

NUCLEAR REGULATORY COMMISSION ENFORCEMENT MANUAL

APPENDIX F NOTICES OF ENFORCEMENT DISCRETION

U.S. Nuclear Regulatory Commission
Office of Enforcement
Washington, DC 20555-0001



October 1, 2019

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Contents

1.0	Introduction	1
1.1	Purpose	1
1.2	Objectives	2
1.3	Applicability	2
1.4	Background	2
1.5	Definitions	3
2.0	NOED Process	6
2.1	Informal Discussions	6
2.2	Entry Criteria	7
2.3	Logistical Considerations	8
2.4	Staffing	10
2.5	Criteria	11
2.6	Risk Insights	13
2.7	Documentation	14
2.8	Severe Weather and Other Natural Phenomena	16
3.0	Subsequent Activities	17
3.1	Enforcement	17
3.2	Licensing	17
4.0	Roles and Responsibilities	17

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Notices of Enforcement Discretion (NOED)

1.0 Introduction

1.1 Purpose

Appendix F to the Enforcement Manual provides the U.S. Nuclear Regulatory Commission (NRC) staff a process to exercise enforcement discretion for unanticipated temporary noncompliances with applicable technical specification (TS) limiting condition for operations (LCO) or other license conditions. This type of enforcement discretion is addressed in Section 3.8 of the NRC's Enforcement Policy (Policy) and is designated as a notice of enforcement discretion (NOED). A NOED can be granted for a power reactor that is at power, in startup, or in shutdown under specific conditions.

The contents of this Appendix do not restrict the NRC from taking any necessary actions to fulfill its responsibilities under the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974. This Appendix is applicable to all operating commercial nuclear power reactors except those sites under Inspection Manual Chapter (IMC) 0350 or IMC 0351 and those sites that have ceased operations and have certified that fuel has been permanently removed from the reactor vessel. It should be noted that NRC Enforcement Policy permits enforcement discretion at operating power reactors and gaseous diffusion plants (GDPs); however, because there are no GDPs in operation at this time, Appendix F was not developed with the intention of being applied to GDPs. This Appendix replaces IMC 0410, "Notices of Enforcement Discretion," issued on March 13, 2013.

Paperwork Reduction Act Notice

This guidance contains information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). These information collections were approved by the Office of Management and Budget (OMB) approval number 3150-0136, which expires October 31, 2020.

The burden for these information collections is estimated to average 85 hours per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering data, performing necessary analyses, and completing and reviewing the collection of information. These estimates represent the average level of effort per plant; actual levels of effort may vary depending upon the results of the hazard analyses. Send comments regarding this burden estimate or any other aspect of these information collections, including suggestions for reducing the burden, to the Information Services Branch (T-5-F53), U.S., Nuclear Regulatory Commission, Washington, DC 20555-0001, or by email to INFOCOLLECTS.RESOURCE@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0136), Office of Management and Budget, Washington, DC 20503.

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

1.2 Objectives

The objectives of this procedure are:

- To provide NRC staff guidance and consistency on the decision-making process for consideration of a NOED request.
- To ensure consistency in the format and content of requests for a NOED.
- To arrive at an objective assessment of risk when operating with a TS LCO not met (when in non-compliance with the Technical Specifications) or outside of other license conditions when considering a NOED request.

1.3 Applicability

Licensed operators, in accordance with a plant specific operating license (OL) and plant specific TS, control the configuration of nuclear power plant (NPP) structures, systems, and components (SSCs). The OL and TS specify the actions to be taken when a license condition or a TS LCO is not satisfied.

Under unique circumstances, an operating nuclear power plant may experience an unanticipated, temporary noncompliance with a TS or license condition that would result in an unnecessary transient, power reduction, or shutdown without a corresponding health and safety benefit. Unique circumstances may also apply during startup, or when an NPP is shutdown. In such cases, enforcing the license condition or TS may not be appropriate, and, for these cases, the NRC provides for a specific type of enforcement discretion known as a NOED.

Under the regulation at Title 10 of the *Code of Federal Regulations* (10 CFR) 50.54(x), a licensee may depart from its TS in an emergency without prior NRC approval when it must act immediately to protect public health and safety. However, situations occasionally occur that 10 CFR 50.54(x) does not address and for which the NRC may appropriately exercise enforcement discretion consistent with the interests of public safety. Provided the licensee has not abused the emergency provisions of 10 CFR 50.91, "Notice for Public Comment; State Consultation," by failing to apply for an amendment (including an exigent or emergency amendment) in a timely manner, the NRC may use the NOED procedure to expeditiously consider a licensee's request for enforcement discretion under limited circumstances.

1.4 Background

The NRC has historically recognized that the two safest modes for operating a nuclear power plant are either Mode 5 (shut down) or Mode 1 (operating at power). Transitions between these two modes may introduce situations or configurations that involve an increase in risk. The NRC expects its licensees to comply with all applicable requirements (i.e., regulations, license conditions, etc.) However, circumstances may arise at an operating NPP where compliance with a TS LCO or a license condition would result in an unnecessary transient without a corresponding health and safety benefit; or a situation may exist where potential radiological or other hazards of continued operation must be balanced against public health and safety or common defense and security. In these circumstances, the NRC may exercise discretion to not enforce compliance with specific TS LCOs or license conditions as provided by Section 3.8 of the Policy. Per the Policy, NOEDs will not be used at reactors during construction before the

Commission's 10 CFR 52.103(g) or 10 CFR 50.57, "Issuance of operating license," finding, as applicable.

Enforcement discretion does not change the license, but may be used to allow continued operation for a brief period of time, allow for a more orderly transient, or allow the plant to remain in an alternate mode. The NRC staff is under no obligation to take such a step merely because it has been requested. In no case does the granting of enforcement discretion relieve a licensee of regulatory or reporting requirements.

The NRC staff shall emphasize with licensees that the license amendment process under 10 CFR 50.91 should be used in preference to NOEDs, whenever possible. The NRC may consider a NOED request only if the situation cannot be resolved through a licensing action such as an emergency license amendment and the situation could not have been reasonably avoided.

1.5 Definitions

1.5.1 Compensatory Actions - For the purposes of a NOED request, compensatory actions (or compensatory measures) are those temporary actions taken to provide reasonable assurance the necessary function as detailed in the TS or license condition will be compensated for during the period of the NOED. Compensatory actions include but are not limited to actions such as fire-watches, administrative controls, temporary modifications, maintenance stoppages, and features of components. Such actions can reduce both the duration and the magnitude of the elevated risk condition, thereby reducing the incremental risk incurred. Compensatory actions eliminate or reduce the additional risk associated with a licensee operating outside of TS or license conditions.

1.5.2 Completion Time - The TS completion time (CT) is the amount of time allowed for completing a TS required action. Plant-specific TS set time limits (the completion time) on how long a plant can continue to operate with specified equipment out of service or degraded. For the purposes of a NOED request, the CT is the amount of time allowed to repair or restore the equipment to operable status following discovery of a degraded or non-complying condition. TS CTs are determined based on; deterministic considerations, engineering judgment, typical repair times, and, in some cases, may be risk-informed. The NOED CT is the period beyond the TS CT that it will take the licensee to correct the situation, perform testing to verify operability, and return the plant to normal operation (restore compliance with the TS), as determined by the licensee and reported to the NRC. This is the total time (includes time allowed by staff approval beyond the TS CT) for the licensee to implement all repairs and testing for the specified equipment. A NOED is not to be used for routine maintenance and the CT needed to conclude routine maintenance unless routine diagnostic maintenance has uncovered system or component failures that result in further testing. The improved standard technical specifications (STs) (NUREGs 1430-1434) use the terminology "completion time" in place of "allowed outage time" (AOT).

1.5.3 Emergency Amendment - In 10 CFR 50.91(a)(5), the NRC refers to an "emergency situation" as one in which the Commission finds "that failure to act in a timely way would result in derating or shutdown of a nuclear power plant, or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level." Where the NRC finds that an emergency exists, the Commission may issue a license amendment involving no significant hazards consideration without prior public notice and opportunity for hearing or public comment. This type of license amendment is generally called an "emergency amendment."

The provisions in 10 CFR 50.91(a)(5) can be used for emergency TS changes. For emergency amendments, the Commission will provide notice as specified in 10 CFR 50.91(a)(5) following issuance. The Commission expects licensees to apply for amendments in a timely manner, and it will decline to dispense with public notice and comment in cases in which it finds the licensee has abused the emergency provision.

1.5.4 Exigent Amendment - In 10 CFR 50.91(a)(6), the NRC refers to “exigent circumstances” as those in which “the licensee and the Commission must act quickly, such that time does not permit the Commission to publish a Federal Register notice allowing 30 days for prior public comment.” For exigent amendments, the Commission will provide notice as specified in 10 CFR 50.91(a)(6) prior to issuance but less than the required 60 days before issuance. As with an emergency amendment, the Commission will use the provisions for normal public notice and comment if it finds the licensee failed to apply for the exigent amendment in a timely manner.

1.5.5 IMC 0350 - IMC 0350, “Oversight of Reactor Facilities in a Shutdown Condition Due to Significant Performance and/or Operational Concerns,” outlines an oversight framework that monitors licensee performance, inspections, and restart efforts for plants in shutdown conditions with significant performance or operational concerns or both. NOED requests will not be considered for plants in this process.

1.5.6 IMC 0375 - IMC 0375, “Implementation of The Reactor Oversight Process at Reactor Facilities in an Extended Shutdown Condition for Reasons Other Than Significant Performance Problems,” outlines an oversight framework that monitors licensee performance, inspections and restart efforts for plants in an extended shutdown condition for reasons other than significant performance problems. NOED requests will not be considered for plants in this process.

1.5.7 Incremental Conditional Core Damage Probability - An incremental conditional core damage probability (ICCDP) is one of the acceptable risk metrics representing the increase in the probability of core damage predicted during the period requested in the NOED. This dimensionless metric is calculated as the difference between the increased core damage frequency (CDF) and the base case CDF, multiplied by the NOED completion time under consideration. For NOED evaluations, the impact of average yearly testing and maintenance unavailability for SSCs outside of the ones in question shall be removed (i.e., zero maintenance model will be used). The zero maintenance model should be used to establish the plant’s ICCDP, by applying it to both the baseline and the degraded case associated with the period of enforcement discretion. Additionally, for the degraded case, the model shall reflect the projected out of service equipment during the period of enforcement discretion. The ICCDP can therefore be calculated using the formula: $ICCDP = [(zero\ maintenance\ conditional\ CDF, \text{ taking into account the equipment that is out of service for the NOED request}) - (zero\ maintenance\ baseline\ CDF)] \times (NOED\ CT\ under\ consideration)$.

1.5.8 Incremental Conditional Large Early Release Probability - An incremental conditional large early release probability (ICLERP) is a risk metric representing the increase in probability of significant, unmitigated releases from containment in a period prior to the effective evacuation of the close-in population such that there is a potential for early health effects. This dimensionless metric is calculated as the difference between the increased large early release frequency (LERF) and the base case LERF, multiplied by the NOED completion time under consideration under a limited scope, rather than a full level 2 probabilistic risk assessment (PRA). For NOED evaluations, the impact of testing and maintenance unavailability for SSCs outside of the ones in question shall be removed (i.e., zero maintenance model). The zero

maintenance model should be used to establish the plant's ICLERP by applying it to both the baseline and the degraded large early release case associated with the period of enforcement discretion. Additionally, for the degraded case the model shall reflect the projected out of service equipment during the period of enforcement discretion. ICLERP can be calculated using the formula: $ICLERP = [(zero\ maintenance\ conditional\ LERF, \text{ taking into account equipment that is out of service for the NOED request}) - (zero\ maintenance\ baseline\ LERF)] \times (NOED\ CT\ under\ consideration)$.

1.5.9 Net Increase in Risk - For the purposes of a NOED request, when a NPP is operating in non-compliance with the plant's TS or license conditions, there is generally an increase in radiological risk to the public or adverse impact on the environment due to potentially reduced defense-in-depth and safety margins which may affect accident mitigation capability. This increase in risk may not have been quantitatively defined, but has been built into the TS or license condition, with the result that the risk associated with non-compliance with the TS LCO or license condition has been defined by a time limit (i.e., the TS CT). This risk is above, and should not be confused with, the risk associated with routine testing and maintenance activities. The granting of a NOED shall result in no net increase in risk after the licensee has implemented compensatory measures and compared to the estimated risk of a plant transient.

1.5.10 No Net Increase in Risk - For the purposes of a NOED request and for the request to be granted by the NRC, the licensee must demonstrate that during the period of the NOED, there is no significant increase in radiological risk after the licensee has implemented compensatory measures. This means that continued operation of the plant, including consideration of compensatory actions, during the period of enforcement discretion will not cause risk to exceed the level determined acceptable during normal work control levels.

1.5.11 Normal Work Control Levels - Normal work control levels (routine work controls) are actions implemented at a NPP to control the temporary and aggregate risk increases arising from maintenance and testing activities to keep the plant's average baseline risk within the licensee's computed average range. This is accomplished by following 10 CFR 50.65(a)(4) and NUMARC 93-01 guidance on assessing and managing planned workweek risk. The risk assessment can either be quantitative or qualitative in nature.

1.5.12 Required Actions - TS required actions establish those remedial measures that must be taken within specified completion times when the requirements of an LCO are not met.

1.5.13 Risk Mitigation - For the purposes of a NOED request, risk mitigation or risk reduction are the compensatory actions taken by the licensee to provide reasonable assurance that safety will not be significantly impacted by a licensee operating outside of TS or license conditions. These actions may be in accordance with the licensee's 10 CFR 50.65 maintenance rule program.

1.5.14 Safety - The Atomic Energy Act of 1954, as amended, establishes "adequate protection" as the standard of safety on which NRC regulation is based. In the context of NRC regulation, safety means avoiding undue risk or, stated another way, providing reasonable assurance of adequate protection for the public in connection with the use of source, byproduct, and special nuclear materials.

1.5.15 Startup - For purposes of this guidance, "startup" is any condition the reactor may be in other than Mode 1 or Mode 5.

1.5.16 Unnecessary Transient - For the purposes of a NOED request, an unnecessary (or undesired) transient may include the following: nonemergency plant transitions that may affect the radiological health and safety of the public; a sudden plant shutdown (e.g., scram or reactor trip); an impact to the electrical grid during times of grid instability; or other plant transitions the NRC determines to be short-term and for which risk can be mitigated. An unnecessary transient is one that could occur as a result of compliance with a TS or license condition, but which, if avoided, would minimize potential safety consequences and operational risks. The process of requiring a NPP to cycle from full power to shutdown, and then restart, could be an unnecessary transient.

2.0 NOED Process

2.1 Informal Discussions

In the course of regular interactions, licensees discuss emergent plant issues with both their regional and headquarters counterparts. Through these informal communications, the NRC staff may identify emergent situations in which the licensee may need some sort of action by the NRC to address a plant issue. The NRC staff will strive to utilize a licensing processes (e.g., license amendment or relief request) to resolve an issue whenever possible. If the NRC staff does not believe that there is sufficient time to utilize a licensing process, it may consider exercising enforcement discretion and will evaluate the situation against the entry criteria in Section 2.2.

Licensees are expected to raise operational concerns promptly and discuss regulatory options with the NRC staff at the earliest opportunity. Licensees are also encouraged to use other licensing processes whenever possible.

For plant conditions where a licensee is aware of an adverse trend in equipment performance, the NRC staff will consider these communications and efforts a licensee has made to exercise a licensing process to address the issue in determining whether the situation represents a lack of prior planning (i.e., it is not appropriate to just plan on requesting a NOED once something breaks).

During the informal discussions phase of a NPP emergent need when a NOED may be a possible path, NRC staff both in NRR and the appropriate region should engage and collaborate for an expeditious solution which may include a NOED. The NRR plant PM should also engage NRR Risk Analyst or SRA (duty phone: (301) 938-9640) at the earliest in the preliminary discussions. The PM should also ensure that the Regional SRA is aware of the issue. This is typically accomplished through the NRR Risk Analyst or SRA. If, during these discussions, a licensee resolves the issue or determines that a NOED is no longer needed, no further documentation is needed.

2.2 Entry Criteria

The NOED process may be entered following identification of an emergent issue and recognition that insufficient time exists to utilize a licensing process (e.g., amendment or relief request). The NOED process may be entered if there is insufficient time for a licensing solution and compliance with the TSs or other license conditions would involve one or more of the following:

- A potentially unnecessary plant transient which could challenge safety systems;
- A potentially unnecessary down-power or the shutdown of a reactor without a corresponding health and safety benefit;
- The performance of testing, inspection, or system realignment that is potentially inappropriate for the specific plant conditions;
- Potentially unnecessary delays in plant startup without a corresponding health and safety benefit; and/or
- The potential for an unexpected plant shutdown during severe weather or other natural phenomena that could exacerbate already degraded electrical grid conditions and could have an adverse impact on the overall public health and safety or common defense and security.

Additionally, it may be appropriate to exercise discretion for the brief period of time it requires the NRC staff to process an emergency or exigent TS amendment under the provisions of 10 CFR 50.91(a)(5) or (6).

The NOED process is not a substitute for prior planning. As the NOED process addresses an unanticipated temporary noncompliance with license conditions or TS when a licensing process is not practical, NOEDs are not appropriate in the following cases:

- To allow planned entries into TS required actions to perform maintenance;
- To troubleshoot maintenance issues;
- After a violation of the license has already occurred;
- After a licensee has been denied a TS change request for the same issue based on the technical bases of the request;
- To allow operation beyond any safety limit contained in the facility license;
- To use for operator licenses or licensing; and
- For any non-conformance with regulations.

Licensees should recognize that the NRC staff requires sufficient time to consider a NOED request and render a decision. The NRC staff should not exclude the NOED process solely because the licensee had prior knowledge that could have prevented the situation or because

the time until the NOED is needed is short. However, licensees should recognize that the NRC staff will consider the licensee efforts to address the situation with a licensing process and likelihood of being able to process the request within the time allotted in determining whether the NOED process is appropriate. It is not appropriate for a licensee who is in a situation where an amendment could be submitted to simply wait for a NOED to be the only viable process. Additionally, NOEDs shall not be used for operational expediency.

In order to provide flexibility in scenarios where the licensee needs an extended period of time to address a plant issue, NOEDs may be used to provide the licensee with the time needed to resolve the situation with a licensing process. In this situation, a shorter-term NOED may be granted to allow time for development, submission, NRC review, and issuance of an amendment. The NOED would cover the time-frame to implement a longer-term licensing solution which would, in turn, address the plant issue. Licensees should understand that granting a NOED for this purpose does not guarantee the subsequent amendment will be approved. If the NRC staff has not issued an amendment by the time a NOED has expired, the licensee is expected to comply with its TSs. Figure 1 shows a hypothetical timeline for such a scenario.

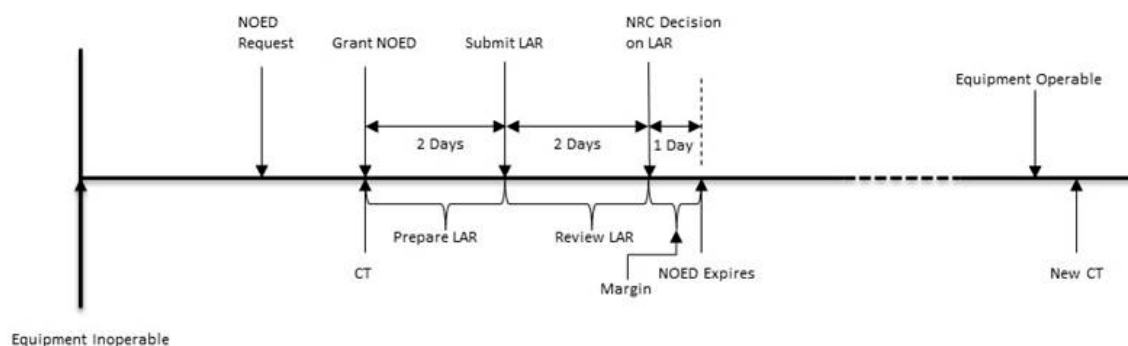


Figure 1

2.3 Logistical Considerations

As soon as the NRR plant PM is notified of a potential NOED, the plant PM shall request an EPID under licensing code LLD to allow the proper tracking and accounting of NRC HQ resources contributing to the support of the NOED. The regional BC will assign the appropriate work tracking codes for the regional staff. The NRR plant PM is also responsible for obtaining an “EA number” from the Office of Enforcement’s (OE’s) Enforcement Action Tracking System (EATS) from the OE Regional enforcement coordinator. The EA number should be referenced on all subsequent correspondence, and EATS will be used to track all NOEDs.

To the extent possible, all group interactions with the licensee regarding the NOED (i.e., NOED and preliminary, informational, calls) should be conducted on a recorded line. The HQ Emergency Operations (Ops) Center Recorded bridge line (301-816-5100) is the preferred method for hosting this interaction as this resource is recorded and allows the NRC staff to have internal discussions, as needed during interactions with the licensee. The NRR plant PM shall communicate with the HQ Operations Officer to arrange the call and ensure that there are not conflicting activities occurring at the Ops Center. If the Ops Center is not available, the NRR plant PM shall establish alternate means of communicating (e.g., a standard teleconference bridge). Regardless of the method of interaction, if the teleconference is recorded, all parties to the discussion must be informed of this upon joining the discussion. A decision to conduct a

NOED call on an unrecorded line is at the discretion of the Regional Administrator or their designee. Any requests for copies of NOED call recordings shall be made via the Freedom of Information Act process.

The regional DRP BC or designee shall be responsible for organizing all required personnel from the region and the NRR plant PM or backup shall be responsible for organizing all required personnel from HQ. It is a good practice to collect home contact information for required participants during work hours, if possible. The NRC Ops Center can be used to reach individuals for issues that arise after hours. Home contact information such as personal phone numbers shall be marked and treated as personally identifiable information.

To the extent possible, a licensee should support one or more preliminary calls during business hours if the formal NOED call is likely to be after business hours. This allows them to introduce the situation to the NRC staff, field initial questions, and understand what information the NRC staff would need during a formal NOED call. Additionally, the licensee should provide written documentation to support the verbal interactions with the NRC staff (typically in the form of a written, draft, NOED request). The NRR plant PM should review Agencywide Documents Access and Management System (ADAMS) for historical information that may be germane to the NOED discussion, as appropriate.

No further action is required if a preliminary teleconference is held to discuss conditions that indicate a potential NOED request, but a licensee does not request NOED. In this instance, the NRR plant PM and the region shall close any associated charge numbers that were opened for the NOED.

The authority to grant a NOED is assigned to the Regional Administrator, who may delegate the authority to the Deputy RA, or DRP Director or DRP Deputy Director. Before granting a NOED, the region shall obtain the concurrence of NRR management. The NRR DORL Director (or delegate) is authorized to provide the concurrence for NRR, after consulting with appropriate NRR staff and management and will designate any additional NRR or other Program Office concurrences deemed necessary.

The criteria used by the NRC staff to evaluate a request for enforcement discretion is listed in Section 2.5. The regional DRP BC, the SRI, and the NRR plant PM should verify, to the extent practicable, the licensee's oral assertions, including the likely cause and compensatory measures, and should verify the NOED request is consistent with the staff's policy and guidance. Methods of verification include but are not limited to: (1) independent reviews of licensee records, (2) physical observations and inspections, and (3) reviews of docketed information.

After considering the information provided by the licensee and consulting with NRR management, the Regional Administrator (or delegate) shall inform the licensee of the NRC staff's decision. If approved, the Regional Administrator shall clearly specify the specific TS or license requirement for which the NRC is exercising enforcement discretion, the duration of that discretion, and that it is contingent upon the information provided verbally and in writing by the licensee. If denied, the Regional Administrator shall specify which criteria were not satisfactorily met by the licensee. The Regional Administrator may also specify specific changes in plant parameters or conditions that would necessitate notification of the NRC during the enforcement discretion time-frame.

Upon granting a NOED, the SRI shall initiate Inspection Procedure IP 71153, "Follow-up of Events and Notices of Enforcement Discretion." Further, the NRR plant PM shall submit a Daily Note in accordance with OEDO Procedure-0350 informing the OEDO and the Commission of the NOED.

A licensee who verbally requests a NOED must, regardless of whether it was granted or denied, submit a formal, written request to the NRC within 2 working days of the verbal request. The NRC staff will, within 2 working days, provide a written response to the request.

The NRC may terminate a NOED for any reason before the time specified in the granting of the NOED as a matter of its discretion. In such cases, the region shall verify the licensee takes steps to achieve the appropriate plant status and implement the existing TS required actions upon the applicable regional division director's oral notification of the termination. The RA, Deputy RA, DRP Director, or DRP Deputy may terminate a NOED.

Upon notification of termination of the NOED, the licensee must inform the NRC within 6 hours of its proposed course of action to restore the plant to a condition of compliance with the license. The region shall document the termination of the NOED in a letter to the licensee and shall address the actions taken or planned by the licensee, including the time necessary for the licensee to achieve the required plant conditions in the most prudent manner, considering safety, and the reason for terminating the NOED.

For instances where the NOED process is being used to allow review of an amendment request, the RA or designee may also extend the time frame of enforcement discretion for an already granted NOED if additional NRC staff review time is needed from what was originally anticipated. An extension to a NOED can only be made prior to expiration of the previous time frame of enforcement discretion and the NRC staff shall document how the criteria in this guidance continues to be met and the reason for the extension.

2.4 Staffing

At a minimum, the following personnel shall be included in the NOED request review:

Regional Staff

- Regional Administrator (or delegate);
- Regional DRP Branch Chief (BC);
- Regional Senior Reactor Analyst (SRA); and
- Plant Specific Senior Resident Inspector (SRI).

Headquarters Staff

- NRR/Division of Operating Reactor Licensing (DORL) Director (or delegate);
- NRR/DORL BC (or delegate);
- NRR Reliability and Risk Analyst or SRA (301-938-9640);
- NRR Technical Staff and/or BCs, as needed;¹
- Plant Specific NRR PM; and
- NRR NOED Process Owner.

¹ NRR PM and NOED Process Owner shall initially identify those technical branches that may have an area of responsibility with regard to the NOED. The NRR PM and NOED Process Owner shall confirm through discussions with the technical BCs or staff of those branches that all areas of responsibility are covered.

Additional regional and HQ staff can be asked to participate, as needed, to address specific areas of expertise (e.g., Operating Experience). Staff from any region or headquarters may fulfill any role they are qualified for and equipped to perform, if needed.

If one or more required NRC participants are not available for the teleconference and delegates or replacements cannot be identified, the Regional Administrator (or delegate) will make the decision whether to proceed with the NOED teleconference without those participants. This decision shall be made after consultation with the NRR/DORL Director (or delegate).

2.5 Criteria

In granting a NOED, the NRC recognizes the operating license will be violated, but it is exercising discretion to not take enforcement action for a specified period. Although TS or license conditions may dictate a plant be shut down and cause unnecessary transients, or refueling activities to be suspended, or plant startup to be delayed, the NRC is under no obligation to grant a NOED. The NRC will grant a NOED only if the non-compliance with the TSs or license will be temporary and it is clearly satisfied that such action does not adversely affect public health and safety or the common defense and security and that the licensee could not have reasonably avoided the situation that is the subject of the NOED request. The burden is on the licensee to address the criteria in this guidance and provide a plan demonstrating that any additional risks while operating outside of the TS or license condition have been mitigated. Granting or denying the NOED shall be based on whether the decision minimizes potential safety consequences and operational risks that would occur if the NOED were not granted. In all cases, the NRC will consider appropriate enforcement actions consistent with the NRC's Enforcement Policy for the causes that led to the need for the NOED.

The NRC's primary considerations in granting a NOED are (1) the NRC is assured the licensee understands all safety and security concerns when operating outside of its TS or license conditions, and (2) the licensee is implementing a plan to mitigate the additional risks and has communicated that plan to the NRC. The NRC must be satisfied that, during the period of the NOED, additional risks have been mitigated and, therefore, there is no net increase in radiological risk to the public.

In addition to no net increase in radiological risk, approved NRC guidance that addresses defense-in-depth or margin-to-safety issues (directly related to the NOED subject) should be considered during evaluation of any NOED request. In all cases, the decision to grant or deny a NOED shall be risk-informed to the extent that modeling the risk is practical. The risk-informed decision shall not result in more than a minimal increase in radiological risk (must maintain normal work control levels).

NOED requests shall be considered on a case-by-case basis, taking into account the individual plant circumstances. The staff shall perform an independent risk assessment of the NOED request and consider the licensee's assessment as an input to its decision process, given reasonable time constraints. The NRC's assessment should be a joint effort by the regional SRA and NRR's SRA utilizing other technical staff, as necessary.

The NRC staff will decide whether the requested period is appropriate and has the final authority regarding the actual duration of a granted NOED. Requests for enforcement discretion greater than 5 days should be rare. If a licensee is requesting a NOED for a period greater than 5 days, the licensee must specifically justify why a licensing solution (e.g., emergency amendment) is not appropriate to be processed within the duration of a 5 day NOED.

Additionally, licensees who have implemented a risk-informed completion time (RICT) program should generally have time under that program to submit a license amendment before the expiration of the RICT, if needed. Although the NRC staff may consider NOED requests for TSs with RICT programs on a case-by-case basis, it is anticipated that only exceptionally rare circumstances would justify not using a licensing solution prior to expiration of the RICT. All NOEDs are considered in a situation- and plant-specific context. The timeframe considerations discussed are not absolute limits. They are guidelines for consideration in evaluating a request.

The NRC staff shall not permit the licensee to disregard a TS or license condition while the staff considers a request for enforcement discretion. If the licensee cannot provide the staff with an adequate basis and risk mitigation plan before the end of the TS CT, the licensee must take the required actions to comply with the TS while endeavoring to provide the staff with an adequate basis for granting the NOED. In all cases, the staff may grant a NOED only if the licensee provides a very clear basis for the staff to conclude that there will be no adverse effects on public health and safety and that the licensee has satisfied the criteria of this guidance. The burden of fully justifying the request for a NOED remains with the licensee. If subsequent information fails to support the initial issuance of the NOED, the NOED shall be terminated.

Requests for enforcement discretion shall provide a risk-informed basis demonstrating continued operation is appropriate. Plant-specific transition and shutdown risk models may be used to provide additional support to a NOED request.

The licensee's request must be sufficiently detailed to allow the staff to make its safety determination. The licensee's oral and written requests for enforcement discretion must address the following criteria:

1. Explain why a licensing process is not appropriate to address the issue and why the need for a NOED could not reasonably been avoided. If applicable, this explanation shall address previous instances of the issue and decisions to pursue licensing solutions in the past.
2. Provide a description of the TSs or other license conditions that will be violated. This description shall include the time the condition was entered and when the completion time will expire.
3. Provide sufficient information to demonstrate that the cause of the situation is well understood including extent of condition on other related SSCs (e.g., common cause).
4. Provide an evaluation of all safety and security concerns associated with operating outside of the TS or license conditions that demonstrates that the noncompliance will not create undue risk to the public health and safety or involve adverse consequences to the environment. This should include, as appropriate, a description of the condition and operational status of the plant, equipment that is out of service, inoperable, or degraded that may have risk significance, may increase the probability of a plant transient, may complicate the recovery from a transient, or may be used to mitigate the condition. This evaluation shall include potential challenges to offsite and onsite power sources and forecasted weather conditions.
5. Provide a description and timeline of the proposed course of action to resolve the situation (e.g., likely success of the repairs) and explain how the resolution will not

result in a different or unnecessary transient. This shall include the time period for the requested discretion and demonstrate a high likelihood of completion within the requested period of enforcement discretion. If the proposed course of action necessitates enforcement discretion greater than 5 days, the licensee shall justify why a longer-term solution (e.g., emergency amendment) should not be processed within the duration of a 5 days NOED.

6. Detail and explain compensatory actions the plant has both taken and will take to reduce risk(s), focusing on both event mitigation and initiating event likelihood. Describe how each compensatory measure achieves one or more of the following:
 - a. Reduces the likelihood of initiating events;
 - b. Reduces the likelihood of the unavailability of redundant trains, during the period of enforcement discretion; and
 - c. Increases the likelihood of successful operator actions in response to initiating events.
7. Demonstrate that the NOED condition, including compensatory measures will not result in more than a minimal increase in radiological risk, either in quantitative assessment that the risk will be within the normal work control levels (ICCDP less than or equal to $5E-7$ and/or ICLERP less than or equal to $5E-8$) or in a defensible qualitative manner. Further guidance is provided in Section 2.6.
8. Confirm that the facility organization that normally reviews safety issues has reviewed and approved this request and that a written NOED request will be submitted within 2 days of the NRC staff's decision regarding the NOED.

The discussion with the licensee should also cover whether it is appropriate for a follow-up amendment to be submitted following the NOED. Agreement on this point is not necessary to issue enforcement discretion but may factor into future decision making if the issue recurs.

2.6 Risk Insights

The numerical guidance for acceptance was established to augment qualitative arguments that continued operation of the plant during the period of enforcement discretion will not cause risk to exceed the level determined acceptable during normal work controls and, therefore, there is no net increase in radiological risk to the public. For licensee provided quantitative risk analysis, the licensee shall provide the effects on LERF. The following information should be provided to support this evaluation:

1. Use the zero maintenance PRA model to establish the plant's baseline risk and the estimated risk increase associated with the period of enforcement discretion. For the plant-specific configuration the plant intends to operate in during the period of enforcement discretion, the ICCDP and ICLERP should be quantified and compared with guidance thresholds of less than or equal to an ICCDP of $5E-7$ and an ICLERP of $5E-8$. These numerical guidance values are not pass-fail criteria. For the degraded case with the subject equipment out of service, the model should reflect, as best as possible, current equipment unavailability states (i.e., if other equipment is unavailable because of concurrent testing and maintenance, this should also be reflected in the analysis). This risk calculation should not be limited to the specific TS

relief in question, but rather, the total risk of continued operation for the specific configuration of the plant.

2. Discuss the dominant risk contributors (cut sets or sequences or both) and summarize the risk insights for the plant-specific configuration the plant intends to operate in during the period of enforcement discretion. This discussion should focus primarily on risk contributors that have changed (increased or decreased) from the baseline model because of the degraded condition and resultant compensatory measures, if any.
3. Discuss how the compensatory measures are accounted for in the PRA. These modeled compensatory measures should be correlated, as applicable, to the dominant PRA sequences identified in items 1 and 2 above. It is understood that measures not directly related to the out-of-service equipment may be implemented to reduce overall plant risk and, as such, should be explained. Compensatory measures that cannot be modeled in the PRA shall be assessed qualitatively.
4. Discuss the “extent of condition” of the failed or unavailable component(s) to other trains or divisions of equipment and the adjustments, if any, which were made to the related PRA common cause factors to account for potential increases in their failure probabilities. The method used to determine the extent of condition shall be discussed. It is recognized that a formal cause or apparent cause is not required because of the limited time available in determining the acceptability of a requested NOED. However, a discussion of the likely cause shall be provided with an associated discussion of the potential for common cause failure.
5. Discuss “external event risk” for the specified plant configuration. External events include fire (internal and external), external flooding, seismic, high winds, tornado, transportation, other nearby facility accidents. An example of external event risk is a situation in which a reactor core isolation cooling (RCIC) pump has failed and a review of the licensee’s Individual Plant Examination of External Events or full-scope PRA model identifies that the RCIC pump is used to mitigate CDF and LERF in certain fire scenarios. Action may be taken to reduce fire ignition frequency in the affected areas and to reduce human error associated with time-critical operator actions in response to such scenarios, and to ensure fire protective and corrective measures have been taken.

2.7 Documentation

Upon receiving the written, follow-up NOED request, the region shall issue its evaluation of the licensee’s request in a letter to the licensee within 2 days. The NRC staff’s letter documenting the NOED should be self-standing, address applicable items, and demonstrate that issuance of the NOED is consistent with NRC policy and guidance.

The letter granting or denying the NOED shall clearly specify the subject TS or license condition and shall specify the NOED criterion that were or were not satisfied in reaching this decision. The sequence of events in the staff's letter shall be clear and include the following:

- How and when the licensee first informed the NRC of a potential NOED request;
- How and when the licensee first requested enforcement discretion;
- The length of the for which enforcement discretion is being exercised;
- When the allowed time will end or has ended;
- When the NOED was orally granted;
- The date of the licensee's follow-up written request;
- If the NOED was terminated prior to issuing the staff's letter;
- The date and time the NOED was actually terminated; and
- When the licensee's follow-up license amendment request will be or was submitted.

In addition, the letter shall include staff verification of the consistency between the licensee's oral and written requests and the identity (by name and title) of the key NRC staff who participated in the NOED evaluation and granting.

If the NRC staff and licensee were unable to agree on whether there should be a follow-up amendment, the NRC staff shall document this information in the NOED letter and shall include a statement that the NRC may consider the recurrence of the situation a result of ineffective corrective action and may find that subsequent requests for enforcement discretion related to the same situation may not be granted.

Copies of any NOED-related letters to the licensee are distributed according to established regional, NRR and OE procedures and shall include the following as a minimum:

1. Regional Coordinator, OEDO
2. Regional Administrator
3. NRR/DORL Division Director
4. Office of Enforcement Director
5. DRP, Region [X], Director
6. NRR/DORL Technical Assistant
7. Applicable BCs (Region and NRR)
8. Applicable NRR plant PM
9. Applicable SRI
10. OE Web Resource
11. OPA Resource
12. Public

Further, the issuing region shall ensure the licensee's written request is profiled into the Agencywide Documents Access and Management System (ADAMS) as "publicly available" in accordance with agency policy. The ADAMS profile shall also reference the EATS EA number ("EA-YY-NNN" format). The NRR plant PM shall e-mail the NOED to "OEWeb Resource" and OE will post the region's NOED granting or denial letter on the NRC external Web page.

If NRC regulations (e.g. 10 CFR Part 21, "Reporting of Defects and Noncompliance," 10 CFR 50.72, "Immediate Notification Requirements for Operating Nuclear Power Reactors," or 10 CFR 50.73, "Licensee Event Report System") require a licensee report because of the

nonconformance, the licensee must submit that report despite the NRC's granting of a NOED. In no case shall the granting of a NOED relieve a licensee of regulatory or reporting requirements.

2.8 Severe Weather and Other Natural Phenomena

In unusual situations, severe weather or other natural phenomena may result in a government entity or a responsible independent entity (such as a regional power authority) making the determination that power delivery challenges in combination with potential adverse effects (non-radiological) to public health and safety constitute an emergency situation. Such situations are expected to occur rarely. When these conditions exist, a severe-weather NOED may be appropriate if enforcing compliance with specific license requirements could worsen the emergency situation.

In granting this type of NOED, a determination must be made that the public health and safety and the environment will not be impacted unacceptably. This determination is qualitative and must be based upon balancing the effect on public health and safety of not operating, against the potential radiological or other hazards associated with continued operation, using both risk insights and informed judgements, as appropriate.

For severe-weather NOEDs, the NRC staff should make reasonable efforts to assess the nature of the emergency situation. A teleconference should be held as soon as possible with senior licensee management.

In addition to addressing the basic NOED criteria in Section 2.5, the licensee shall also provide the following information:

1. The name, organization and telephone number of the official in the government or independent entity who made the emergency situation determination for independent verification of the determination;
2. Details of the basis and nature of the emergency situation including, but not limited to its effect on:
 - a. On-site and off-site emergency preparedness;
 - b. Plant and site ingress and egress;
 - c. Off-site and on-site power sources; and
 - d. Grid stability; and actions taken to avert and/or alleviate the emergency situation (e.g., coordinating with other utilities and the load dispatcher organization for buying additional power or for cycling load, or shedding interruptible industrial or non-emergency loads);
3. Potential consequences of compliance with existing license requirements (e.g., plant trip, controlled shutdown);
4. The impact of the emergency situation on plant safety including the capability of the ultimate heat sink; and
5. Potential adverse effects on public health and safety from enforcing compliance with specific license requirements during the emergency situation.

If the NOED was for severe weather or other natural phenomena, the licensee must provide a written NOED request within 3 hours of the oral request and the NRC staff will process as promptly as possible. The PM shall inform the Commission of the action through the appropriate contact in the office of the executive director for operations. As for all NOEDs, notification shall be followed promptly by an EDO Daily Note.

3.0 Subsequent Activities

3.1 Enforcement

The decision to exercise enforcement discretion by granting a NOED neither changes the fact that a violation will occur nor implies that enforcement discretion is being exercised for any violation that may have led to the need for the NOED. In each case in which the NRC staff has chosen to exercise enforcement discretion, appropriate enforcement action, in accordance with the NRC's Enforcement Policy, will normally be taken for any violations that contributed to the noncompliance. Such enforcement action is intended to emphasize that licensees should not rely on the NRC's NOED process as a substitute for compliance or for requesting a license amendment.

OE approval is required if more than a minor violation is involved and the staff determines not to pursue an enforcement action (i.e., notice of violation or a non-cited violation). The enforcement action shall reference the EA number for the NOED. When the cause of a licensee's need for a NOED was a violation, OE will issue an enforcement action (EA) number regardless of the severity level or whether the violation will ultimately be dispositioned as a notice of violation (NOV) or a non-cited violation (NCV). However, the NOED shall not include the enforcement action number. OE will post the NOED granting or denial letter on the NRC external Web page.

3.2 Licensing

Following resolution of a plant issue, whether a NOED was granted or not, a licensee should evaluate whether a permanent change to the TSs is appropriate to minimize future issues. Permanent changes may be appropriate in situations where there is a logical conflict in the TSs or where a completion time is less than the currently accepted standard times for a particular system. Although the NRC staff will not make its NOED decision contingent upon a licensee's intent to submit a subsequent license amendment, a licensee's decision to not pursue a permanent change would factor into the NRC staff evaluation of the first criteria in Section 2.5.

4.0 Roles and Responsibilities

- A. Regional Administrator (may be delegated to the Deputy Regional Administrator, the Director, Division of Reactor Projects (DRP), or other Regional SES manager)
 - 1. Is authorized to grant, deny or terminate a NOED after consultation with NRR.
 - 2. Implements the NOED process within the region to ensure uniform program implementation and effectiveness.
 - 3. Develops and issues NOED approval or denial.
 - 4. Ensures issuance of enforcement discretion that involves severe weather or other natural phenomena, and requires balancing public health and safety or common defense and security implications of not operating against the potential radiological

or other hazards associated with continued operation, are communicated to the Executive Director for Operations (EDO) and Commission, via the NRR Director.

B. NRR Director (may be delegated to the NRR Deputy Director)

1. Implements the NOED process within NRR to ensure uniform implementation and effectiveness.
2. Informs the EDO and Commission, as appropriate, when the NOED involves severe weather or other natural phenomena, and requires balancing public health and safety or common defense and security implications of not operating against the potential radiological or other hazards associated with continued operation.

C. Regional DRP Director and Deputy Director

1. Will be consulted on all NOEDs in their Region and concur, as appropriate.
2. Determines, in consultation with NRR, the minimum NRC staffing needed to make a determination for the NOED based on the technical details of the NOED request.
3. Leads any conference calls and opens each conference call by introducing the NRC personnel.
4. As delegated by the RA, is authorized to grant, deny or terminate a NOED after consultation with NRR (This role may not be delegated further).

D. Regional DRP Branch Chief

1. Serves as the lead in the NOED process.
2. Notifies the DRP Director, the cognizant DRS Branch Chief (BC), the senior reactor analyst (SRA), resident inspectors (RIs), NRR plant project managers (PMs) and Regional Enforcement Officer of situations where a licensee may request enforcement discretion.
3. Mobilizes the appropriate regional staff, and assigns work tracking codes for the staff.
4. Organizes and facilitates all calls with the licensee. Discusses the entry criteria and the enforcement discretion decision process with the licensee.
5. Coordinates with NRR NOED process expert to ensure consistency with similar NOEDs approved in the past.
6. Coordinates reviews of a licensee's NOED submittal and any licensee interactions with NRC staff.
7. Coordinates with OE Enforcement Branch for actions requiring a same-day Enforcement Notification (EN), and ensures that all topics are addressed.
8. Prepares the staff NOED letter to the licensee documenting the conditions of enforcement discretion. Ensures NRR management agrees before a NOED is granted.
9. Includes the OE Enforcement Branch BC on distribution of final letter. Ensures proper profiling of the licensee's written request into ADAMS.
10. Responsible for inspection, follow-up, and enforcement.

E. Regional Senior Reactor Analyst

1. Participates in teleconferences.
2. Contacts licensee risk analysts to obtain the licensee's evaluation, if available.
3. Conducts quantitative and qualitative risk assessments, in coordination with the NRR SRA. Verifies that the licensee provides reasonable bases or justifications for stating that there is no net increase in radiological risk associated with the licensee's proposed actions.
4. Advises the RA, DRP Director, and BC on the risk implications.
5. Seeks a consensus with the NRR risk analyst on the NOED's risk significance so that regional and HQ management receives consistent risk insights. Explains any differences in risk calculations between NRR and the region.
6. If appropriate, provides concurrence on all granted NOEDs.

F. NRR/DRA Senior Reactor Analyst

1. Participates in teleconferences related to the NOED and preliminary discussions.
2. Conducts an independent quantitative and qualitative risk assessments, in coordination with the regional SRA.
3. Seeks a consensus with the regional SRA on the NOED's risk significance so that regional and HQ management receive consistent risk insights. Explains any differences in risk calculations between HQ and the region.
4. Provides risk input to NRR management and the assigned NOED team.
5. If appropriate, provides concurrence on all granted NOEDs.

G. Senior Resident Inspector or Resident Inspector

1. Notifies the DRP BC and NRR PM when a licensee may be contemplating a NOED request, and provides insight as to why and when the request may be made. Informs the DRP BC and NRR PM when the TS LCO or license condition will require actions that could cause an unnecessary transient.
2. Ensures the licensee is aware of the need to call the DRP BC for any questions on the NOED process.
3. Participates in teleconferences and, to the extent practicable, verifies the licensee's oral assertions.
4. Opens an unresolved item (URI) to determine if there is a performance deficiency or if additional information is required to determine if the violation is more than minor.
5. Documents staff determinations regarding enforcement, inspection, verification, and resolution activities in the next appropriate inspection report under the URI.
6. Ensures that technical information and drawings used for discussions are current. Verifies, to the extent practicable, the licensee's oral assertions and whether or not the NOED request is consistent with NRC policy and guidance.

H. Regional Enforcement Staff

1. Opens a new EA number in the Enforcement Action Tracking System (EATS) for the tracking of the NOED.
2. Provides coordination with the Office of Enforcement (OE), as necessary.

I. NRR NOED Process Owner

1. Participates in all NOED calls.
2. Verifies the NOED process is followed, and provides any insights on previously-issued NOEDs in order to maintain consistency in the granting of enforcement discretion.
3. Develops and revises program documents for implementation of the NOED process.
4. Submits updates for the NOED public web site.

J. NRR Division of Operating Reactor Licensing (DORL) Director

1. Provides consultation for disposition decision.
2. Recommends to the RA (or designee) regarding the minimum NRC HQ staffing needed to assist the region in reviewing request for enforcement discretion.
3. Provides input (agreement or disagreement) regarding the granting of a NOED.
4. Develops program guidance and training to ensure consistency of program implementation across the regions and NRR.

K. NRR DORL Branch Chief

1. Participates in all NOED calls for assigned plant.
2. Recommends any additional NRR or other program office participation.

L. NRR DORL Licensing Project Manager:

1. Participates in all NOED calls for assigned plant.
2. Ensures that situations, where a licensee may request enforcement discretion, are communicated to resident inspectors (RIs) and Regional DRP BC.
3. Opens an EPID number under licensing action code "LLD" for HQ staff to record time reviewing a specific NOED request.
4. Mobilizes the necessary technical and project resources at HQ.
5. Organizes internal calls with the appropriate regional and HQ personnel to determine if the licensee's situation can be handled by an appropriate licensing process.

M. NRR Technical Staff:

1. Participates in NOED calls, as requested.
2. Reviews the basis for requests involving situations where a public emergency has been declared by a responsible outside entity (such as a regional power authority), and review the challenges that may have adverse effects on public health and safety or common defense and security.

N. OE Enforcement Branch Staff:

1. Assists regional enforcement staff in tracking NOEDs in EATS.
2. Coordinates with regional staff and prepares same-day EN to notify the Commission of severe weather or other natural phenomena-related NOEDs verbally granted by the region.

Checklist

The following is checklist that can be used by the NRC staff to assist in evaluating a licensee NOED request. This is merely a tool to assist NRC staff and management to assure that: 1) all NOED requirements are met, and 2) there is consistency between different licensees. NRC staff and management shall be familiar with the contents of this guidance before relying on this checklist.

Does the Regional Administrator (or delegate) find that all required NRC personnel are participating in the decision making process? If YES, record the names and roles fulfilled by those people. If NO, consult with NRR/DORL Director (or delegate) to determine who shall fill the required positions.

Regional Administrator (or delegate)

DRP BC

Regional SRA

Plant SRI

NRR DORL Director (or delegate)

NRR Plant PM

NRR DRA SRA

NRR NOED Process Owner

Additional Supporting Technical Staff (List all participants)

_____	_____
_____	_____
_____	_____

Checklist (Section A)

1. Did the licensee explain why a formal licensing process is not appropriate to address the issue and why the need for a NOED could not reasonably been avoided? If applicable, this explanation shall address previous instances of the issue and decisions to pursue licensing solutions in the past.

If YES, continue. If NO, deny the NOED

2. Did the licensee provide a description of the TSs or other license conditions that will be violated? This description shall include the time the condition was entered and when the completion time will expire.

If YES, continue. If NO, deny the NOED

3. Did the licensee provide sufficient information to demonstrate that the cause of the situation is well understood including extent of condition on other related SSCs (e.g., common cause)?

If YES, continue. If NO, deny the NOED

4. Did the licensee provide an evaluation of all safety and security concerns associated with operating outside of the TS or license conditions that demonstrates that the noncompliance will not create undue risk to the public health and safety or involve adverse consequences to the environment? This should include, as appropriate, a description of the condition and operational status of the plant, equipment that is out of service, inoperable, or degraded that may have risk significance, may increase the probability of a plant transient, may complicate the recovery from a transient, or may be used to mitigate the condition. This evaluation shall include potential challenges to offsite and onsite power sources and forecasted weather conditions.

If YES, continue. If NO, deny the NOED

Checklist (Section A)

5. Did the licensee provide a description and timeline of the proposed course of action to resolve the situation (e.g., likely success of the repairs) and explain how the resolution will not result in a different or unnecessary transient? This shall include the time period for the requested discretion and demonstrate a high likelihood of completion within the requested period of enforcement discretion. If the proposed course of action necessitates enforcement discretion greater than 5 days, the licensee shall justify why a longer-term solution (e.g., emergency amendment) should not be processed within the duration of a 5 days NOED.

If YES, continue. If NO, deny the NOED.

6. Did the licensee detail and explain compensatory actions the plant has both taken and will take to reduce risk(s), focusing on both event mitigation and initiating event likelihood? This shall include how each compensatory measure achieves one or more of the following:

- a. Reduces the likelihood of initiating events;
- b. Reduces the likelihood of the unavailability of redundant trains, during the period of enforcement discretion; and
- c. Increases the likelihood of successful operator actions in response to initiating events.

If YES, continue. If NO, deny the NOED.

7. Did the licensee demonstrate that the NOED condition, including compensatory measures will not result in more than a minimal increase in radiological risk, either in quantitative assessment that the risk will be within the normal work control levels (ICCDP less than or equal to $5E-7$ and/or ICLERP less than or equal to $5E-8$) or in a defensible qualitative manner?

If YES, continue. If NO, deny the NOED

8. Did the licensee confirm that the facility organization that normally reviews safety issues has reviewed and approved this request and that a written NOED request will be submitted within 2 days of the NRC staff's decision regarding the NOED?

If YES, continue. If NO, deny the NOED.

If this is a severe weather NOED continue. If not, consider granting the NOED request.

Was there agreement on the need for a follow-up LAR? YES NO

Checklist (Section B – Additional Criteria for Natural Event NOED Staff Evaluation)

1. Did the licensee provide the name, organization and telephone number of the official in the government or independent entity who made the emergency situation determination for independent verification of the determination?

If YES, continue. If NO, deny the NOED.

2. Did the licensee provide details of the basis and nature of the emergency situation including, but not limited to its effect on:

- a. On-site and off-site emergency preparedness;
- b. Plant and site ingress and egress;
- c. Off-site and on-site power sources; and
- d. Grid stability; and actions taken to avert and/or alleviate the emergency situation (e.g., coordinating with other utilities and the load dispatcher organization for buying additional power or for cycling load, or shedding interruptible industrial or non-emergency loads)?

If YES, continue. If NO, deny the NOED.

3. Did the licensee describe the potential consequences of compliance with existing license requirements (e.g., plant trip, controlled shutdown)?

If YES, continue. If NO, deny the NOED.

4. Did the licensee describe the impact of the emergency situation on plant safety including the capability of the ultimate heat sink?

If YES, continue. If NO, deny the NOED.

5. Did the licensee describe the potential adverse effects on public health and safety from enforcing compliance with specific license requirements during the emergency situation?

If YES, consider granting the NOED request. If NO, deny the NOED.