

15.0 COMPLIANCE PLAN

15.1 Purpose of Review

The purpose of this evaluation is to establish that there is reasonable assurance that the applicant has provided an adequate: (1) description of noncompliance with U.S. Nuclear Regulatory Commission (NRC) requirements, (2) justification for continued operation for the period of noncompliance, and (3) plan of action and schedule for coming into compliance with NRC requirements.

15.2 Responsibility for Review

Primary: Primary Issue Subject Area Reviewer

Secondary: Certification Project Manager

Supporting: None

15.3 Areas of Review

The staff will review the compliance plan submitted as part of the application. The compliance plan should include: descriptions of noncompliance, justifications for continued operations, including descriptions of compensatory measures, and a plan of action necessary to bring plant operations into compliance with NRC requirements.

15.4 Review Procedures

15.4.1 Acceptance Review

The staff review should start with the primary reviewer's determination that sufficient information has been provided in the contents of the application to satisfy the requirements in 10 CFR 76.35, "Contents of Application," and 10 CFR 76.36, "Renewals," with respect to the CP—see Standard Review Plan (SRP) Section 15.5.1, "Regulatory Requirements"—and that the topics discussed in SRP Section 15.3, "Areas of Review," have been addressed.

If significant deficiencies are identified in the application, the applicant should be requested to submit additional material before the staff resumes the application review.

15.4.2 Evaluation

The staff should perform an evaluation of the information presented in the application against the acceptance criteria presented in SRP Section 15.5.

Compliance Plan

On the basis of its review, the staff may request that the applicant provide additional information or modify the submittal to meet the acceptance criteria in SRP Section 15.5.

The final step in the review is the primary staff reviewer's writing of a Compliance Evaluation Report (CER) that summarizes the conduct of the review, identifies what material in the application forms the basis for a finding of reasonable assurance with respect to the acceptance criteria, and presents the bases for certificate conditions that may be necessary to conclude that reasonable assurance is achieved.

15.4.2.1 Regulatory Requirements

The primary reviewer should identify all applicable regulatory requirements (10 CFR) for which the gaseous diffusion plants (GDPs) are in noncompliance. The applicable 10 CFR regulatory requirement for the GDPs is Part 76 in its entirety, specifically 10 CFR 76.60.

15.4.2.2 Application Commitments

The primary reviewer should identify all applicable commitments and statements made in the application that show compliance with the applicable NRC requirements but are contrary to actual plant conditions known to the applicant, see SRP Section 15.4.2.1. The approved application describes operations and plant conditions as though they are in full compliance with NRC requirements.

15.4.2.3 Description of Noncompliance

Based on the review performed per SRP Sections 15.4.2.1 and 15.4.2.2, the primary reviewer should determine the adequacy of the description of noncompliance contained in the CP. The CP is required to adequately identify all commitments and statements made in the application that show compliance with NRC requirements but are contrary to actual plant conditions known to the applicant. The reviewer should review: (1) regulatory requirements(s) applicable to the specific CP issue, (2) related commitments and statements made in the application documents, and (3) description of the existing plant condition(s) of noncompliance.

15.4.2.4 JCO Bases

The primary reviewer should ensure that the technical bases contained in the JCO adequately justify safe operation. Specifically, the following should be reviewed: (1) technical safety/safeguards basis for continuing to operate during the interim period of noncompliance with NRC requirements, and (2) compensatory safety/safeguards measures in place during the interim period of noncompliance with NRC requirements.

15.4.2.5 Compensatory Measures

The primary reviewer should review the compensatory measure(s) committed to by the applicant for the interim period of noncompliance. These measures should adequately provide sufficient safety and safeguards for the period of noncompliance.

15.4.2.6 Plan of Action

The primary reviewer should ensure that the actions proposed by the applicant are such that completing them would ensure compliance with the applicable regulatory requirements and commitments made in the application. The reviewer should review: (1) the actions necessary to bring plant operations into compliance with NRC requirements, and (2) the schedule for completing the actions necessary to bring plant operations into compliance with NRC requirements.

15.4.2.7 Schedule

The primary reviewer should ensure that the schedule proposed by the applicant includes adequate time for implementing the plan of action as stated and is consistent with other related plans of actions contained in other CP issues. At the same time, the schedule should avoid unnecessarily providing for extensive periods of noncompliance. Compliance should be achieved as soon as it is reasonably practical.

15.5 Acceptance Criteria

The regulatory requirements, regulatory guidance, and regulatory review criteria applicable to this SRP are listed in the following sections.

15.5.1 Regulatory Requirements

The regulatory requirements applicable to this section include:

1. Section 76.35(b) of 10 CFR requires the applicant to provide an application demonstrating compliance with applicable NRC requirements, and a plan prepared and approved by the U.S. Department of Energy (DOE) for achieving compliance.
2. Section 76.36 of 10 CFR requires the applicant to file an annual application for renewal after NRC issuance of the initial certificate of compliance.
3. Section 76.60 of 10 CFR identifies other applicable 10 CFR regulatory requirements not specifically contained in 10 CFR Part 76.

15.5.2 Regulatory Guidance

There are no specific NRC Regulatory Guides (RGs) applicable to the CP. However, each section in this SRP includes the pertinent list of RGs applicable to the review area.

15.5.3 Regulatory Review Criteria

There are no specific review criteria applicable to the CP. However, each section in this SRP includes the pertinent review criteria applicable to the review area.

15.6 Evaluation Findings

The staff's review should verify that sufficient information has been provided in the application to satisfy the intent of requirements in 10 CFR 76.35, "Contents of Application," 10 CFR 76.36, "Renewals," and 10 CFR 76.87, "Technical Safety Requirements," with respect to the compliance plan and that the information provided is consistent with the guidance in this SRP. On the basis of this information, the staff should be able to conclude that this evaluation is complete.

The staff could document the safety evaluation for the certificate application as follows:

The staff has reviewed the compliance plan for [name of facility] according to SPR Sections 15.3, 15.4, and 15.5. In this plan, the applicant has given the following information:

- 1. All applicable regulatory requirements for which the GDPs are in noncompliance. The applicant has also identified all applicable commitments and statements made in the application that show compliance with the applicable NRC requirements but are contrary to actual plant conditions known to the applicant. In addition, the applicant has adequately described all conditions and areas of noncompliance with NRC requirements.*
- 2. The technical bases contained in the JCO prepared and approved by DOE adequately justify safe operation. In addition, the compensatory measures committed to by the applicant for the interim period of noncompliance are adequate.*
- 3. The actions proposed by the applicant are such that completing them would ensure compliance with the applicable regulatory requirements and commitments made in the application. In addition, the schedule proposed by the applicant includes adequate time for implementing the plan of action as stated and is consistent with other related plans of actions contained in other CP issues. At the same time, the proposed schedule does not unnecessarily provide for extensive periods of noncompliance if compliance can reasonably be achieved at much earlier dates.*

On the basis of its review, the NRC staff has concluded that the compliance plan is acceptable to support the recertification.

15.7 Reference

Code of Federal Regulations, Title 10, Energy, Part 76, "Certification of Gaseous Diffusion Plants."