

RIC 2003 Region II Breakout Session F1

NRC Decision Making Process April 18, 2003



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Industry and Public Participation NRC Decision-Making Process

- ❑ Event Response
- ❑ Significance Determination Process (SDP)
- ❑ Non-SDP Escalated Enforcement
- ❑ Notice of Enforcement Discretion (NOED)
- ❑ Substantive Cross-Cutting Issues
- ❑ Technical Specification Changes
- ❑ 10 CFR 10.109 (Backfits)
- ❑ Generic Communications

Event Response

*Special Inspections, Supplemental Inspections,
Augmented Team Inspections, Incident Investigations*

NRC Process

Licensee Involvement

Public Involvement

Significance Determination Process (SDP)

Reactor Oversight Process Safety Significance

NRC Process

Licensee Involvement

Public Involvement

Non-SDP Escalated Enforcement

10 CFR 50.7, 50.9, et. al

NRC Process

Licensee Involvement

Public Involvement

NOTICE OF ENFORCEMENT DISCRETION (NOED)

NRC Process

Licensee Involvement

Public Involvement

SUBSTANTIVE CROSS-CUTTING ISSUES

Reactor Oversight Process

NRC Process

Licensee Involvement

Public Involvement

Technical Specification Changes

NRC Process

Licensee Involvement

Public Involvement

10 CFR 50.109

Backfit Rule

NRC Process

Licensee Involvement

Public Involvement

GENERIC COMMUNICATIONS

NRC Process

Licensee Involvement

Public Involvement

Significance Determination Process (SDP)

Reactor Oversight Process Safety Significance

NRC Process

- ▶ Initial Problem Identification (Licensee, Resident, Regional Inspector)
- ▶ Phase One Assessment (Inspector)
- ▶ Phase Two Assessment (Inspector with SRA Assistance)
- ▶ SRA Assessment
- ▶ Phase Three Assessment (SRA with NRR Assistance)
- ▶ Significance and Enforcement Review Panel (Region, OE, NRR)
- ▶ Regulatory Conference
- ▶ Final Significance Determination
- ▶ Follow-up Inspection for Corrective Action Effectiveness

Licensee Involvement

- ▶ Initial Assessment per Corrective Action Program
- ▶ Continual Interaction for Technical Accuracy during Phases One, Two and Three
- ▶ Exit Report Feedback Mechanisms
- ▶ Regulatory Conference
- ▶ Regulatory Performance Meeting

Public Involvement

- ▶ Publicly Docketed Interactions
 - ◆ Requests for Additional Information
 - ◆ Docketed Risk Assessments
 - ◆ NRC Inspection Reports
 - ◆ Meeting Summaries
- ▶ Public Meetings
 - ◆ Regulatory Conference
 - ◆ Regulatory Performance Meeting
 - ◆ Annual Assessment Meeting

SDP Background Information

☐ **NRC References**

- MC 0305
- MC 0608
- MC 0609
- MC 0612

☐ **Key Points of Interaction**

- Technical Interaction between Licensee and NRC throughout Phases One, Two and Three
 - Technical Adequacy of Risk Tools (Licensee and NRC)
 - Consideration of External Risk Effects
 - Consideration of Common Cause Implications
- Integration of Regional and NRR Risk Assessments
- SERP
- Regulatory Meeting

Non-SDP Escalated Enforcement

10 CFR 50.7, 50.9, et. al

NRC Process

- ▶ Traditional Enforcement Process
- ▶ Finding beyond the scope of the ROP or identified from OI
- ▶ Licensee Notification (Letter or Inspection Report)
- ▶ Preliminary Decision (Weekly Conference with Program Office and OE)
- ▶ Enforcement Conference
- ▶ Final Resolution (Collaborative decision between Region, HQ, OE)

Licensee Involvement

- ▶ Initial Notification (Inspection Finding, Chilling Effect Letter, OI Referral)
- ▶ Fact Finding (Inspection or Investigation)
- ▶ Enforcement Conference

Public Involvement

- ▶ Publicly Docketed Interactions
 - ◆ Requests for Additional Information
 - ◆ NRC Inspection Reports
 - ◆ Meeting Summaries
- ◆ Public Meetings
 - ◆ Enforcement Conference

Non-SDP Escalated Enforcement Background Information

☐ **NRC References**

- MC 0305
- MC 0612
- Enforcement Manual and Policy

☐ **Key Points of Interaction**

- Initial Notification - NRC to Licensee (especially if a potentially chilling environment concern)
- OI Investigation
- Communication Findings (Inspection or Investigation)
- Enforcement Conference

Notice of Enforcement Discretion (NOED)

NRC Process

- ▶ Notification of Condition (Resident Inspector, Regional Oversight, Licensee)
- ▶ Initial Assessment of Risk (SRA with Licensee)
- ▶ Internal Review of Condition (Regional or HQ NOED)
- ▶ Request by Licensee
 - ◆ Written Submission, if possible
 - ◆ Telephonic Conference with Region and NRR
 - Basis for Request
 - Risk Neutrality
 - Compensatory Measures
- ▶ Confirmation of NOED Authorization Authority
- ▶ Granting/Denial of NOED (Verbal)
- ▶ Written Submission by Licensee
- ▶ Written Response by NRC
- ▶ Inspection Follow-up

Licensee Involvement

- ▶ Daily Operational Communications (Anticipating Potential Need)
- ▶ Preliminary Conference Calls
 - ◆ Understanding Condition and Basis for Request
 - ◆ Clarifying Risk Neutrality
 - ◆ Compensatory Measures
- ▶ Operations during NOED Conditions
- ▶ Written Submission
- ▶ Follow-up Inspection

Public Involvement

ALL AFTER THE FACT

- ▶ Licensee Written Request for NOED
- ▶ NRC Approval
- ▶ Inspection Follow-up (Report)

NOED Background Information

☐ **NRC References**

- MC Part 9900
- MC 0609
- MC 0612

☐ **Key Points of Interaction**

- Initial Notification of Condition
 - Early Understanding of Potential Need for an NOED
 - Early Clarification of Risk Significance
 - Early Understanding of the Technical Challenges Facing the Licensee
- Telephone Conference Call Requesting NOED
 - Following the NOED Checklist
 - Risk Neutrality
 - Not a previous “pass” on STS Amendment
 - Compensatory Measures During NOED Condition
 - Increased Startup Threshold
- Follow-up Inspection

Substantive Cross-Cutting Issues

Reactor Oversight Process Findings

NRC Process

- ▶ **BOTH** of the Following Must Be Met
- ▶ Multiple Documented Findings
 - ◆ Human Performance
 - ◆ Problem Identification and Resolution, or
 - ◆ Safety Conscious Work Environment
- ▶ Common Theme
- ▶ Documented in Mid-Cycle or Annual Assessment Letter
- ▶ Issue Discussed During Annual Public Meeting
- ▶ Follow-up Inspection
 - ◆ Baseline Procedure, or
 - ◆ Problem Identification And Resolution Inspection

Licensee Involvement

- ▶ Issue **MUST** be Entered into the Corrective Action Program
- ▶ Discussion during Annual Public Meeting

Public Involvement

- ▶ Docketed Correspondence
 - ◆ Inspection Reports
 - ◆ Mid-Cycle Review Letters
 - ◆ Annual Assessment Letter
- ▶ Annual Public Meeting (Comment or Question)

Substantive Cross-Cutting Issues Background Information

☐ **NRC References**

- MD 8.13
- MD 8.19
- MC 0305
- MC 0612
- IP 71152

☐ **Key Points of Interaction**

- Continuous Resident Inspector Oversight and Evaluation
- Region Reactor Projects Division Interactions
- Mid-Cycle or Annual Assessment Letters
 - Discusses Closure, if the Issue has been Resolved
 - Discusses Progress, if the Issues has not been Resolved

Technical Specification Changes

NRC Process

- ▶ Written Submittal
 - ◆ Licensee Generated Request
 - ◆ NSSS Developed Topicals
 - ◆ Generic Issues Developed Positions
- ▶ Staff Manager Review
 - ◆ NRR Project Manager
 - ◆ NRR Technical Staff
- ▶ Requests for Additional Information
- ▶ Technical Resolutions
- ▶ Posting in Federal Register
- ▶ Resolution of Formal Comments
- ▶ Issuance of Amendment/Licensing Actions

Licensee Involvement

- ▶ Development of Initial Request
- ▶ Licensee Engineering/Regulatory Affairs Organizations
- ▶ Participation on NSSS Committees
- ▶ Resolution of Technical Issues from the Staff
 - ◆ Written Responses to RAIs
 - ◆ Technical Meetings with the Staff
- ▶ Development of Implementing Strategies and Procedures
 - ◆ New Procedures
 - ◆ Transition Training
- ▶ Transition Operations

Public Involvement

- ▶ Docketed Technical Correspondence
 - ◆ Initial Licensing Request
 - ◆ RAIs and Responses
- ▶ Public Comment Period
 - ◆ FR Notice
- ▶ Hearing Request

Tech Spec Change Background Information

☐ **NRC References**

- 10 CFR 50.
- Standard Review Plans
- Project Manager's Task Manual

☐ **Key Points of Interaction**

- Planning and Prioritization Process by Licensee
 - Allows for Adequate Resource Planning by the Staff
 - Ensures Efficient Handling of Licensee Request
- RAI Request and Resolution Process
- Transition from OLD TS to NEW TS
 - Develop New Procedures
 - Conduct Just-in-Time Training
 - Conduct On-Going Continuing Training

10 CFR 50.109

Backfit Rule

NRC Process

- ▶ Identification of Backfit Potential
 - ◆ Letter from Licensee
 - ◆ Allegation Process
 - ◆ NRC Self-Identification
- ▶ Acknowledgement of Entering Backfit Process
 - ◆ Letter to Licensee
 - ◆ Memo to OEDO
- ▶ Panel Review of Backfit Claim
- ▶ Communication of Decision
 - ◆ Letter to Licensee
 - ◆ Memo to OEDO
- ▶ Cost/Benefit Analysis if Backfit Decision is Affirmed
- ▶ Appeals Process for Denied Backfit

Licensee Involvement

- ▶ Submission of Backfit Claim
- ▶ Responses to Requests for Additional Information (RAI)
- ▶ Appeals, as considered necessary
- ▶ Technical Submissions for Cost/Benefit Analyses

Public Involvement

- ▶ Docketed Correspondence Only

Backfit Rule Background Information

☐ **NRC References**

- 10 CFR 50.109
- MD 8.4

☐ **Key Points of Interaction**

- Technical Information Exchange
 - During Submission and Panel Review Process
 - During Cost/Benefit Analyses
 - During Appeals Process
- Enforcement Process (After the Final Decision)

NOTE: THESE ACTIVITIES ARE ALMOST ALWAYS CONTROVERSIAL