

POLICY ISSUE INFORMATION

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FOR: The Commissioners
FROM: William D. Travers
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SUBJECT: ANNUAL REPORT ON 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 feedback from power reactor licensees on the impact of the NRC's regulatory programs on licensees' operations.

BACKGROUND:

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

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 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 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 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 actions they considered 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, 1999, through August 31, 2000.

DISCUSSION:

From September 1, 1999, through August 31, 2000, the staff received feedback from licensees on 158 issues from 27 reactor

sites. Of the comments received, 63 percent were favorable and 37 percent were unfavorable. The comments fell into four main categories: formal communications with licensees, inspector performance, reactor oversight process, and operator licensing activities. Feedback was also received from the March 2000 Regulatory Information Conference and during the National Regional Utility Group (NRUG) meeting in August 2000. Summaries of the feedback received, the staff's evaluation, and the staff's proposed improvement actions follow.

1. FORMAL COMMUNICATIONS WITH LICENSEES

Feedback

A quarter of the comments (40 of 158) concerned 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, about the same percentage as last year. All comments were favorable with regard to communications with resident inspectors (21 of 21) and regional management (3 of 3).

Many licensees said that communications were good or excellent, others said that the staff's communication skills had improved. A few licensees reported communication problems; one licensee thought that an inspection report was inaccurate, and another had problems accessing ADAMS via CITRIX.

Evaluation and Action

The staff concludes that the communications between NRC and licensees are effective, and that the noted communication problems with licensees were isolated instances. This conclusion is based on the large number of interactions between the NRC and its licensees that occur on a routine basis combined with the relatively large number of favorable comments and the relatively small number of unfavorable comments received this past year. It is notable that during this fiscal year, while implementing the new reactor oversight process (ROP), the staff has maintained the improvements in communications achieved last year.

The NRC is aware of the problem with CITRIX and is addressing it and other ADAMS issues through the ADAMS Assessment Action Plan. Details of the plan are posted on both NRC's internal and public Web sites.

While pilot testing and implementing the ROP, the staff held numerous public meetings. These included round table public meetings at pilot plants, ROP informational briefings for the public in the vicinity of all reactor sites, frequent public meetings with the industry's ROP working group, and a public meeting on lessons learned. The staff has also enhanced the external Web site to display inspection and performance indicator (PI) results for all reactor sites and to present relevant program documents written in "plain language." Some improvement in communications may be credited to these initiatives.

The staff is aware of the importance of prompt and accurate communications and emphasizes this goal in the policy, guidance, and training for the reactor oversight process. Communications will be particularly important as the staff refines the ROP and will receive continuing attention from regional and NRR management.

2. INSPECTOR PERFORMANCE

Feedback

Almost one-sixth of the comments (25 of 158) concerned inspector performance. This category covers a wide range of inspector practices but excludes communication issues that were discussed in the preceding section. Most comments (21 of 25) praised the NRC inspection staff, noting the high quality of inspections and the effective working relationship between the NRC and licensees. Over 85 percent of the comments on the resident inspectors were favorable.

Licensees viewed inspections performed by resident and region-based inspectors (including team inspections) as professional and of high quality. Some licensees stated that NRC inspections were effective and correctly characterized the licensee's performance.

However, some commenters (4 of 25) complained about unfavorable actions by inspectors. Three licensees raised performance issues related to the subjectivity of security standards (two licensees mentioned Operational Safeguards Response Evaluation (OSREs) inspections, for example). Another licensee said it spent too much time "educating" a new emergency preparedness inspector.

Evaluation and Action

The staff concludes that inspectors were generally professional and maintained effective working relationships. The percent of favorable comments received this year was about the same number as last year. This shows the staff has maintained the improvements achieved in recent years.

To help address the concerns regarding subjective security standards, the staff clarified the adversaries capability during OSRE inspections. The staff issued OSRE Adversary Characteristics as a nonpublic safeguards information attachment to Inspection

Procedure 71130, "Physical Protection" and Inspection Procedure 81110, "Operational Safeguards Response Evaluation (OSRE)" on September 12, 2000. The staff is also revising the OSRE inspection procedure and issuing detailed guidance on the conduct, agenda, and rules of engagement for OSREs. This guidance is expected to focus inspection activity and assessment on the principal goals of OSREs, i.e., to evaluate the capability of the licensees' protective strategies to protect against an attack within the design basis threat. Lessons learned from the current OSRE inspection program and the proposed Safeguards Performance Assessment program will be applied to the staff's ongoing revisions to the power reactor physical security regulations.

The licensee's complaint about the time spent "educating" a new inspector appears to be an isolated instance. The NRC places a high priority on inspector qualifications and has recently established a task group to assess current inspector qualification requirements in light of the new ROP. The licensee's complaint was forwarded to the task group for their consideration in making improvements to the current inspector qualification standards for inspectors.

NRC management continues to emphasize to the staff the importance of proper behavior and demeanor. Standards for staff professionalism and behavior are addressed in the NRC Principles of Good Regulation. 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 performance of inspectors.

3. REACTOR OVERSIGHT PROCESS

Feedback

Of the 36 comments received on NRR's ROP, eighteen were favorable. Comments praised the staff's new inspection and assessment process as an improvement over the existing process. Licensees described the new process as more objective and more focused on risk. Several licensees said the ROP enabled licensees to better understand the basis of agency concerns and subsequent actions. There were 18 unfavorable comments, but 10 were written before the ROP was implemented. All unfavorable comments concerned specific program elements, especially PIs. Licensees expressed concern with the accuracy of several PIs and with PI reporting requirements. In addition, two licensees thought that the ROP increased overall inspection for plants that perform well and that a specific team inspection consumed substantial licensee resources.

Evaluation and Action

The number of unfavorable comments on the new ROP was expected given the extent of the changes. Other sources of industry and public feedback strongly support the ROP as an improvement over the existing process. Before implementing the ROP at all sites in April 2000 the staff reviewed feedback from internal and external stakeholders, and adjusted the ROP accordingly (e.g., eliminating one PI and extending PI reporting due dates).

The staff will continue to make the ROP open and accessible to licensees and the public. For example, pertinent program documents and assessment results will continue to be publicly available on the external Web site and the staff will continue monthly working-level meetings with the industry's ROP working group to discuss the status and evolution of the new process, and these meetings will be open to the public.

To continue to improve the ROP, the staff has developed self-assessment metrics to help determine if the ROP is meeting its stated objectives and the agency's performance goals. In addition, the staff has implemented an ongoing process for soliciting feedback and addressing questions related to the ROP. For example, the NRC has implemented a frequently asked question (FAQ) process by which internal and external stakeholders may raise questions or concerns related to PI reporting. FAQs, including the approved responses, are made available to all stakeholders on the external Web. The staff is planning several additional initiatives to solicit feedback on the new process including holding a public meeting in each region, conducting an internal survey, publishing a *Federal Register* notice to solicit public feedback, and holding a public meeting on ROP lessons learned in Washington, DC. The results of the feedback obtained through the various feedback activities, including the regulatory impact feedback process, will be used along with the results of the self-assessment metrics to identify needed improvements to the ROP.

4. OPERATOR LICENSING ACTIVITIES

Feedback

Of the 16 comments received on NRC's operator licensing activities, 9 were favorable and 7 were unfavorable. Commenters said the examination process was improving and praised the operator licensing examiners for being professional and working well with the licensee staff. Several licensees described the most recent operator licensing exams, which were conducted under the voluntary rule, as more effective and efficient. However, a few commenters said that the examinations were overly difficult or that the NRC spent too much time administering the examinations.

Evaluation and Action

With respect to the unfavorable comments on the examination process, the NRC staff is working closely with the industry through NEI's operator licensing focus group to prioritize and address issues related to the implementation of [NUREG-1021](#),

"Operator Licensing Examination Standards for Power Reactors," Revision 8, issued April 1999.

Regarding the concern that the exams are overly difficult, NUREG-1021 is being revised to require the responsible NRC regional supervisors to solicit the views of their facility counterparts on the fairness of the examination before it is administered. The staff is also continuing its efforts to enhance the efficiency and effectiveness of the operator licensing process and reduce unnecessary burden on facility licensees as much as possible without compromising examination integrity, operational safety, and public confidence. For example, the staff has supported INPO in developing a national examination "question bank." In the long term, the question bank should make the examination process less onerous to facility licensees and the NRC. The staff met with NEI five times during fiscal year 2000 to discuss this topic and plans to continue the dialog.

5. INAPPROPRIATE NRC ACTIONS REPORTED TO THE OEDO OR TO REGIONAL ADMINISTRATORS

As described in the background section above, the NRC has a procedure for managing the resolution of concerns raised by licensees related to perceived inappropriate regulatory action by NRC staff. During this reporting period, the OEDO received no reports of inappropriate behavior by NRC employees; 12 cases were reported to the regions by power reactor licensees (9 were reported last year).

Feedback

The one case reported to Region I was not substantiated. Of seven cases reported to Region II, one was substantiated, three were not, and three are still open. The one case reported to Region III was substantiated. Of the three cases reported to Region IV, one was substantiated, and two were not. 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 two cases, one in Region III and one in Region IV.

Evaluation and Action

All four regions continue to use fundamentally similar written procedures for dealing with complaints of improper action by NRC employees. The procedures require actions to address complaints that are substantiated. Appropriate remedial actions were taken for all substantiated cases. The procedures also require a determination of whether the issue should be referred to the OIG or handled by the region. A complaint referred to the OIG is handled in accordance with Management Directive 7.4, "Reporting Suspected Wrongdoing and Processing OIG Referrals." If the region handles the complaint, regional management approves a course of action, including remedial measures.

A draft management directive on handling complaints of improper actions by NRC staff is under management review. The directive is intended to make the process for handling complaints consistent throughout the agency. The final issuance of this management directive has been delayed while the staff incorporates comments from various offices and the National Treasury Employee Union; it will be issued soon. The draft management directive is based largely on a procedure developed in Region IV that incorporated comments from the deputy regional administrators and the union vice presidents in the other regions. The staff will continue to report the disposition of alleged improper actions in the annual Commission paper on regulatory impact.

6. 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 at the Regulatory Information Conference (RIC) in March 2000 and from plant managers at the NRUG meeting on August 15, 2000. Topics discussed at the RIC included the ROP, technical specifications and licensing improvements, license renewal, safeguards, radiation protection, reactor licensing, licensing process improvements, and fire protection issues. During a breakout session of the RIC, licensees from each region discussed issues of interest with the responsible regional administrator.

At the NRUG meeting, a concern was raised regarding the limited participation of utilities in the task interface agreement (TIA) process and the limited release of information regarding the TIA response. A TIA is a request for technical assistance from a region or another NRC office seeking information on licensing or regulatory requirements. The TIA process is described in Office Letter (OL) 1201, Revision 2, "Control of Task Interface Agreements," and includes guidance regarding industry participation during the process and the public availability of the TIA response. NRR is currently revising OL 1201, in part, to increase the emphasis on obtaining stakeholder input and to provide guidance on when and how to make TIA responses publicly available. NRR will monitor the effectiveness of the revised TIA process to determine if additional changes are warranted. No other new issues were identified that have not already been discussed in this Commission paper.

The staff has made improvements to address regulatory impact concerns and continues to make progress in eliminating 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.

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

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