

November 8, 1999

FOR: The Commissioners

FROM: William D. Travers /s/
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SUBJECT: RESULTS OF THE STAFF'S EVALUATION OF ONGOING FEEDBACK FROM LICENSEES REGARDING THE IMPACT OF NRC'S ACTIVITIES ON LICENSEES' OPERATIONS

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PURPOSE:

To inform the Commission of the results of the staff's evaluation of ongoing feedback received from power reactor licensees regarding the impact of the NRC's regulatory programs on licensees' operations.

BACKGROUND:

In 1989, the NRC performed a comprehensive regulatory impact survey. The final results of this survey and corrective actions were reported in SECY-91-172, "Regulatory Impact Survey Report--Final," which was issued on June 7, 1991. On December 20, 1991, the Commission issued a staff requirements memorandum requesting that the staff develop a process for obtaining continuing feedback from licensees and that the staff submit the results to the Commission annually.

The process was described in SECY-92-286, "Staff's Progress on Implementing Activities Described in SECY-91-172, 'Regulatory Impact Survey Report--Final'," which was issued on August 18, 1992. The feedback process affords licensees frequent opportunities to comment on regulatory impact. The feedback process requires the deputy director of projects and project directors in the Office of Nuclear Reactor Regulation (NRR) and regional division directors and their deputies to solicit informal feedback from their licensee counterparts during routine visits to reactor sites. The managers record this feedback, and the regions and NRR evaluate and take any necessary actions to address the identified concerns. The feedback forms are then forwarded to NRR. Senior NRC managers also receive feedback from staff interactions with senior officials of the Nuclear Energy Institute (NEI) and the Institute of Nuclear Power Operations (INPO). NRR evaluates this feedback, along with any other feedback obtained, such as from limited scope surveys, to determine appropriate generic followup actions. Implementation of this process began in October 1992.

In response to the "Nuclear Regulatory Review Study" by Towers Perrin, two additional feedback paths were implemented on July 11, 1995. The Office of the Executive Director for Operations (OEDO) established a formal process by which senior power reactor licensee officials could report regulatory action perceived to be inappropriate directly to the OEDO. In addition, each region has developed a process for dealing with concerns related to inappropriate regulatory actions by the NRC staff. In this process, the regions receive, act on, resolve, or forward to other authorities (e.g., the NRC Office of the Inspector General (OIG)) allegations of inappropriate actions by a member of the NRC staff involved in inspections, or other matters related to NRC-licensed activities.

This paper reports on feedback received from licensees, INPO, and NEI from September 1, 1998, through August 31, 1999. The feedback is an example of an ongoing regulatory excellence initiative that NRR will continue to report on annually.

DISCUSSION:

From September 1, 1998, through August 31, 1999, the staff received feedback from licensees on 253 specific issues from 44 reactor sites. Of the comments received, 72 percent were favorable and 28 percent were unfavorable, a considerable improvement over last year when licensee comments were 51 percent favorable and 49 percent unfavorable. Subjects covered in feedback reports fell into five main categories: formal communications with licensees, inspector professionalism, revised reactor oversight process, operator licensing activities, and license renewal. Summaries of the feedback received, the staff's evaluation, and the staff's proposed improvement actions follow.

1. FORMAL COMMUNICATIONS WITH LICENSEES FEEDBACK

Almost a third of all comments (74 of 253) received related to the effectiveness of communications between the NRC staff and licensees. Almost 90 percent of the licensees' comments on communications with the NRC staff were favorable; substantially better than the 63 percent of favorable comments received last year.

Comments were overwhelmingly favorable with regard to the clarity of communication. For example, all comments were favorable with regard to communication with regional management (26 of 26) and communication with resident inspectors (21 of 21). Of the three comments related to NRC's openness to criticism, all were favorable.

Many licensees indicated that communication with NRR was good or excellent, others indicated that communication skills had improved. A few licensees reported instances of communication problems, such as one licensee's perception that an inspector made unprofessional statements at an exit meeting, that an inspector was vague about the disposition of some issues at an exit meeting, and that NRC's open-meeting policy hindered communication between the licensee and the NRC.

EVALUATION AND ACTION

The staff concludes that the communication between NRC and licensees is effective and improving. Favorable comments increased substantially from previous years and surpassed the previous high level of 75 percent reported in October 1996. The staff concludes that noted communication problems represent isolated instances. This conclusion is based on the large number of interactions between the NRC and its licensees that occur on a routine basis and the relatively large number of favorable comments. The NRC implemented a number of initiatives to enhance communication with licensees during implementation of the revised reactor oversight process. Some improvement in communication may be credited to these initiatives.

The staff is aware of the importance of timely and accurate communications and emphasizes this goal in the policy, guidance, and training for the inspection program. Communications will be particularly important as the staff revises and implements the revised reactor oversight process. Effective communications will remain a challenge and will receive continuing attention from regional and NRR management.

2. INSPECTOR PROFESSIONALISM FEEDBACK

More than a quarter of all feedback (72 of 253) received related to inspector professionalism. This area covers a wide range of inspector practices but does not include communication issues that are dealt with separately in the preceding section. The vast majority of comments (61 of 72) complimented the NRC inspection staff, and noted favorably the working relationship with licensees and the quality of inspection. Of the comments received in this area, more than 93 percent indicated that the commenters viewed the effectiveness of the resident inspection staff favorably.

Many licensees viewed region-based or headquarters inspections, including team inspections, as professional and of high quality. Others stated that NRC inspections were effective and correctly characterized the licensee's performance.

However, some commenters (11 of 72) raised concerns about what they believed were unfavorable actions by inspectors. Examples include the licensee's perception that an inspector overstated the significance of an inspection finding and the perception that the experience level of resident inspectors was decreasing.

EVALUATION AND ACTION

The staff concludes that inspectors were generally professional and established effective working relationships. This conclusion is based on the large number of routine interactions between inspectors and licensees, the large number of favorable comments received, and the relatively small number of unfavorable comments. The percent of favorable comments received this year was similar to the last year's data. This is an indication that the staff has maintained improvements achieved last year when favorable comments increased from 62 percent to 87 percent.

The revised reactor oversight process should improve stakeholders' understanding of the significance of inspection findings by providing more defined measures to judge the significance of individual issues. The NRC places a high priority on resident inspector qualifications. The resident inspector attrition rate is monitored by the staff and this monitoring triggered a detailed review of resident inspector demographics data after the attrition among resident inspectors increased in FY 1997. Changes to resident inspector rotation frequency and locality pay occurred as a result of the demographics data. The compensation package was a common complaint raised by resident inspectors that had decided to leave the NRC. The staff continues to monitor this area and will report updated resident inspector demographics data to the Commission in the near future along with recommendations as appropriate.

NRC management continues to emphasize to the staff the importance of proper behavior and proper demeanor. Standards for staff professionalism and behavior are addressed in the "NRC Principles of Good Regulation" and in the NRC technical staff performance expectations issued to each employee. These requirements are reinforced by senior NRC managers in the training course, "Fundamentals of Inspection," and in inspector counterpart meetings, workshops, and other training courses. Management will continue to closely monitor the professionalism and conduct of inspectors.

3. REVISED REACTOR OVERSIGHT PROCESS

FEEDBACK

Of the 32 comments received on NRR's revised reactor oversight process, twenty four were favorable. The favorable comments complimented the staff's new enforcement, inspection, and assessment process as an improvement over the existing programs, whereas the unfavorable comments complained that specific performance indicators were not accurate or that the significance determination process was not clearly understood.

EVALUATION AND ACTION

This relatively high number of favorable comments is noteworthy given the extent of change, the large number of employees affected by the change, and the aggressive implementation schedule. Specific feedback was provided to the transition task force for consideration along with other stakeholder feedback on the pilot program. The transition task force will evaluate the feedback and make final adjustments to the revised reactor oversight process prior to implementation at all sites in April 2000. As part of the revised reactor oversight process, a detailed review of all stakeholder feedback will be conducted and the results will be reported separately. The revised reactor oversight process continues to utilize significant resources, is being closely monitored, and has the ongoing attention of senior management.

4. OPERATOR LICENSING ACTIVITIES

FEEDBACK

Of the 14 comments received on NRC's operator licensing activities, only 3 were favorable. Favorable comments complimented the operator licensing examiners for working well with the licensee staff and viewed the new operator licensing process as producing higher quality examinations. Most unfavorable comments were critical of the NRC for not crediting reactivity manipulations performed on the simulator as satisfying 10 CFR 55.31(a)(5) training requirement for new operators and for not scheduling more frequent generic fundamental examinations (GFEs).

EVALUATION AND ACTION

The NRC is familiar with these concerns and has implemented actions to address both issues. The staff is aware that some facility licensees have reported having difficulty finding opportunities to complete the five reactivity or power changes required by 10 CFR 55.31(a)(5) and that the training costs may have increased as a result of delays or having to maneuver the plant power level to accomplish the required changes. The NRC recognizes the significant improvements to the quality of plant simulators and agrees that reactor manipulations performed on a plant simulator could be sufficient to satisfy operator licensing requirements. Accordingly, the NRR staff initiated a rulemaking plan to amend 10 CFR 55.31(a)(5) to address this regulatory burden. The Commission approved the rulemaking plan in a staff requirements memorandum dated October 5, 1999. Until the rulemaking action is complete, a facility licensee may submit a request for exemption from the requirements of 10 CFR 55.31(a)(5) for the NRR staff to evaluate on a case-by-case basis. It should be noted that NRR has implemented 10 CFR 55.31(a)(5) consistently and that industry heretofore has not requested exemptions from this rule. The schedule for administering GFEs has been changed to increase the number of examinations from two to three times a year beginning next year. The schedule was also adjusted to minimize any disruption to licensees' training schedules.

5. LICENSE RENEWAL

FEEDBACK

This area received 10 comments, 7 favorable and 3 unfavorable. Favorable comments praised the coordination and quality of activities. Unfavorable comments indicated a lack of clarity regarding scope of equipment under review and the amount of credit given to existing programs.

EVALUATION AND ACTION

License renewal is an area receiving considerable NRR attention. The License Renewal Steering Committee was established in April 1998 to monitor the progress of the staff's review of initial renewal applications. The Steering Committee meets monthly to improve the communication and coordination of license renewal activities, alternating between internal meetings with the NRC staff and public meetings with NEI's License Renewal Working Group. In addition, NRR has implemented a formal feedback mechanism to identify and resolve generic renewal issues during the review of initial applications. The feedback mechanism will ensure that issues are promptly identified and addressed and the resolution of these issues is captured in improvements to the implementation guidance. NRR will continue to closely monitor license renewal activities.

REPORTING OF INAPPROPRIATE NRC ACTIONS TO THE OEDO OR TO REGIONAL ADMINISTRATORS

In July 1995, the OEDO issued a procedure for managing the resolution of concerns raised by licensees related to perceived inappropriate regulatory action by NRC staff and stated that the regions would follow a similar process. This action was taken in response to the report prepared by Towers Perrin, "Nuclear Regulatory Review Study," which described examples in which NRC employees were said to have taken inappropriate regulatory action. During this reporting period, OEDO received one report of inappropriate behavior by NRC employees; nine such cases were reported to the regions by power reactor licensees. The number of cases reported to the regional offices is down considerably this year from the 26 cases reported last year.

FEEDBACK

The case received by the OEDO is still open. One case reported to Region I was not substantiated. Of three cases reported to Region II, one was not substantiated and two are still open. Of two cases reported to Region III, one was substantiated and the other was substantiated in part. Of three cases reported to Region IV, one was substantiated in part, one was not, and one is still open. The vast majority of cases involved professional performance issues such as the inspector's professional skills in conducting inspections or communicating with licensee personnel. OIG investigated three cases, one each in Region II, Region III, and Region IV.

EVALUATION AND ACTION

All four regions continue to use written procedures that are fundamentally similar for dealing with complaints of improper action by NRC employees. Each procedure requires a determination of whether the issue should be pursued by the OIG or the region. If the allegation is referred to the OIG, the matter is handled in accordance with Management Directive 7.4, "Reporting Suspected Wrongdoing and Processing OIG Referrals." For allegations reviewed by the region, regional management approved a course of action, including any specific remedial actions.

A draft management directive for handling complaints of improper actions by NRC staff is under management review and is intended to improve

consistent implementation throughout the agency. The management directive was sent out to various internal stakeholders for comment and should be issued soon. The draft management directive was based largely on a procedure developed in Region IV that considered comments from the deputy regional administrators and the union vice presidents in the other regions. The results of regional cases associated with alleged improper actions by the staff will continue to be reported annually to management in the annual Commission paper on regulatory impact.

ADDITIONAL FEEDBACK

In addition to soliciting feedback from licensees during site visits, the staff routinely provides opportunities for the industry to report on the impact of NRC programs and processes. In the period covered, feedback was received from plant managers at a meeting with the Chairman and EDO on September 10, 1998, as well as at breakout sessions conducted during the NRC Regulatory Information Conference in March 1999. Feedback was also obtained from INPO at a meeting on April 29, 1999. A discussion of the feedback follows.

Plant managers raised two issues at the September 10, 1998, meeting with the Chairman and the EDO. Each issue was evaluated by the appropriate NRC staff and a written response was sent to the EDO. On the basis of NRR's review, both concerns were addressed by ongoing staff action initiated in response to issues raised at the July 30, 1998, hearing before the Senate Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety and the July 17, 1998, Commission meeting with stakeholders. The two issues are discussed below.

The first issue involved plant managers' perception that, in some instances, team inspections established expectations for licensee performance beyond what was required to comply with a rule. The NRC staff places a high priority on establishing a consistent scope for inspection activities by specifically stating the scope in every inspection procedure. The staff is currently developing a more risk-informed inspection program that is intended to improve the consistency of the scope of inspections. Also, licensees have the opportunity to communicate specific concerns through one of many communication channels or through the newly established feedback process associated with the revised reactor oversight process. This area will be closely monitored during implementation of the revised reactor oversight process.

The second issue involved plant managers' request for the NRC to develop a real-time or ongoing evaluation process to assess the actual cost and safety benefit derived from licensee implementation of new programs needed to satisfy new rules or generic letters (GLs). The current process for issuing new rules or new generic communication allows several opportunities for licensees to voice their view for staff consideration. Experience demonstrates that licensees have used these opportunities to provide feedback, and the NRC has incorporated appropriate changes accordingly. In addition, the process for issuing GLs has recently been revised to provide additional opportunities for stakeholders to participate in the process to formulate effective resolution approaches. This area will continue to be monitored to evaluate the effectiveness of recent changes to the process.

In addition, for GLs that invoke the compliance exception to the backfit rule for requested actions, the staff will perform a simplified value-impact analysis. Use of this simplified value-impact assessment will support better informed regulatory decisions--whether to issue the generic communication, revise an associated rule, or take some other regulatory action. On October 4, 1999, [NRC issued Regulatory Issue Summary 99-01](#), "Revisions to the Generic Communications Program" to inform all NRC licensees of actions taken by the staff to improve the agency's generic communications program and its implementation.

In a meeting on April 29, 1999, INPO raised concerns that plant performance review (PPR) letters and meetings seemed overly negative and did not present a balanced perspective regarding licensee performance. PPRs may appear to be unbalanced because their primary objective is to identify areas that warrant increased inspection (beyond the core inspection program) to address performance issues and concerns. The revised reactor oversight process will develop and communicate a more balanced perspective of licensee performance. It will provide an objective perspective of plant performance that conveys the significance of each inspection finding in proper context. This process will reflect the positive aspects of licensee operations in performance indicators and by crediting the licensee's mitigation capabilities (based on performance and design) in the significance determination process.

Topics of discussion at the NRC Regulatory Information Conference in March 1999 included reactor oversight, reactor licensing, licensing process improvements, and fire protection issues; each region individually discussed interactions with licensees and communications issues. Effective two-way communication occurred between licensees and the NRC on various topics during breakout sessions held to obtain feedback from meeting attendees.

The staff has made improvements to address regulatory impact concerns and continues to make progress in eliminating those activities and practices that inappropriately affect licensees' operations. The staff will continue to solicit, evaluate, and address feedback and to identify and resolve specific and generic concerns related to the impact of NRC's regulatory actions on licensees' operations. It will report any significant concerns to the Commission, as appropriate.

The Office of the Chief Financial Officer has reviewed this Commission paper for resource implications and has no objections.

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