Appraisal Team (CAT)

0800 EMERGENCY PREPAREDNESS AND MATERIALS SAFETY PROGRAMS (GENERAL)

Planning and Operations
Documentation
Files and Records
Intra Branch Assignments of Functional Responsibilities
Intra and Inter Branch Guidance
Assignment of Collateral Duties
Rapid Dose Assessment

0900 SAFEGUARDS (GENERAL)

Planning and Operations
Documentation
Files and Records
Intra Branch Assignments of Functional Responsibilities
Intra and Inter Branch Guidance
Assignment of Collateral Duties
Inspector Credentials

1000 ENFORCEMENT (GENERAL)

Form and Content
Escalated Enforcement Activities
Confirmation Action Letters
Audits
Intra and Inter Region Coordination

1100 INVESTIGATIONS (GENERAL)

Form and Content
Files and Records
Program Requirements
Non-Program Requirements
Complaints and Allegations
External Investigations

1200 SECURITY (GENERAL)

Classified Material
Proprietary Information
Confidentiality of Complaints
Regional Office Security and Access
Accessibility of Correspondence and Property

1300 INFORMATION DATA PROCESSING SYSTEM - COMPUTER SYSTEM (GENERAL)

5520 System
Open Item Tracking System
Action Item Tracking System
Licensee Event Reports
DATA Communications
Procedures for Requesting Computer Information
Manpower System (RITS)
766 Information
Report Tracking System

1400 TECHNICAL AUDITS AND APPRAISALS (GENERAL)

Audits of Licensees, Enforcement History
Travel and Imprest Fund Audits
Audits of Branches
Audits of Inspector Activities
Audits of Contracts
Nonregional Audits

1500 EMERGENCIES, INCIDENTS, AND ACCIDENTS (GENERAL)

Regional Plans
Response Guidance
Handling and Filing of Facility Emergency Plans
Transportation of Licensee Materials
Staffing

1600 STATE AND AGENCY RELATIONS (GENERAL)

Meetings

1700 PUBLIC AFFAIRS (GENERAL)

Relations with Members of Public
Policies Concerning Inquiries from Communication Media and General Public
Seminars

1800 CONDUCT OF EMPLOYEES (GENERAL)

Conflict of Interest
Staff Performance
Performance in the Field

1900 COMMUNICATIONS (GENERAL)

Issuance of PNs
Maintenance of Telephone Logs
Inter Office Communications
Intra Office Communications
Division Meetings
Emergency Telephone Conversations

2000 DUTY OFFICER (GENERAL)

Responsibilities of Regional Duty Officer

2100 PERSONNEL AND OFFICE SAFETY (GENERAL)

Emergency Medical Aid

2200 INSPECTIONS (GENERAL)

Planning, Preparation, and Control
On-Site Activities
Documentation
Files and Records
Resident Program
Performance Appraisal Branch (PAB)
Safety Significance Issues
Technical Assistance

2300 REGIONAL COUNSEL (GENERAL)

2400 REACTOR LICENSING (GENERAL)

2500 MATERIAL LICENSING (GENERAL)

2600 OPERATOR LICENSING (GENERAL)

2700 OFFICE OF THE REGIONAL ADMINISTRATOR

Enforcement
Investigations
State and Agency Relations
Public Affairs
Regional Counsel

2800 DIVISION OF RESOURCE MANAGEMENT AND ADMINISTRATION

Administrative Services
Personnel
Training and Employee Development
Resource Management
Security Information
Data Processing Systems - Computer System
Technical Audits and Appraisals
Conduct of Employees
Communications
Personnel and Office Safety

2900 DIVISION OF REACTOR SAFETY AND PROJECTS

Project and Resident Programs
Engineering and Operational Programs
Communications
Inspections
Reactor Licensing
Operator Licensing

3000 DIVISION OF RADIATION SAFETY AND SAFEGUARDS

Emergency Preparedness and Materials Safety Programs
Safeguards, Security, Emergencies, Incidents, and Accidents
Duty Officers
Inspections
Materials Licensing

3100 URANIUM RECOVERY FIELD OFFICE

3200 POLICY GUIDE CHANGES

4000 TRAINING POLICY GUIDES

ENCLOSURE 2

LISTING OF SUBJECT MATTER ALPHABETICALLY

ADMINISTRATIVE SERVICES	0200
COMMUNICATIONS	1900
CONDUCT OF EMPLOYEES	1800
DIV. OF RAD SAFETY & SAFEGUARDS	3000
DIV. OF REACTOR SAFETY & PROJECTS	2900
DIV. OF RESOURCE MANAGEMENT & ADMINISTRATION	2800
DUTY OFFICER	2000
EMERGENCIES, INCIDENTS & ACCIDENTS	1500
ENFORCEMENT	1000
ENGINEERING & OPERATIONAL PROGRAMS	0700
EMERGENCY PREPAREDNESS & MATERIALS SAFETY PROGRAMS	0800
GENERAL OPERATIONAL PRACTICES	0001
INSPECTIONS	2200
INFORMATION DATA PROCESSING SYSTEMS - COMPUTER SYSTEMS	1300
INVESTIGATIONS	1100
MATERIALS LICENSING	2500
OFFICE OF THE REGIONAL ADMINISTRATOR	2700
OPERATOR LICENSING	2600
ORGANIZATION	0100
PERSONNEL	0300
PERSONNEL & OFFICE SAFETY	2100
POLICY GUIDE CHANGES	3200
PROJECT & RESIDENT PROGRAMS	0600
PUBLIC AFFAIRS	1700
REACTOR LICENSING	2400
REGIONAL COUNSEL	2300
RESOURCE MANAGEMENT	0500
SAFEGUARDS	0900
SECURITY	1200
STATE & AGENCY RELATIONS	1600
TECHNICAL AUDITS & APPRAISALS	1400
TRAINING & EMPLOYEE DEVELOPMENT	0400
URFO	3100

FEB 17 1987

ENCLOSURE 3

DISTRIBUTION LIST CODES

A -- RI' Secretarial Staff & Resident Clerical Aides

B -- Professional/Technical Staff

C -- A & B, plus Administrative Support Staff

D -- DRSP Staff only

E -- DRSS Staff only

F -- DRMA Staff only

G -- URFO only

FEB 17 1987

ENCLOSURE 3

DISTRIBUTION LIST CODES

A -- RIV Secretarial Staff & Resident Clerical Aides

B -- Professional/Technical Staff

C -- A & B, plus Administrative Support Staff

D -- DRSP Staff only

E -- DRSS Staff only

F -- DRMA Staff only

G -- URFO only

FEB 17 1987

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

ENCLOSURE 4
(5520: POLICY GUIDE FORMAT)

Regional Office Policy Guide No. 000, Revision 0

SAMPLE RPG FOR LOCATION OF SECTIONS

A. Purpose

This section will contain a short, concise statement on what the Policy Guide will accomplish.

B. DISCUSSION

This section will contain general background information relating to the need for the Policy Guide.

C. Action

This section provides the detailed guidance or procedural steps to be implemented and can also indicate assignments of personnel for accomplishing the Policy Guide.

D. CONTACT

This section will contain the following standard paragraph: "Suggestions or comments should be directed to TITLE (if possible) OR NAME OF CONTACT, EXT. ."

E. EFFECTIVE DATE

This section will contain the statement, "This Policy Guide is in effect when issued." If the Policy Guide is a revision, this section will contain the following statement, "This Policy Guide is in effect when issued and supersedes Policy Guide (NUMBER)."

Signature

Enclosure:
(Identified 2 spaces below signature)

Distribution List: (See RPG Enclosure 3)

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

ENCLOSURE 5
(5520: NOTICE FORMAT)

Regional Office Notice No. 0000 (NOTE: When updating/revising a current RON, use the following (DO NOT USE THE WORD REVISION): Regional Office Notice No. 0000(#)

SAMPLE RON FOR LOCATION OF SECTIONS

A. Purpose

This section will contain a short concise statement on what the Notice will accomplish.

B. Discussion

This section will contain general background information relating to the need for the Notice. If this Notice pertains to, or further clarifies, the same subject matter in a Policy Guide, this section should reference the number and title of that Policy Guide.

C. Action

If required, this section will be utilized as identified in Enclosure 4. If not required, identify "No action required; for information purposes only."

D. Contact

This section will contain the following standard paragraph: "Suggestions or comments should be directed to TITLE (if possible) OR NAME OF CONTACT, EXT. ."

E. Cancellation Date

All Notices will contain either a calendar date for cancellation using the statement, "This Notice is cancelled for record purposes on date " or the statement, "This Notice remains in effect until superseded."

Signature

Distribution List: (See RPG Enclosure 3)

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

MAR 31 1987

Regional Office Policy Guide No. 4016, Revision 0

TRAINING ISSUE: ACCURACY AND PERSPECTIVE DURING INTERVIEWS

A. Purpose:

To inform the staff of the uniform practice to be followed in the handling of the above issue.

B. Discussion:

Periodically, Region IV employees are requested to testify or are subpoenaed for depositions or testimony in private actions. All such requests or subpoenas should be coordinated with the Regional Counsel pursuant to Regional Office Policy Guide No. 2301. Region IV employees are also periodically called upon to officially give testimony in hearings, to be interviewed as part of an official agency investigation by OIA or OI, or to be interviewed by the media.

In all these situations, it goes almost without saying that the truth should be the primary objective. However, employees must be sensitive to the need to put statements in the proper perspective or context. Fragmented or incomplete statements can frequently be misleading and convey unintended conclusions or meanings inconsistent with a fully accurate picture.

Speculation should be distinguished from fact. Issues under question should be properly characterized as past, current, or potential issues and the safety significance or lack thereof should always be made clear. In other words, each employee's goal should be to have the interviewer or hearing audience come away from any interview or testimony situation with a true knowledge of the facts in the proper perspective and context of time, place, and safety significance. When questions are unclear, confusing or convoluted, employees should always obtain clarification before answering. Prepared testimony should receive supervisory and/or Regional Counsel review to ensure that these requirements are met.

Employees should always avoid the urge to ramble on about matters unrelated to the questions being asked. Such rambling is often motivated by the perceived need to fill silent voids created by the interviewer. This can frequently lead to an inaccurate perspective being placed on an otherwise accurate answer. In general, it is an error to presume that the questioner has sufficient knowledge or background experience to provide a balanced perspective of their own. The employee must attempt to provide that perspective to them. In doing so, it strengthens an employee's basis for criticizing any distortion of that perspective, since they can point to where it differs from what was said as opposed to what they hoped had been understood.

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C. Action:

All affected employees should adhere to the above practice starting on the effective date of this Policy Guide.

D. Contact:

Any questions regarding this Policy Guide should be directed to the Regional Counsel, (Ext. 271).

E. Effective Date:

This policy guide is effective upon issuance.

Robert D. Martin
Regional Administrator

Distribution List C

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

APR 10 1987

Regional Office Policy Guide No. 4013, Revision 0

TRAINING ISSUE: SHIPMENT OF QA RECORDS - POWER REACTORS

A. Purpose:

To inform the staff of the uniform practice to be followed in the handling of the above issue.

B. Discussion:

The shipment of QA records between organizations is a common occurrence. For example, a vendor or contractor may provide only a certificate of material compliance with minimal records for their supplied equipment at time of delivery or erection. The QA records maintained by the vendor or contractor are then shipped at some later date to the utility. An AE or NSSS may ship design records during the course of a project or, in some instances, be delegated to remain the repository of those records until needed.

The receipt of records is addressed in ANSI 45.2.9, "Requirements For Collection, Storage, and Maintenance of Quality Assurance Records for Nuclear Power Plants." ANSI 45.2.9 addresses protection of records in permanent and temporary storage but is relatively silent on what is required for physical protection of the records during shipment. There is, presently, no regulatory position relative to the protection of records in shipment. A record in shipment is not in permanent or temporary storage since it has been removed from a records storage area. Given that there are no explicit NRC requirements in this area, NRC inspections which review shipments of records need to judge whether the licensee or the shipper of the records utilized prudent measures as well as conforming to internal procedures that the licensee may have established. The inspector should consider the following general guidance when forming this judgement:

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Documentation

- Index and inventory records shipped
- Prepare an appropriate transmittal letter which should include the index and inventory
- Provide for a receipt acknowledgement

Packaging

- Provide protection as appropriate from moisture such as wrapping of the records in plastic sheeting or other waterproof material.
- Use proper discretion on type of container. For a small shipment a corrugated cardboard box is adequate. More substantial crating should be used for larger shipments.

Shipping

- Use a reliable means of transportation. For example documents difficult or impossible to replace could be shipped air freight, air express, or UPS. There should be proper coordination to assure timely pick up. It would likewise be acceptable to ship such documents direct by truck under a contractor's cognizance.
- More conventional means of transportation with lesser concern for loss may be used for records which have been duplicated.

C. Action:

All affected personnel should adhere to the above practice starting on the effective date of this Policy Guide.

D. Contact:

Any questions regarding this Policy Guide should be directed to the Training Officer (Ext. 195).

E. Effective Date:

This Policy Guide is in effect when issued.

Robert D. Martin
Regional Administrator

Distribution List C

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

APR 15 1987

Regional Office Policy Guide No. 4004, Revision 0

TRAINING ISSUE: FACTS VS OPINIONS/ASSERTIONS AND CONCLUSIONS IN INSPECTION REPORTS

A. Purpose:

To inform the staff of the uniform practice to be followed in the handling of the above issue.

B. Discussion:

An NRC inspection report could be defined as a formal report transmitted outside the regional office which contains the pertinent facts gathered by inspectors to substantiate significant findings identified during an inspection. You will note in this definition that the words "pertinent facts" are underscored. The most critical ingredients in an inspection report are the pertinent factual findings made by an inspector! For it is these factual findings that enable the staff and management to ultimately make a determination that the licensee is or is not in compliance with NRC requirements and commitments and what safety significance, if any, to associate with negative findings.

Management is keenly aware of the "grayness" that may shroud some of the inspectors' findings. It is, therefore, imperative that the inspectors call upon their technical expertise, experience and professional judgment to ferret out the factual information to be documented in an inspection report in support of unfavorable findings. It is recognized during the course of an inspection that inspectors may develop opinions that are held with confidence but can not be substantiated by positive knowledge or proof. These opinions and the assertions, concerns and recommendations that may develop from these opinions do not belong in an inspection report. Rather, these are matters that the inspectors must discuss with regional management for further analysis and possible followup action.

Concerning inspection findings, it should be recognized that there is a continuum that begins with fact and ends with the agency's regulatory conclusion. The middle ground between these two are assertions of fact. For example: an inspector finds a completed document with a signature space left blank. This is a fact. Arising from this might be the assertion of fact that the licensee failed to follow the procedure governing the activity covered in the document. The regulatory conclusion arising from this could be that there has been a breakdown in the licensee's controls for the activity in question. The inspector, supervisor and manager play a different role in this continuum. The

inspector develops facts. He suggests assertions of facts and recommends the regulatory conclusions that the agency should arrive at, i.e., enforcement. The supervisor reviews the facts to determine if the assertion of fact is warranted and concurs in the recommendation for regulatory conclusion. Regional management review the facts and the assertions of fact and determine agency action, i.e., regulatory conclusion.

One of the most important professional obligations inspectors have in support of the inspection process is to discuss their opinions, concerns, assertions and recommendations with regional management upon completion of an inspection. It is through this interface that reasonable conclusions may be developed regarding 1) the safety significance of findings (e.g., the margin of safety was not reduced, slightly reduced, significantly reduced or plant is, or may be, unsafe to operate) 2) the appropriate enforcement action that should be taken or recommended (e.g., enforcement conference, escalated enforcement, appropriate severity level for violations, combining the same kind of violations into one with multiple examples) 3) other actions as deemed appropriate. The agreed to conclusions drawn from these discussions ultimately become those endorsed by regional management. It is, therefore, appropriate for regional management to convey these conclusions to the licensee by means of the management letter that transmits the inspection report.

In summary, the pertinent factual inspection findings belong in the inspection report. The regional opinions, concerns, assertions and recommendations belong in the transmittal letter issued over the signature of the appropriate level of management.

Whenever an inspector believes his or her findings are not being adequately considered by management and additional review of the matter is necessary, regional management considers the individual to be under a positive professional obligation to utilize the process addressed in Regional Office Policy Guide No. 2201.

C. Action:

All affected personnel are to adhere to the above practice starting on the effective date of this Policy Guide.

D. Contact:

Any questions regarding this Policy Guide should be directed to Director, Divison of Reactor Safety and Projects (Ext. 106).

E. Effective Date:

This Policy Guide is effective upon issuance.

Robert D. Martin
Regional Administrator

Distribution List C

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

APR 21 1987

Regional Office Policy Guide No. 4015 Revision 0

TRAINING ISSUE: 10 CFR 50.55(a) RULE

A. Purpose:

To inform the staff of the uniform practice to be followed in the handling of the above issue.

B. Discussion:

During the course of construction inspections, and occasionally during operating plant modification inspections, it is necessary for the inspector to determine which code is applicable to the work being done. The inspector should become familiar with 10 CFR 50.55(a) "Codes and Standards," (the Codes and Standards Rule). While the requirements of the "Codes and Standards Rule" take precedence over codes and standards identified in the license application, the licensee must also conform to other additional commitments, if any, identified in the license application that exceed the applicable code requirements.

The "Codes and Standards Rule" requires that structures, systems, and components shall be designed, fabricated, erected, constructed, tested, and inspected to quality standards commensurate with the importance of the safety function to be performed. It requires that systems and components of boiling and pressurized water cooled nuclear power reactors must meet the requirements of the ASME Boiler and Pressure Vessel Code as specified in the rule. The protection systems of a nuclear power reactor of all types must meet the requirements of the Institute of Electrical and Electronic Engineers Standard "Criteria for Protection Systems for Nuclear Power Generating Stations" (IEEE 279) as specified in the rule.

The determination of the effective code version is based on the date the construction permit is docketed or issued, the component order date, or the date of operating license issuance as specified in the rule. More recent codes and addenda may be utilized as specified in the rule. When the more recent versions are used, then all related requirements of the respective editions or addenda are to be met. This applies to both the ASME codes and the IEEE 279 standard. It is intended that earlier codes and addenda not be used except when formally requested under hardship by the licensee from NRR. The IE Manual Chapter guidance section states that

B.6

if ordered components meet the "Codes and Standards Rule", but do not meet the licensing commitments, no citation is in order unless the licensing commitments include additional, more stringent requirements. That is, the licensee is in compliance when he uses a later code addenda (which is accepted by 10 CFR 50.55(a)) than that specified in the FSAR as long as any additional requirements are also adhered to.

The rule is periodically updated with regard to applicable codes and addenda. As of January 1, 1986, the rule recognizes Section III of the ASME Boiler and Pressure Vessel Code (BPVC), Division 1 through the 1983 Edition and addenda through to summer 1983 addenda. There have been no revisions to IEEE 279 since June 3, 1971 (IEEE 279-1971); however, later subsequent editions or revisions are acceptable when they become effective as specified in the rule.

The use of code cases is acceptable if they have been identified by the Commission staff in NRC Regulatory Guide 1.84 "Code Case Acceptability - ASME Section III Design and Fabrication" and NRC Regulatory Guide 1.85, "Code Case Acceptability - ASME Section III Materials" The use of other Code cases may be authorized by the Director of the Office of Nuclear Reactor Regulations upon request by the licensee pursuant to the Rule.

If in the course of an inspection, an inspector is uncertain as to the applicability of the "Codes and Standards Rule," then clarification should be requested through his section chief from the Reactor Safety Branch.

C. Action:

All affected personnel are to adhere to the above practice starting on the effective date of this Policy Guide.

D. Contact:

Any questions regarding this Policy Guide should be directed to the Chief, Reactor Safety Branch (Ext. 145).

E. Effective Date:

This policy guide is in effect when issued.

Robert D. Martin
Regional Administrator

Distribution List C

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
ARLINGTON, TEXAS 76011

APR 21 1987

Regional Office Policy Guide No. 4021, Revision 0

TRAINING ISSUE - CITING OF "NITS"

A. Purpose:

To inform the staff of some general principles to be applied when assessing whether or not to issue a citation for an inspection finding of a minor nature (nits).

B. Discussion:

Occasions periodically arise where an inspector will identify inspection findings which are of such a nature that he or she questions whether the intent of the regulatory requirement has been violated and questions whether any purpose is served by issuing a formal citation. These instances come under the general heading of citing of nits or de minimus violations. This is an area in which it is easier for management to discuss general principles and philosophical approaches than it is to provide a well-defined recipe by which specific cases can be evaluated.

When determining whether a particular inspection finding is of such minor consequence that it is of questionable value to cite, there are three essential ingredients that must to be satisfied. They are that the safety significance of the findings must be essentially nonexistent, it must not be a recurring problem, and the finding is not symptomatic of a more fundamental flaw in the licensee's program that is in need of improvement.

The more safety significant issues cannot be considered as items for which no citation will be offered. For example, many Severity Level I, II and III violations are not repetitive in nature or frequently occurring, yet they are clearly of regulatory and safety significance and must be cited. Therefore, whether the issue is of de minimus character would certainly force us into a Severity Level IV or V type of violation.

For example, consider a case where specific procedural adherence is a regulatory obligation of a licensee and a condition is identified where a licensee has failed to follow, or perhaps document, a step in a procedure. If this is not seen as a repetitive problem since no other evidence is found in a review of other activities, and no substantive safety consequences arose from the particular case of the missed step, then such a set of circumstances may be worthy of comment by the inspector to the licensee but not deserving of a citation as a violation of regulatory requirements. However, the perspective changes if there should be a pattern or an increasing rate of frequency of missed steps in procedures, or the missed step had consequences which forced the licensee's employees to take unique actions to recover a safe set of circumstances. Under those circumstances, corrective action to preclude it from recurring is of greater importance than in the prior case. In such instances the licensee

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should be cited to assure those corrective actions are taken and for NRC to be able to evaluate whether or not those corrective actions are adequate to achieve the desired goal.

C. Action:

Inspection personnel who believe they have inspection findings which they do not believe should be cited as violations must identify those issues to their immediate supervisors and receive concurrence on their handling. Inspectors are cautioned against making these kinds of decisions totally on their own without discussion with line management.

D. Contact:

All questions regarding this Policy Guide should be referred to the Enforcement Officer (Ext. 195).

E. Effective Date:

This Policy Guide is effective on issuance.

Robert D. Martin
Regional Administrator

Distribution List C

UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION IV
611 RYAN PLAZA DRIVE, SUITE 1000
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APR 21 1987

Regional Office Policy Guide No. 4008, Revision 0

TRAINING ISSUE: QUALITY ASSURANCE (QA) RECORDS VERSUS IN-PROCESS DOCUMENTS

A. Purpose:

To provide the staff with an understanding of and guidance relative to, distinguishing between in-process documents and QA records, and the roles of the owner, onsite prime contractors, offsite prime contractors, and offsite vendor from the time a working document is initiated until finalized as a QA record.

B. Discussion:

NRC Regulatory Guide 1.88 endorses the definition of a record provided in ANSI N45.2.9 which is as follows:

> Quality Assurance Records - Those records which furnish documentary evidence of the quality of items and of activities affecting quality. For the purposes of this standard a document is considered a quality assurance record when the document has been completed.

This concept of a record is contrasted with "in-process document" which is a working document that is incomplete because the work activity is incomplete; e.g., engineering change request/notice still outstanding; inspection report needs to be finalized, nonconformance report exists and needs to be dispositioned.

In this context, a working document first serves or supports the purpose of controlling work and when completed is stored in an appropriate facility to provide lasting evidence of the quality of the work product.

In those cases where the planned work activity is controlled by a singular document, the inspector can easily determine whether that document is an in-process document or a record by its state of completion. For example, a surveillance test procedure is an in-process document during the testing and documentation but becomes a record when it is completed, signed and reviewed. The record should be transmitted to the storage facility in accordance with licensee procedures for such records.

The determination of whether a document is a "record" or "in-process" become much less obvious as the work activity becomes more complex. For example, a licensee may choose to document a complex work activity by utilizing a variety of documents. A complex preoperational test or construction activity may involve a series of discrete activities, each of which is controlled and documented by their own procedure. Individual

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instrument calibration procedures may be used and the results reviewed and approved as intermediate steps in the more complex activity. The simple completion of that discrete activity does not make the resultant calibration document a record in the sense that this policy guide discusses such records. This discrete activity document is now merely a part of the larger work activity in-process documentation and must be appropriately handled as such. Clearly, the licensee's procedures must address this matter in an unambiguous fashion.

A further complication arises when quantities of QA records must be removed from permanent storage facilities in order to facilitate work, such as comes from modifications due to design changes. This is permissible; however, when QA records are mixed with or used in conjunction with incomplete in-process documents, the documents revert to "in-process" status and must be controlled as such. This does not mean that at the end of each work day that the QA records portion of this work activity must be returned to formal storage. It does require, however, that prudent measures be taken to prevent loss.

Some licensees have an additional "category" of QA records/documents. These are QA records contained in "working files." Working files should be covered by the licensee's QA procedures and allow for holding certain categories of records outside of permanent storage for a period of time during which they may be needed while conducting on-going activities at the plant.

The roles and responsibilities of the various organizations concerning QA records and in-process documents, should be outlined in Chapter 17 of the FSAR and their QA Manual. The licensee has overall responsibility for the records for the project and, if functions are delegated, he must assure through audits that the support organizations are fulfilling their delegated responsibilities.

C. Action:

Inspection personnel reviewing document control practice of power reactor licensee should be cognizant of the perspectives contained above.

D. Contact:

Suggestions or comments should be directed to the Training Officer (Ext. 195).

E. Effective Date:

This Policy Guide is in effect when issued.

Robert D. Martin
Regional Administrator

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Regional Office Policy Guide No. 4009, Revision 0

TRAINING ISSUE: Inspection of the Applicant's Construction Deficiency Reporting System

A. Purpose:

To provide the regional staff with a uniform understanding and guidance concerning the inspection and closeout of 50.55(e) deficiencies reported to NRC.

B. Discussion:

Construction deficiencies are items that the applicant must report to the NRC in accordance with 10 CFR Part 50.55(e). An extensive discussion of the regulation and positions taken by NRC staff on this matter are contained in the "10 CFR" section of the Inspection Manual. All inspection personnel involved with inspecting power reactors under construction should review and familiarize themselves with this guidance. This guidance mentions, in the case of 10 CFR 50.55(e) reporting, that in accordance with 10 CFR 50, Appendix B, procedures be established and implemented and records be maintained to demonstrate that adequate evaluation analysis of all deficiencies were made regarding the impact on safe operations. In addition, means to do this should be an integral part of each licensee's QA program.

Specific inspection requirements and guidance are contained in IE Inspection Procedure 92700. It requires that selected 50.55(e) deficiencies be inspected. As the plant under construction approaches licensing and fuel loading, Inspection Procedure 94300 requires the region to report on the status of construction activities which includes the status of construction deficiency reports.

The above guidance and requirements identify a need to inspect construction deficiency reporting, and the methods chosen must include inspection of a sufficient number of deficiencies to gain reasonable assurance that the applicant's system is properly identifying, reporting and correcting significant deficiencies.

The review, inspection, and closeout of construction deficiency reports shall be consistent with the following practices while satisfying the particular requirements of Inspection Procedure 92700.

1. 50.55(e) reports received by the Region shall be routed to the assigned project inspector. The report content will be reviewed to assure the deficiency, safety significance analysis, corrective action and schedule, and unit applicability is adequately described as is appropriate depending on whether this is an initial or final

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report. The project inspector shall be responsible for tracking 50.55(e) reports submitted to the regional office. (RPG No. 1303)

The project inspector will enter the report into the Outstanding Items List for the facility when the first report is received.

2. An annual inspection for the sole purpose of evaluating the applicant's system for reporting is not required. The implementation of procedure 35100, or its predecessor equivalents, should have verified that a suitable system was established. Implementation of the record review modules of the inspection program will add assurance that deficiencies are being identified and evaluated. The detailed inspection of specific 50.55(e) reports will add further assurance that NRC has a good overall knowledge of the viability of the licensee's program for identifying, correcting, and reporting, where appropriate, construction deficiencies. Moreover, the regular involvement of the resident inspector with onsite activities will provide regional management with an awareness of procedural changes which could impact the deficiency handling systems. Changes which may decrease effectiveness but have not resulted in examples of violations should be discussed with the licensee.

3. The deficiencies selected for inspection shall be evaluated by reviewing the records to determine prompt notification, reporting, correction and by physically observing the correction of deficiencies in final design, construction/damage or deviation from performance specifications. The inspector can verify correction of QA deficiencies by observing how well the new QA controls are formulated and implemented.

   It is important that these inspections be performed by inspectors with appropriate technical backgrounds. These inspections are for the purpose of verifying that the licensee has taken adequate actions as well as having followed this process for establishing the actions.

4. There is no specific requirement that the applicant identify in the 50.55(e) report the base document (e.g., nonconformance report number) which first recorded the deficiency; however, it is useful to cross-index the reported deficiency to a specific QA or project record that may otherwise be difficult to find. This allows one to go directly from the 50.55(e) report to the records facility to review the nonconformance (NCR), design deficiency (DDR), inspection (IR) or test report (TR) which documents the deficiency and corrective action. Several other record keeping options are available. The applicant may elect to maintain all documentation pertaining to each reported deficiency in a single file as opposed to many project files. The method used is not important, as any of these

methods will allow the applicant and the NRC inspector to retrieve such documentation and proceed to inspect the hardware in the plant. Timely discussions should be conducted by DRSP management with the utility management to provide a good understanding of the importance of an efficient documentation and status system to permit timely closeout of these reports by NRC before the licensing decision for the plant.

5. 50.55(e) reports can be closed in an inspection report and in the regional OIL whenever the follow-on corrective actions are under the control of a licensee corrective action system. The inspector and supervisor must have sufficient confidence that the corrective action system will execute the actions effectively. Otherwise, the issue should be held open until the work is directly verified.

C. Action:

All inspections of construction deficiency reports should be consistent with the practices described above.

D. Contact:

Any questions regarding this Policy Guide should be directed to the Training Officer.

E. Effective Date:

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Regional Administrator

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Regional Office Policy Guide No. 4011, Revision 0

TRAINING ISSUE: Enforcement of Applicant/Licensee Policies

A. Purpose:

To provide the staff with guidance relative to enforcing licensee policies.

B. Discussion:

Licensees frequently issue policies which outline or mandate a definite course of action adopted for the sake of expediency, facility, etc. with regard to the conduct of their activities. Periodically, the issue arises as to whether NRC identified violations of such policies constitute violations of regulatory requirements, specifically Criterion V of Appendix B to 10 CFR 50.

The critical issue that must be evaluated is whether that policy was promulgated by the licensee to satisfy a specific regulatory requirement such as a regulation, their required Quality Assurance Program, or a license condition. There are several policies in existence which, while within the general juris-diction of NRC, are known to not be subject to specific enforcement. Presently, the most well known of these are the fitness for duty programs and enhanced training programs that have been instituted at all power reactors.

Even when the policies or practices are not related to regulatory activities, it is an important indicator of the licensee's capability to manage plant activities when such policies or practices are not followed. When this is found to be the case, it should be brought to the licensee's attention and he should be informed that it is our expectation that licensee's should assure that policies and desired practices are either followed or changed to reflect actual practices.

When an inspector identifies licensee policies which are not being followed, he must determine if the policy violations represent actions which are in conflict with regulatory requirements or commitments. If so, enforcement or administrative actions directly against those requirements or commitments are appropriate.

Should an inspector believe that a policy has been issued which, if followed, could lead the licensee to violations, the matter should be discussed with their supervisor who, after review, should discuss the matter with licensee management and urge appropriate revisions. If actions by our first level supervisor are unsuccessful in achieving a revised licensee policy, then the matter should be brought to the attention of the next level of regional management and possible formal correspondence considered.

C. Action:

NRC inspectors should follow the practice discussed above when dealing with licensee policies that may lead to noncompliance or appear to have been violated and have safety significance.

D. Contact:

Suggestions or comments should be directed to the Training Officer.

E. Effective Date:

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Regional Administration

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(III)

APR 28 1987

Regional Office Policy Guide No. 4010, Revision 0

TRAINING ISSUE: MISSED WINDOWS OF OPPORTUNITY FOR INSPECTION - POWER REACTORS

A. Purpose:

To provide the staff with guidance relative to performing and documenting inspections of applicant or licensee safety-related work activities where the window of opportunity to inspect against the inspection requirements of a particular inspection module has been missed.

B. Discussion:

Manual Chapters (MC) 2511, 2512, 2513, 2514 and 2515 prescribe inspection programs for preconstruction, construction, preoperational and startup testing and operations. The inspections required by these various programs should be timely and performed during the prescribed windows of opportunity. The windows of opportunity are defined as those time intervals when certain work activities are to be directly observed. The requirement to review licensee and contractor procedures before the work begins, observe work while it is in progress, and review records from the time work begins to the end provides additional assurance that the work product is acceptable. The various manual chapters state that the inspector shall directly observe and independently evaluate work in progress and completed work to determine compliance with requirements and commitments.

On occasion, the window of opportunity for an inspection will have to be missed because of competing priorities. Such cases will be specifically approved by the section chief and noted to management through the master inspection schedule. In these cases, the inspector must observe completed work and rely more heavily on records which document in process control of work activities and completed work. If the work is inaccessible, only the records can be reviewed and the adequacy of those records become critical as this is the primary means by which the inspector can determine compliance without requiring the licensee to resort to extraordinary measures.

These considerations make inspection during the window of opportunity important; however, if the window was missed, the overall work activity can still be reviewed to provide a basis to evaluate whether it was technically sound or if corrective action will be required. This is based on several related factors:

- The procedures that were used and the records of completed work will still be available.
- Any QC records or QA audits of the work activities will be available.
- Personnel who conducted the work may still be available onsite to interview.
- The records of the qualifications of the personnel who performed the work will be available.

Therefore, when the window of opportunity is missed, several steps can be taken at a later time. It is important that records related to the activity be reviewed as early as possible.

The assigned inspector shall perform suitably modified inspections when the window of opportunity to inspect is missed. This can be done by reviewing procedures, observing completed work where possible, and reviewing records. Interviews of personnel should be included in the inspection whenever the records appear deficient to support a finding as to the adequacy of the work. The text of the inspection report should note that the inspector was unable to directly observe the activity but should then go on to discuss the actions taken by the inspector to support his findings.

Text of the following type is acceptable:

"The inspector reviewed activities in the area of _____. Normally, this inspection activity includes the direct observation of work activities. Because of competing priorities [or some other brief phrase to generally characterize the nature of the cause of missing the window of opportunity], the inspection was initiated after work completion. Therefore, the inspector was unable to directly observe the work in progress, but the following activities were conducted:

- Records reviews included _____, _____, etc.
- Personnel qualifications _____, etc. were reviewed.
- QC surveillance reports _____, etc. were reviewed.
- QA Audit reports _____, _____, etc. were reviewed.

Based on this review, the inspector identified _____ [summary of inspector findings].

When the inspection is concluded, the IE Module can be reported as "closed" but, in accordance with MC 0535, it is appropriate that the the percentage completed be reported in the 766 data system as less than 100%. As stated in MC 0535, the "percentage complete" should be determined by the inspector forming a judgement about the additional inspection time that would be needed to do the uninspected activities, had that been possible. The "percent complete" will be the time spent divided by the sum of the time spent and the estimated additional time that would have been needed.

C. Action:

Inspection personnel should follow the practices in this Policy Guide when it is applicable.

D. Contact:

Suggestions or comments should be directed to the Training Officer (Ext. 195).

E. Effective Date:

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Robert D. Martin
Regional Administrator

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Regional Office Policy Guide No. 4007, Revision 0

TRAINING ISSUE: INSPECTION OF APPLICANT/LICENSEE RECORDS - POWER REACTORS

A. Purpose:

To provide the staff with an understanding of the role of the licensee's record system and its use in the regulatory process, the extent to which NRC inspectors should become familiar with the mechanics of that records system, and the retrieval and assembly of records for inspectors during inspections.

B. Discussion:

This Policy Guide is written with a heavy emphasis on power reactor requirements, but the general practices are applicable to all records review activities.

The function of the NRC inspector is to verify applicant/license (licensee) compliance with NRC regulations and their license including Technical Specifications and commitments in the Preliminary Safety or Final Safety Analysis Reports (PSAR/FSAR), or other commitments in writing to the NRC. To perform this function, the NRC inspection program includes reviews of records systems as well as reviews of records generated by various licensee organizations that perform safety-related work activities (e.g.; procurement, construction, operation, and quality assurance organizations).

A review of the Preliminary/Final Safety Analysis Report (PSAR/FSAR), top tier QA manual, technical specifications and implementing procedures, is necessary to understand the individual licensee's records system and the importance of specific records. It is imperative that inspectors recognize that the licensee has no additional obligation to collect, store, or maintain records in a form or at a location to satisfy the preferences of NRC inspectors.

Different approaches to implementing the requirements should be expected. However, the following subjects are common to establishing and maintaining any record system: defined organizational responsibility with regard to licensee responsibility and, where appropriate, those functions delegated to contractors; retention requirement categories (lifetime vs nonpermanent); receipt control in a timely/controlled manner and record status; storage, preservation, and safekeeping facilities (including

permanent and temporary facilities); procedures describing such control, storage, and protection as well as periodic surveys and audits of the system; retrieval mechanisms and controls; and controls over the release of records from or between storage facilities or organizations. The inspection program provides the means to evaluate the adequacy of the administrative controls and storage facilities by periodically observing the implementation of those controls relative to records of work activities. For sites under construction, the basic system is evaluated through Module 35100 or its equivalent. Similarly, Modules 39701 and 39702 perform the same function for sites in operation. The several inspection modules which call for records reviews as part of the inspection activity, coupled with the onsite familiarity with the systems available through the resident inspectors provides NRC with a suitable basis for evaluating licensee record systems. Should problems arise, independent inspection effort or directions from the regional supervision can cause more detailed evaluations to take place.

The inspector charged with an inspection of records should review the site specific PSAR/FSAR, top tier QA manual, technical specification and implementing procedures used by the licensee or site contractor (if such responsibilities are delegated). If the licensee delegates record keeping functions, the NRC inspector should assure that the licensee at least describes in the QA manual/procedures the functions delegated to contractor organizations, locations of permanent and temporary storage areas, and how those records are received, stored and protected.

The inspector should become familiar with the permanent and temporary QA record facilities where he may request, obtain and review QA records to satisfy his inspection requirements. The licensee is only obligated to meet their requirements and commitments. The inspector should expect no special collection of records or consideration for routinely retrieving records for his convenience.

R.G. 1.88 and ANSI N45.2.9 are not specific with regard to document retrieval; however, a QA records system should be in place which can provide information in a time frame commensurate with the need. At this point, an inspector must rely on judgement to determine what constitutes reasonable retrieval capability and performance.

The importance of records depends on several things. Prior to an applicant's receipt of an operating licensee, records of safety-related activities are important for supporting the applicant's statement that conditions for the license have been satisfied. If records of inaccessible work are destroyed, lost or deteriorate substantially, establishing the quality of the work activity after the fact becomes difficult in the event a question is raised.

The records at operating plants include those generated during the construction phase, some of which must be maintained during the life of the plant and those generated during subsequent operation and modification of these plants. ANSI N45.2.9 provides a list of those records which must be maintained for various periods starting from the day the plant becomes commercially operational - not from the construction date. In cases where the technical specification specifies a different retention time from ANSI N45.2.9, the former shall prevail. The construction records are important to the operating plants to enable them refer to the records when design changes and modifications occur, and during emergency conditions. The operating records are important from the stand point of showing compliance during operations.

NRC Regulatory Guide (R.G.) 1.88, "Collection, Storage, and Maintenance of Nuclear Power Plant Records," endorses American National Standards Institute (ANSI) N45.2.9, "Collection, Storage, and Maintenance of Nuclear Power Plant Records", as an acceptable method for complying with NRC requirements relative to records preservation and protection. If the license commits to R.G. 1.88, ANSI N45.2.9 provides the inspector and the applicant/licensee with a general description of the areas that must be addressed by their system to meet the regulatory requirements of Criterion XVII of Appendix B to 10 CFR Part 50 "Quality Assurance Records." If there is no commitment to R.G. 1.88, the inspector must review the licensee's implementation of their alternate method of record keeping to determine whether it meets their approved commitments. If the inspector determines that the alternate practice meets their commitments but is not equivalent to the minimum requirements of R.G. 1.88 and ANSI N45.2.9, the differences should be identified to NRR for an evaluation of adequacy.

For the purposes of this standard, a document is considered a quality assurance record when the document has been completed. The NRC inspector should also seek guidance (if needed) when he encounters unusual situations or deviations from R.G. 1.88/ANSI N45.2.9 or interpretations of these commitments.

Inspectors, generally, should request needed records in the same manner as licensee employees. It is typical for controlled areas to be established within permanent facilities which allow the applicant/licensee contractor, or external auditors to request, obtain, and review records. Typically records shall not be removed from such controlled areas without special permission. Occasionally, instances arise where these methods are not adequate for the inspector's needs. In these cases, the inspector should inform licensee management contacts of the particular records needed and ask that they be provided within a reasonable time.

There are cases where records needed to complete an inspection activity are not available by the end of the inspection activity. Those record needs should be clearly identified to licensee management at the conclusion of the inspection. The important point here is to obtain the records so they can be reviewed to assure safety related work was conducted properly. If the information is not provided by the company by the time the inspection report is written, the classification of the unavailable records (open, unresolved, violation, or deviation) will be discussed with the division managment. The decision reached should reflect the importance of the record and whether the delays are indicative of a pervasive or unique retrieval difficulty at that site.

C. Action:

Inspection personnel conducting records-related inspection activities should follow the practices outlined in this RPG.

D. Contact:

Suggestions or comments should be directed to the Training Officer (Ext. 195).

E. Effective Date

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APR 30 19[illegible]

Regional Office Policy Guide No. 4017, Revision 0

TRAINING ISSUE: THE ROLE OF THE HEARING PROCESS

A. Purpose:

To provide background information to the staff on the role of the hearing process in agency actions.

B. Discussion:

1. The hearing process is a part of what is known as "administrative law" which differs from the more historic and traditional legal system with its generally familiar system of courts. Different powers, responsibilities, and functions are vested in the administrative agencies and the courts. The administrative process has had a different development and pursues somewhat different ways from those of courts. In the administrative process, decisions are made through methods, for reasons, and by persons, different from those in the judicial process. The relationship between an administrative tribunal such as an Atomic Safety and Licensing Board and a court generally is not the same as that between lower and higher courts, and a period is reached where the administrative process ends and only the judicial process remains. The ultimate power of decision still rests with the courts on questions of law.

In the past fifty years, much of the jurisdiction formerly residing in the courts has been transferred to administrative tribunals. This transfer of jurisdiction has resulted in the administrative tribunals having an important stature recognized by the judicial system. In many cases, when attempts are made by companies or individuals to seek the assistance of a court in NRC matters, the courts tend to refuse to consider the issue until all the "administrative remedies" have been exhausted. Even then, the courts rarely overturn NRC decisions on technical issues because of the reliance placed by the Congress and, in turn, the courts on the technical expertise of the NRC.

Thus, the hearing process, as a part of administrative law and the agency tribunals which administer it, is an important part of the rights that licensees and citizens have before the NRC under certain provisions of the Atomic Energy Act of 1954, as amended, and the Commission's implementing regulations.

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[As an aside, the philosophical nature of a hearing is different depending on whether a license has been granted. Prior to the granting of an NRC license, the licensee is under the obligation to show that all requirements for the license have been satisfied. Once that showing is made and a license is granted, the licensee has a right to the use of the license. The burden of proving a need for any restrictions on that use then become the burden of NRC. It is very similar to the situation of the person who is applying for a driver's license and the one who has one. The license examiner can prevent you from getting your license but only a court for proper cause can take it away.]

2. Within the NRC the administrative hearing process has a role in a variety of agency actions such as for orders to show cause, orders for modification of a license, and the various other types of orders issued by the NRC. The principal agency action of which the hearing process is a part is the reactor licensing process. Section 189 of the Atomic Energy Act of 1954, as amended, provides the statutory basis for the hearing phase of the reactor licensing process. Among other things:

   - It provides for a mandatory hearing prior to the issuance of a construction permit.
   - It provides for thirty days prior notice of NRC's intent to issue an operating license.
   - It provides that the Commission "shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding."

   Although Section 189 does not explicitly prescribe the type of hearing for the licensing of nuclear power plants, it has consistently been administratively interpreted as requiring formal on-the-record hearings for that purpose. A 1983 Court of Appeals decision affirmed the Commission's position that Section 189 does not require a formal hearing in all nuclear materials licensing proceedings (as contrasted to nuclear power plant licensing proceedings).

3. Agency hearings must satisfy the applicable requirements of the Administrative Procedure Act. NRC regulations include "Rules of Practice" (10 CFR 2) which govern the conduct of its administrative proceedings.

4. The hearings are conducted before an Atomic Safety and Licensing Board. Each board is composed of three administrative judges, and must be chaired by a lawyer. The other members usually represent technical disciplines. These boards render initial decisions on the license application. The hearings are the Commission's principal public forum for individuals and organizations to voice their interest and concerns in the particular matter before the board.

The hearing on a particular application may be divided into two phases--one concerning the health, safety, and national security aspects of the application, as required by the Atomic Energy Act, the other concerning the environmental consideration required by the National Environmental Policy Act (NEPA). There also may be a separate hearing on antitrust matters. Separate initial decisions on these matters may be issued. Boards may also treat complex and severable issues in separate initial decisions.

5. Atomic Safety and Licensing Board decisions are reviewed administratively.

   a. An Atomic Safety and Licensirg Appeal Board, consisting of three members each, performs review functions for the Commission in reactor licensing proceedings and other proceedings that the Commission may specify. Unless the Commission decides to review an appeal board decision, that decision becomes the final agency order and is subject to judicial review in a Federal court of appeals.

      Since appeal boards are the only bodies to which parties disagreeing with licensing board decisions can appeal as a matter of right, they invariably rule on a wide variety of technical, legal and other matters.

   b. Appellate review by the Commission itself is discretionary. The Commission will not ordinarily grant a petition for review "unless it appears the case involves an important matter that could significantly affect the environment, the public health and safety, or the common defense and security, constitutes an important antitrust question, involves an important procedural issue, or otherwise raises important questions of public policy."

      A court of appeals has held that an appeal board decision is final for purposes of judicial review and that one need not petition the Commission for review as a prerequisite to seeking judicial relief.

   c. Section 189b. of the Atomic Energy Act provides for the judicial review of any final order entered in any proceeding of the kind specified in section 189a. This means, in effect, that final orders of the NRC are reviewable in the U.S. Court of Appeals in the D.C. Circuit or in the circuit in which the petitioner for review resides.

6. Parties aggrieved by agency actions may ask the courts to "compel agency action unlawfully withheld or unreasonably delayed" or to "hold unlawful and set aside agency action, findings, and conclusions" because the agency action is "arbitrary, capricious, an abuse of discretion . . . [or] contrary to constitutional right" or

because it is "unsupported by substantial evidence." The last standard is the one typically invoked for the review of a final order which is based on an administrative record developed in a formal proceeding, such as in the licensing of nuclear power plants.

C. Action:

All personnel are urged to become familiar with the role of the hearing process in agency actions.

D. Contact:

Any questions regarding this Policy Guide should be directed to the Regional Counsel, (Ext. 271).

E. Effective Date:

This policy guide is effective upon the date of issuance.

Robert D. Martin
Regional Administrator

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