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 DYER, J.R. Document Control Branch (Document Control Desk)

SUBJECT: Requests to notify NRC & provide explanation of staff position re records retention period.

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James Dyer

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Docket No. 50-397
GO2-91-001
January 2, 1991

Document Control Desk
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555
Attn: Mr. James R. Dyer

Dear Mr. Dyer:

Subject: RECORDS RETENTION PERIOD

The Supply System has recently been reviewing the records retention requirements for its deferred nuclear power plants, WNP-1 and WNP-3 (Docket Nos. 50-460 and 50-508, respectively). While reviewing the regulations applicable to security record retention, a question was raised relative to the interpretation of 10 CFR 73, Appendix B, Paragraph II.B. The paragraph in question states:

"The Licensee shall retain this documentation of each individual's qualifications as a record for three years after the employee ends employment in the security related capacity and for three years after the close of period for which the Licensee possesses the special nuclear material under each license, and superseded material for three years after each change."

Similar language also appears in Paragraph C with regard to contract personnel.

The phrase "...and for three years after the close of period..." appears to be the most restrictive circumstance and could be interpreted to be the controlling phrase requiring all such records be retained until at least three years after close of the license period. For example, if the applicable license expires in the year 2020 and an employee ended employment in a security-related capacity today (1990)(either by termination or transfer to another job category), a reasonable interpretation of the requirement may be that that individual's qualification records should be retained for three years after termination or transfer (1993). However, the phrase, "...and for three years after the close of period..." could be interpreted to require that those records be retained until 2023, well beyond the employee's termination or transfer date.

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Mr. James R. Dyer

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RECORDS RETENTION PERIOD

We believe this latter interpretation is inconsistent with the intent of the regulation. Our position is twofold. The Statement of Considerations associated with the final rule reflects that the desired effect of rulemaking was to reduce, rather than increase, the recordkeeping burden on licensees. As such, a comparison of similar Appendix B provisions with Section II.B (e.g., Appendix B Sections II.E and IV) shows the maximum retention period to be three years. Second, our legal counsel has discussed this regulation with members of the Reactor Safeguards Branch and Information and Records Management Branch, both of whom were involved in promulgating the Part 73 changes. Staff members from both organizations agreed that the intent of Section II.B was to apply only the retention period applicable at the time (i.e., in the above example, 1993 would be the maximum retention time).

The Supply System records retention program for the deferred plants (WNP-1 and WNP-3) and the operating plant (WNP-2) is designed to operate in accordance with the understanding of the regulations that we have presented above. Should the NRC's understanding of the regulation be different than this, I respectfully request that you notify me and provide an explanation of the staff's position.

Very truly yours,



G. C. Sorensen, Manager
Regulatory Programs (280)

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