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VICE PRESIDENT
REGULATORY AFFAIRS

September 24, 2007

Mr. James E. Dyer
Director
Office of Nuclear Reactor Regulation
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: "Double-Counting" of Performance Indicator and Inspection Results

Project Number: 689

Dear Mr. Dyer:

We have reviewed the NRC consolidated response to the 2006 Reactor Oversight Process (ROP) external survey (ADAMS Accession Number ML072070140). On page 8 of this document, the NRC response to a public comment included the following:

Since the inception of the ROP, it has been a basic tenet to not double count events/findings in the Action Matrix, when there are both a PI threshold crossing and a corresponding inspection finding. However, the greater significance of the two inputs would be the input used for assessment in the Action Matrix. Deviations from this policy are expected to be rare, as seven years of ROP implementation have shown.

NEI fully supports this statement and notes that it is consistent with guidance contained in Inspection Manual Chapter (IMC) 0305 and IMC 0308, Attachment 4. Singular events should not be "double-counted" in the assessment program.

However, the NRC staff response on page 8 continues with the following:

Additionally, with the development and implementation of the relatively new MSPI, given that this is the first set of PIs that are risk-informed, there will be instances where MSPI inputs and inspection findings on the same system will both be counted in the Action Matrix, because the two processes are fundamentally different in concept, thus have different meanings and each should stand on their own merit.

We view this last sentence to be inconsistent with the stated basic tenet of the ROP to not "double-count" events/findings in the Action Matrix. Contrary to the NRC staff statement made above, MSPI results are risk-informed and share more in common with risk-informed Significant Determination Process (SDP) results than any other performance indicator. A statement that "the two processes are fundamentally different in concept, thus have different meanings and each should stand on their own merit" does not appear to have any basis. Compared to the Safety System Unavailability (SSU) indicator it replaced, Mitigating System Performance Indicator (MSPI) results for a failure are much more in line with SDP evaluations of the same failure.

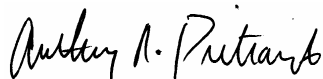
The above statement on "double-counting" of MSPI/SDP results is particularly troubling. We are aware that NRC is currently performing a review of events at a plant where a failure was common to both the white performance indicator result and a white SDP finding. Review is underway to determine whether or not the circumstances associated with this issue constitute "double-counting" of a performance indicator and an inspection finding.

Current ROP guidance states that issues with the same underlying causes should not be "double-counted" in the assessment program. The failure cited above caused the MSPI indicator to go from green to white. This same failure was evaluated under the SDP to be white. We see no basis for a conclusion that supports "double-counting" in this circumstance. As such, we would view a decision to count the white MSPI result and the white SDP result in the Action Matrix as a deviation, subject to the requirements contained in IMC 0305, Section 06.06.f.

Regarding the statement cited above that indicates that MSPI results and SDP results "have different meanings and each should stand on their own merit," we request a response that clearly identifies the basis for the statement or, preferably, a retraction.

Please contact me if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony R. Pietrangelo". The signature is fluid and cursive, with the first name "Anthony" and last name "Pietrangelo" clearly distinguishable.

Anthony R. Pietrangelo

c: Frederick D. Brown, NRC