

January 4, 1993

MEMORANDUM FOR: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
Commissioner de Planque

FROM: James M. Taylor
Executive Director for Operations

SUBJECT: COMIS-92-025 - REGULATORY REVIEW

As requested by the December 24, 1992 memorandum from the Secretary, enclosed for Commission review is the Charter for the Regulatory Review Group. The Review Group is comprised of several SES managers and representatives from NRR, RES, the Regions, and OGC. The staff selected for this review is well versed in the policy, technical, and legal aspects of the task and represents the spectrum of the rule setting, licensing, inspection, and risk technology processes. Mr. Frank Gillespie, Director, Program Management, Policy Development & Analysis Staff, NRR, is the Review Group Leader.

As one of the early activities of the review, Mr. Sniezek, Mr. Gillespie and selected members of the Review Group will meet with each Commissioner individually to receive the Commissioner's insights regarding the review. Additionally, the Review Group will brief the Commission in a public meeting regarding the progress of the review about 2 months after the Commission approves the Charter of the Review Group. Interim findings during the review may dictate revisions to the initial Charter. The Commission will be informed if revisions become necessary.

Regarding resources, as currently envisioned, approximately 5 FTE of Review Group effort will be required for this review. An additional 2-3 FTE will be expended by the staff in interfacing with the Review Group and responding to specific questions raised during the review. Because of the talent being devoted to the Review Group effort, there will be some negative impact on other activities; however, with the exception of the diversion of management attention from the managers' normal areas of responsibility, the impact in any one area should be slight. Upon completion of the Review Group efforts, I intend to discuss the recommendations with senior staff management. We will then develop a schedule for implementation of the recommendations and define the resource requirements in a paper to the Commission.

Original Signed By:
James M. Taylor

James M. Taylor
Executive Director
for Operations

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Enclosure:
Charter

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RETURN TO REGULATORY CENTRAL FILES

REGULATORY REVIEW GROUP CHARTER

Purpose:

Conduct a comprehensive and disciplined review of power reactor regulations and related NRC processes, programs, and practices for their implementation. The analysis will be a fundamental examination of the regulations and staff implementation strategies with focus on the essential safety principles that significantly contribute to public health and safety. A detailed review should be conducted specifically for those regulations or implementation practices which appear to go beyond that which is required for "adequate protection."¹ In conducting this detailed review special attention will be placed on the feasibility of substituting unnecessarily prescriptive requirements and guidance with performance based requirements and guidance founded on risk insights. Revision of appropriate requirements and guidance in this manner should result in increased overall industry flexibility in plant operations without impacting reactor operational safety and may in fact contribute to operational safety.

Regulatory Review Group Composition and Interfaces:

Review Group Leader - Frank Gillespie, Director, Program Management Policy Development & Analysis Staff, Office of Nuclear Reactor Regulation

Secretary - Nancy Olson, Program Management Policy Development & Analysis Staff, Office of Nuclear Reactor Regulation

Members - Tony Cerne, Resident Inspector, Pilgrim Station, RI
Johns P. Jaudon, Deputy Director, Division of Radiation Safety and Safeguards, RIV
Cecil Thomas, Deputy Director, Division of Reactor Controls and Human Factors, NRP
Claudia Craig, Inspection and Licensing Policy Branch, NRR
Joe Murphy, Deputy Director, Division of Systems Research, RES
James M. Cutchin, Special Counsel, Office of the General Counsel
Byron Siegel, Project Manager, Division of Reactor Projects III/IV/V, NRR
Mary Drouin, Senior Risk & Reliability Engineer, Division of Safety Issue Resolution, RES

¹There is not a precise regulatory definition for the term "adequate protection." Rather, it is the aggregate judgment by the NRC of those actions necessary for the licensee to maintain safe operations. Refer to 53 FR 20603, Statements of Consideration pertaining to 10 CFR 50.109 for a more detailed discussion.

Three sub groups will address the review group activities described below. The review group includes representation from headquarters and regional technical staffs and OGC. This assignment takes precedence over all other assignments and is to be conducted on a full-time basis. Guidance and overall direction for the Review Group will be provided by the Deputy Executive Director for Nuclear Reactor Regulation, Regional Operations and Research. A Steering Committee comprised of the Directors of NRR, NMSS, RES, and AEOD, and Mr. Scinto, OGC will provide timely feedback to the Regulatory Review Group and ensure key program managers' experiences are factored into the review. Periodic (4-6 weeks) status briefings are to be given to the Executive Director for Operations and the Steering Committee.

An essential element of this Review Group is to develop a consensus, to the extent possible, on the approach and the key intermediate findings developed by the group. To this end, meetings and briefings with licensees, industry representatives (such as NUMARC), NRC staff, the Commissioners, ACRS, and the public will be held to solicit comments.

Background:

The staff previously instituted a number of reviews with the objective of improving the regulatory framework within which the NRC operates. One such recent program, described in SECY-92-263, seeks to identify, assess and eliminate regulatory requirements that have marginal importance to safety and yet impose a regulatory burden on licensees. Additionally, in response to a Presidential request, the Committee to Review Generic Requirements performed a special review of existing regulations that resulted in some regulation changes and refers to the marginal-to-safety program (SECY-91-141). However, these programs and other related activities need to be considered as part of a broader and more complete examination of the current regulatory framework. The mission of the Regulatory Review Group is to provide this integrated, more complete examination.

Task Group Activities:

The Regulatory Review Group will perform the following major tasks:

1. Conduct a series of meetings or utilize other methods, where appropriate, that elicit candid views on: areas of redundant regulation, overly burdensome regulation, areas where regulatory guidance and implementation verification processes may be overly prescriptive, areas where the regulations or regulatory guidance may be ambiguous, and suggested simplification and clarification of existing requirements and processes. Seek the candid views of the Commissioners, NRC staff, industry representatives, licensees, ACRS, NARUC and the public regarding priority areas to be examined, issues of particular concern, and recommendations for improvement. Incorporate the results into the review effort.

2. Assessment of Regulations

- a. Conduct a review of the current body of power reactor regulations to identify whether or not the regulation appears to go beyond that required for continued safe operation, is prescriptive or performance based, or is in need of clarification, and provide a brief evaluation of each major section of the regulations.
- b. Conduct a review of the statements of considerations for the rules, and selected SECY papers to identify the underlying principles and bases for the rules and, if possible, aggregate the rules that address the same overall issues (e.g., security, emergency preparedness, Reactor Coolant Pressure Boundary, etc.) so that an integral evaluation can be performed.
- c. Based on a. and b. above, evaluate the extent to which each major section of the regulations should be revised or examined further by the staff for potential revision. Revision of appropriate requirements in this manner should result in increased overall flexibility in plant operations without impacting safety and may contribute to operational safety.

3. Assessment of NRC Implementing Guidance

Conduct a review of the implementing guidance for a broad sample of regulations to determine how the regulation is applied in the licensing and inspection process. Explore the industry view of the guidance and what role the implementation plays in making the regulations more restrictive than envisioned by the rule itself or the Statement of Considerations. The task group will examine the implementing guidance for coherence and consistency with the intent of the regulation and identify areas where interpretations of the rule should be relaxed, eliminated, or clarified.

4. Assessment of Operating Licenses

Select several operating licenses issued at various times. Determine how the regulations and regulatory guidance were incorporated into the operating license. Determine how much inherent flexibility licensees have in making changes to their plant or operations and what in the licensing process inhibits this flexibility and makes the rule or implementation of the rule more restrictive once incorporated into the license. This will include identifying such things as what license conditions were imposed, what actions require preapproval by the NRC, what actions require post implementation NRC review, and requirements in the license that cause actions which may not be needed for the protection of public health and safety.

5. Assessment of Risk Technology

Examine how an integral analysis (probabilistic risk assessment [PRA]) can be used to provide more flexibility in the regulations and the implementation of the regulations. Determine what types of general ground rules or restrictions would be necessary to confidently sustain broad PRA usage as an accepted, credible tool for optimizing operations while maintaining the current level of safety. This will include addressing uncertainties and limitations of analytical tools and restrictions that should be placed on their use, identifying ways of accommodating limitations and specify conditions under which NRC could support broad application of risk technology to optimize licensee flexibility. Identify areas where existing regulatory processes can be revised in favor of performance-based approaches. Consider the policy, legal, and technical issues which need to be addressed to do so.

6. Current Programs

Examine the status of current staff efforts under the marginal-to-safety program, CRGR Special Review, and examination of requirements resulting from the "insider" threat to determine if there are areas where redirection may be appropriate or changes can be made in a short period of time. Refer to SECY 91-141, SECY 92-263, and SECY 92-272 and related Staff Requirements Memoranda.

7. Report of Findings

Submit a report to the EDO describing the findings of the review group. The report should specifically include:

- a. Identification of existing reactor requirements which should be eliminated, revised, or further evaluated by the staff. The scope and extent of revisions should be described and justification for the revision, elimination, or further evaluation briefly discussed.
- b. Identification of regulatory guidance which should be eliminated or revised. The scope and extent of revisions should be described and justification for the revision or elimination briefly discussed.
- c. Identification of staff licensing/inspection processes which should be eliminated or revised. The scope and extent of revisions should be described and justification for the revision or elimination briefly discussed.
- d. Recommendations for follow up efforts by the staff to implement the results of the review. The recommendations should include a prioritization of follow-up efforts taking into account the potential impact on operational safety, the overall reduction in burden which is achievable, the timeliness of relief achievable, and the staff resources required to implement the recommendation.

REGULATORY REVIEW GROUP

FRANK GILLESPIE
Secretary - NANCY OLSON

RULES/IMPLEMENTING GUIDANCE

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