

## POLICY ISSUE (Information)

December 21, 2001

SECY-01-0228

FOR: The Commissioners

FROM: William D. Travers /RA/  
Executive Director for Operations

SUBJECT: ANNUAL REPORT ON FEEDBACK FROM LICENSEES REGARDING THE  
IMPACT OF NRC'S ACTIVITIES ON LICENSEES' OPERATIONS

### 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," dated June 7, 1991. On December 20, 1991, the Commission issued a staff requirements memorandum requesting that the staff develop a process for obtaining continual feedback from licensees and report the feedback to the Commission each year.

The staff described its continual feedback process in SECY-92-286, "Staff's Progress on Implementing Activities Described in SECY-91-172, 'Regulatory Impact Survey Report—Final'," dated August 18, 1992. 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 forward the feedback forms to the Office of Nuclear Reactor Regulation (NRR). The regions and NRR then evaluate the identified concerns and take any necessary corrective actions. 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

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followup actions. Implementation of this process, which began in October 1992, has afforded licensees frequent opportunities to comment on regulatory impact.

In response to the "Nuclear Regulatory Review Study" by Towers Perrin, the NRC implemented two additional feedback paths on July 11, 1995. Specifically, the Office of the Executive Director for Operations (OEDO) established a formal process by which power reactor licensees' senior officials could report directly to the OEDO any regulatory actions that they considered inappropriate. In addition, each region developed a process for dealing with concerns related to inappropriate regulatory actions by the NRC staff. Through this process, the regions receive, act on, resolve, or forward to other authorities (e.g., the NRC's Office of the Inspector General (OIG)) allegations of inappropriate actions by members of the NRC staff who are 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, 2000, through August 31, 2001. The feedback is an example of an ongoing regulatory excellence initiative.

## DISCUSSION:

From September 1, 2000, through August 31, 2001, the staff received feedback from 42 reactor licensees on 291 issues. The staff also received feedback from the Regulatory Information Conference in March 2001. Of the comments received, 82 percent were favorable and 18 percent were unfavorable. The comments fell into four main categories: formal communication with licensees, inspector performance, reactor oversight process, and fire protection activities. The following sections summarize the feedback received, the staff's evaluation, and the proposed improvement actions.

### (1) Formal Communication with Licensees

#### Feedback

One-third of the licensees' comments concerned the effectiveness of communication between the NRC staff and licensees. About 85 percent of the licensees' comments on communication with the NRC staff were favorable (about the same percentage as last year). Almost all comments were favorable with regard to communications with resident inspectors and regional management.

Many licensees said that communication was good or excellent, and others noted that the staff's communication skills have improved. A few licensees reported communication problems during inspection exit meetings, such as the inspector's message was not clear or the exit meeting discussion was not focused.

#### Evaluation and Action

The staff concludes that the communication between the NRC and its licensees is effective, and the reported communication problems were isolated instances. This conclusion is founded 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 during this past year. It is notable that while implementing the reactor oversight process (ROP) for the first time during

this reporting period, the staff maintained the communication improvements achieved in previous years.

The staff is aware of the importance of prompt and accurate communication and emphasizes this goal in the policy, guidance, and training for the inspection program. Communication will be particularly important and will receive continuing attention from regional and NRR management as the staff refines the ROP.

## (2) Inspector Performance

### Feedback

Almost one-third of the licensees' comments concerned inspector performance. This category covers a wide range of inspector practices, but excludes issues involving formal communication with licensees, which are dealt with in the preceding section. Almost all comments praised the NRC's inspection staff, noting the high quality of inspections, high technical competence, and the effective working relationship between the NRC and its licensees.

Licensees viewed inspections performed by resident and region-based inspectors (including team inspections) as professional and of high quality. Most licensees stated that NRC inspections were effective and correctly characterized the licensee's performance. However, some commenters raised performance issues related to the clarity of the standards used during operational safeguards response evaluation (OSRE) inspections.

### 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 as last year. This shows that the staff has maintained the improvements achieved in recent years.

To further clarify the OSRE inspection process, the staff revised the inspection procedure and issued detailed guidance on the conduct, agenda, and rules of engagement for OSREs. This guidance focused inspection activity on the principle goals of OSREs, which include evaluating the capability of the licensees' protective strategies to protect against an attack within the design-basis threat and clarifying the NRC staff's assessment criteria. Lessons learned from the ongoing OSRE inspection program and the future safeguards performance assessment program will be applied to the staff's ongoing revisions to the power reactor physical security regulations. The staff is extensively reviewing all security inspection activities in light of the terrorist attacks against the World Trade Center and the Pentagon on September 11, 2001.

The NRC places a high priority on inspector qualifications. The staff is nearing completion of an extensive effort to revamp the inspector training and qualification process. The revised process will further improve the quality and consistency of training and will be implemented in early 2002.

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's Principles of Good Regulation. These requirements are reinforced by senior NRC managers in the "Fundamentals of Inspection" training course and in inspector counterpart meetings, workshops, and other training courses. The staff will continue to closely monitor the performance of inspectors.

### (3) Reactor Oversight Process

#### Feedback

One-fifth of the licensees' comments concerned the ROP, and more than three-quarters of those comments were favorable (significantly more than the 50 percent achieved last year). Licensees complimented the staff's new oversight process as an improvement over the previous process. Licensees described the new process as more objective and more focused on risk. Several licensees said that the ROP enabled them to better understand the bases of the agency's concerns and subsequent actions. However, several licensees expressed concern with the accuracy of specific performance indicators (PIs) such as the safety system unavailability PI.

#### Evaluation and Action

The staff concludes that the ROP is effective, working well, and an improvement over the previous process. The 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.

The staff will continue to hold monthly working-level public meetings with the NEI to discuss the status and evolution of the new process, including PIs. A joint NRC-NEI working group has been meeting to develop improvements to the safety system unavailability PI. The staff is also working on developing additional changes to improve the accuracy and usefulness of PIs.

The staff continues to closely monitor the effectiveness and implementation of the ROP. NRR has developed self-assessment metrics to help determine if the ROP is meeting its stated objectives and agency performance goals, and the results will be made public. The staff plans to publish a *Federal Register* notice to solicit public feedback on the ROP by the end of December 2001. This feedback, including feedback on PI issues, will be evaluated as part of the self-assessment process.

### (4) Fire Protection Activities

#### Feedback

Almost 5 percent of the licensees' comments related to the NRC's fire protection inspection and assessment activities, and about 60 percent of those comments were favorable. Commenters generally praised the fire protection team inspectors for being professional and thorough, and for working well with the licensees' staff. However, two commenters indicated that the fire protection significance determination process (SDP) is overly focused on compliance, or not timely, or that it yields inaccurate results.

#### Evaluation and Action

The staff has been actively involved in identifying and implementing improvements to the fire protection SDP. Completed improvements include a revision, dated February, 2001, to the fire protection significance determination process, and quarterly fire protection training of the regional fire protection inspectors which arose from the Fire Protection Focus Group. The staff is also considering additional enhancements and has established a task group to evaluate all aspects of the assessment process related to fire protection activities. This area is also receiving considerable attention from senior NRC management, and additional activities are anticipated to improve the fire protection assessment process. Significant stakeholder interactions are planned as part of this process. These improvement efforts are part of a larger effort to enhance the timeliness and effectiveness of all the SDP assessments used under the ROP.

#### Inappropriate NRC Actions Reported to the OEDO or Regional Administrators

As described in the "background" section earlier in this paper, the NRC has a procedure for resolving concerns raised by licensees regarding perceived inappropriate regulatory action by the NRC staff. During this reporting period, the OEDO did not receive any reports of inappropriate behavior by NRC employees; however, 10 cases were reported to the regions by power reactor licensees (compared to 12 cases reported last year).

#### Feedback

The one case reported to Region I and two cases reported to Region II were not substantiated, and no cases were reported to Region III. Of the seven cases reported to Region IV, one was substantiated, two were not, two were dismissed after initial review, and two are ongoing. The vast majority of cases involved professional performance issues, such as the inspector's professional skills in conducting inspections or communicating with licensee personnel.

#### Evaluation and Action

The total number of cases reported in each region typically fluctuates from year to year. The total number of cases reported is down significantly from the 26 cases reported three years ago. More importantly, the number of substantiated cases is the lowest ever reported (down from five substantiated three years ago). This improvement indicates that the staff is making progress in meeting established performance expectations.

All four regions continue to use fundamentally similar written procedures to deal with complaints of improper action by NRC employees. The procedures require actions to address complaints that are substantiated, and the regions took appropriate remedial actions 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 staff will continue to report the disposition of alleged improper actions 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. During the current reporting period, the staff received feedback at the Regulatory Information Conference (RIC) in March 2001. Topics discussed at the RIC included the ROP, safeguards rulemaking, license renewal, significance determination and enforcement policy, risk informed technical specifications, and fire protection issues. During a breakout session of the RIC, licensees from each region discussed issues of interest with the responsible regional administrator. 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; identify and resolve specific and generic concerns related to the impact of the NRC's regulatory actions on licensees' operations; and report any significant concerns to the Commission.

#### RESOURCES:

The regulatory impact process is budgeted at 0.1 FTE. The resources required to improve the safety system unavailability PI and the fire protection assessment activities are estimated at 2.75 FTE and are in the budget.

#### COORDINATION:

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

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NOTE: THE FIRE PROTECTION ISSUE WAS REVIEWED BY GARY HOLAHAN

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