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POLICY ISSUE

(NEGATIVE CONSENT)

December 16, 1996

SECY-96-251

FOR: The Commissioners

FROM: James M. Taylor
Executive Director for Operations

SUBJECT: REVISED MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE INSTITUTE OF NUCLEAR POWER OPERATIONS (INPO) AND THE U.S. NUCLEAR REGULATORY COMMISSION (NRC)

PURPOSE:

To inform the Commission that, unless I am informed otherwise within 5 working days, I plan to sign the revised MOA between INPO and the NRC provided in Attachment 1.

BACKGROUND:

In 1994 the staff initiated a rulemaking to require that licensees submit reliability and availability data to the NRC. The Commission subsequently approved publication of the proposed rule and, at the same time, stated that the staff should work with industry on the voluntary submittal of reliability data, under a program that would meet the needs of all parties. The proposed rule was published in the Federal Register for public comment on February 12, 1996. In addition, discussions with industry regarding a voluntary approach have continued.

In a letter dated June 7, 1995, Joe F. Colvin, of the Nuclear Energy Institute (NEI) proposed a voluntary approach for discussion as an alternative to the ongoing rulemaking. On October 1, 1996 INPO provided a sample of data from INPO's Safety System Performance Indicator (SSPI) data base for NRC

Contact:
Dennis Allison, AEOD
415-6835

NOTE: TO BE MADE PUBLICLY AVAILABLE WHEN
THE FINAL SRM IS MADE AVAILABLE

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evaluation. These data would constitute a key element of the proposed voluntary approach. My memorandum of October 24, 1996 to the Commissioners discussed the staff's plans for proceeding on this matter. The staff will complete its evaluation of the proposed voluntary approach and provide a recommendation to the Commission by April 1997. If the Commission then decides to proceed with a final rule, the final rule will be published 6 months after the decision.

DISCUSSION:

Following several months of discussion, Zack T. Pate of INPO provided two signed copies of the revised MOA with a letter dated November 27, 1996. The forwarding letter is provided in Attachment 1 to this paper. As stated in the forwarding letter, the changes are contained in Appendix Number One to the MOA, entitled "Coordination Plan for NRC/INPO Exchange of Operational Data." Specifically, some material in Appendix Number One to the MOA Section 2.b. has been changed and the material in Section 2.e. is new (Attachment 2 to this paper). A copy of the current MOA, dated September 17, 1993, is provided as Attachment 3 for your information.

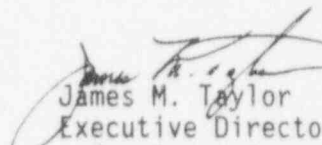
The modifications to the MOA describe how INPO would provide SSPI data to the NRC and the procedures and circumstances under which NRC would disclose data outside the NRC. These provisions are consistent with the way that Nuclear Plant Reliability Data System (NPRDS) data are currently handled. Attachment 4 to this paper provides an extract from the current contract, describing how NPRDS data are treated. The provisions are also consistent with and refer to a letter from William J. Dircks (NRC) to Zack T. Pate (INPO) dated November 18, 1985 discussing treatment of NPRDS data (Attachment 5 to this paper).

The staff has reviewed the provisions of the revised MOA and considers them suitable for the purpose of accommodating the exchange of this type of data.

The Office of the General Counsel has reviewed the revised MOA and has no legal objection.

RECOMMENDATION:

That the Commission note that, unless I am informed otherwise within 5 working days, I will sign the revised MOA.


James M. Taylor
Executive Director
for Operations

Attachments:

1. Letter to James M. Taylor, NRC, from Zack T. Pate, INPO, dated November 27, 1996.
2. Sections 2.b. and 2.e. of Appendix Number One to the Revised MOA.
3. MOA Between INPO and NRC dated September 17, 1993.
4. Attachment II to Modification No. 9 to Contract NRC-26-92-269, entitled "H.3 - NPRDS Proprietary Information".
5. Letter to Zack T. Pate, INPO, from William J. Dircks, NRC, dated November 18, 1985, discussing proprietary treatment of NPRDS data.

SECY NOTE: In the absence of instructions to the contrary, SECY will notify the staff on Tuesday, December 24, 1996 that the Commission, by negative consent, assents to the action proposed in this paper.

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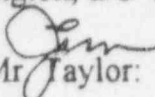


Institute of
Nuclear Power
Operations

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Atlanta, GA 30339-5957
770-644-8000
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November 27, 1996

Mr. James M. Taylor
Executive Director For Operations
U.S. Nuclear Regulatory Commission
Washington, DC 20555


Dear Mr.  Taylor:

Enclosed for your signature are two final copies of the revised Memorandum of Agreement (MOA) between the Institute of Nuclear Power Operations (INPO) and the U.S. Nuclear Regulatory Commission (NRC), superseding the previous version dated September 17, 1993.

The only changes made to the MOA are in Appendix Number One, Coordination Plan for NRC/INPO Exchange of Operational Experience Data. Changes provide for a voluntary reliability data sharing arrangement with the NRC. Preliminary agreement between INPO and the NRC on wording for the revised MOA was reached in late June 1996 and confirmed in our August 19, 1996 letter to Mr. Edward L. Jordan. In the interim, we have provided sample reliability data from six plants selected by the NRC as a way of demonstrating the agreement.

We have included two signed copies. Upon signing the two original documents, please return one of the originals. Should you wish to discuss this matter further, please call me at (770) 644-8200.

Sincerely,


Zack T. Pate
President

Enclosures: As stated above
cc/wo: Joe F. Colvin, NEI

EDO -- G960901

ATTACHMENT 1

2. OVERALL COORDINATION

- a. NRC and INPO will regularly exchange, on a timely basis, the results of completed and formally documented generic analysis and event evaluation of operational data.
- b. INPO will provide the NRC with timely listings of the significant events that have been identified by the SEE-IN screening process as significant events for analysis. Similarly, the NRC will provide INPO in a timely manner with a listing of NRC generic communications and temporary instructions being considered or under development resulting from NRC's event screening processes and accident sequence precursor (ASP) analysis. This NRC listing will be made publicly-available in accordance with NRC procedures for release of draft documents (e.g., NRC Manual Bulletin 3203-25). Additionally, on a periodic basis, a conference call will be held between INPO and the NRC to discuss the facts relating to recent events at nuclear power plants. Should differences in the understandings of facts arise, each party will make a reasonable effort to re-review the facts and discuss them in a subsequent conference call. No advice or recommendations on policy and regulatory issues shall be discussed during these conference calls.
- c. Information and data obtained by the NRC from foreign sources that do not include restrictions on further distribution will be entered into a computerized data bank and will be made available for INPO analysis activities. Foreign information and data obtained by INPO that does not include restrictions on further dissemination will similarly be entered into an INPO data base and will be made available for NRC analysis activities.
- d. INPO will provide the NRC access to and use of the Nuclear Plant Reliability Data System (NPRDS) operated and maintained by INPO. Additional agreements regarding NPRDS access and usage are contained in a contract between NRC and INPO that is separate from this agreement.

Effective Date:

Attachment 2

- e. INPO will provide to the NRC selected performance indicator results and data from U.S. utilities from its World Association of Nuclear Operators (WANO) performance indicator data base. Data will be provided on a quarterly basis subject to the following practical conditions and agreements:

NOTE: For purposes of this paragraph, the following terms and definitions apply:

Plant/unit-specific - Refers to information for which the submitting station name is included

Data - Refers to raw performance indicator information as opposed to computed indicator results

Indicator results or simply results - Refers to computed indicator final values

Broad industry results - Refers to indicator results from many U.S. stations or U.S. industry summary values, such as results by plant groups

- (1) All data and indicator results provided to the NRC are furnished with "limited rights" to their use. For the purposes of this agreement, the term "limited rights" means that NRC and NRC contractors will treat plant/unit-specific data and indicator results supplied by INPO as proprietary commercial information, and will not disclose either plant/unit-specific or broad industry data or indicator results outside the NRC except as allowed by this agreement or by separate written agreement with INPO. The data and indicator results would be publicly disclosed only if (1) the data forms the basis for a regulatory decision in an NRC document addressing a safety concern, and (2) an NRC Office Director determines pursuant to 10 CFR 2.790(b)(5) that the public's right to know that basis warrants the release of the data. Unless a compelling immediate safety concern

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indicates otherwise, INPO will be given reasonable advanced notification of the NRC decision to make the specific data public on a given date so that INPO will have the opportunity to exercise its legal options regarding such disclosure. The letter from W. J. Dircks (NRC) to Z. T. Pate (INPO) dated November 18, 1985, provides additional background information and guidance.

- (2) As an exception to the "limited rights" provision above, INPO grants NRC the right to publish U.S. domestic plant/unit-specific and broad U.S. industry performance indicator results provided to NRC in the NRC's periodic report, *Performance Indicators for Operating Commercial Nuclear Power Reactors*, prepared by the Office for Analysis and Evaluation of Operational Data (AEOD). NRC agrees to provide INPO two copies of each report as soon as it is compiled, and agrees to notify INPO in advance of changes to the report that may affect interpretation of the WANO performance indicator information used. INPO also grants NRC the right to publish the results of U.S. domestic plant/unit specific analyses of equipment reliability/availability performance indicator raw data provided by INPO, subject to paragraph 2.e.(4) below.
- (3) NRC recognizes that WANO makes reasonable efforts to identify and follow up on questionable data, but that ultimate responsibility for data reporting accuracy rests with the submitting plant. Accordingly, NRC agrees to verify all plant-specific data and plant-specific indicator results with the applicable plant(s) before any such data is used for plant-specific regulatory decisions.
- (4) NRC will continue to offer INPO and NEI (and affected licensees for plant-specific conclusions or recommendations) the opportunity to provide comments on documents or reports containing information derived from plant-specific or generic data, or indicator results provided by INPO. For substantive NRC documents, this will be consistent with

Effective Date:

NRC procedures for release of draft documents (e.g., NRC Manual Bulletin 3203-25), including public disclosure of the draft document and any comments submitted. For other documents, INPO and NEI will be on distribution and NRC will consider any comments provided. These provisions apply only to documents and reports that NRC intends to make available external to the NRC.

- (5) Since changes to improve the WANO Performance Indicator Program are expected to occur over time, INPO agrees to provide NRC an opportunity to comment on proposed changes that could affect data/indicator results voluntarily submitted to NRC.
- (6) INPO agrees to mark quarterly data submitted to NRC as proprietary commercial information.

**MEMORANDUM OF AGREEMENT
BETWEEN
THE INSTITUTE OF NUCLEAR POWER OPERATIONS
AND
THE U. S. NUCLEAR REGULATORY COMMISSION**

This memorandum between the U.S. Nuclear Regulatory Commission (NRC) and the Institute of Nuclear Power Operations (INPO) reflects the desire for a continuing and cooperative relationship in the exchange of experience, information, and data related to the safety of nuclear power plants.

The NRC has statutory responsibility for licensing and regulating nuclear facilities and materials and for conducting research in support of the licensing and regulatory process, as mandated by the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and the Nuclear Nonproliferation Act of 1978; and in accordance with the National Environmental Policy Act of 1969, as amended, and other applicable statutes. NRC's responsibilities include protecting public health and safety, protecting the environment, protecting and safeguarding materials and plants in the interest of national security, and assuring conformity with antitrust laws. INPO is an organization sponsored by the nuclear utility industry whose mission is to promote the highest levels of safety and reliability in the operation of nuclear electric generating plants. As such, NRC and INPO undertake mutual and complementary activities, as defined in appendices to this Agreement. These appendices will help ensure that the goals of both organizations are achieved in the most efficient and effective manner without diminishing or interfering with the responsibilities and authorities of the NRC and the goals of INPO.

This Memorandum is not intended to be an enforceable agreement or contract on either party, notwithstanding the occasional use of the term "agree" or the use of mandatory language such as "shall" or "will" in either the Memorandum or its appendices. Since this Memorandum is not legally binding, the Commission may depart from its terms whenever it deems it necessary or appropriate to do so in the discharge of its regulatory responsibilities, except that in the interests of cooperation the Commission will, if appropriate and practical, advise INPO of any intention to depart from the terms of this Memorandum prior to doing so.

It is intended that this Memorandum of Agreement and its companion appendices complement one another. Appendices are utilized to delineate detailed and specific areas for cooperative agreements which exist between the parties of this Agreement and which may be amended from time to time. The appendices are not interpreted as restrictive to only those areas specified in the document, but serve as

keystones of the Agreement for the exchange of information to support the common goals of both organizations.

INPO and the NRC agree to consult with each other with regard to the availability of technical information that would be useful in areas of mutual interest; and to promote and encourage a free flow of such information. In this regard, INPO will provide plant specific information on a case-by-case basis consistent with the other provisions of this Agreement. Both parties recognize the need for excluding from this Agreement fragmentary information related to work in progress and/or which has been received on a privileged basis. However, as information is verified and found to be necessary or important to findings upon which significant safety-related conclusions and recommendations are based, the party holding such information will take appropriate and timely steps to remove it from the fragmentary, privileged or otherwise restricted status. However, the NRC cannot provide information to INPO that is required by law to be withheld. Each party recognizes the need, on some occasions, to be able to accept and protect privileged information where such information could not be made available otherwise. It is recognized that the parties to this Agreement may not be fully aware of the extent of each other's knowledge and thus, this Agreement requires only the parties' best efforts and a reasonable degree of care in assuring that significant safety-related information is provided in a timely manner to the other party.

The parties to the Agreement will meet periodically to exchange information and keep each other apprised of the major activities underway and planned in each area of agreement. The meetings are an effort to avoid unnecessary and unintentional duplication of activities, while providing a means to identify those areas where independent activities by another organization may be warranted.

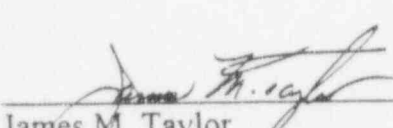
Coordination meetings are for information exchange only. Meetings are not to be construed as requests or opportunities for (or used by the NRC for obtaining) the advice or recommendations of INPO or its personnel on policy or regulatory issues within the scope of the NRC's responsibilities. INPO advice or recommendations to the Commission on regulatory or policy matters, if any, are to be made through established procedures of the Commission and will be considered by the Commission in the same manner as other offers of advice or recommendations made through established Commission procedures. Minutes of all coordination meetings will be placed in the NRC public document room. These need not be verbatim transcripts of coordination meetings, but should include a list of the meeting participants and agenda items discussed at meetings, with brief summaries of the discussions held by meeting participants.

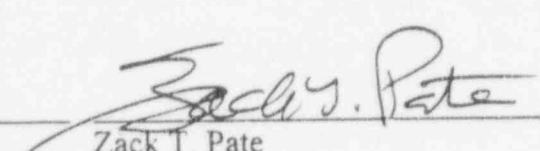
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In addition to meetings, it is expected frequent, informal communications will exist among the parties that will be limited to exchanging information and providing updates on the status of activities in progress or planned. The appendices to this agreement provide for NRC access to selected INPO proprietary documents and information. Such documents and information provided to the NRC will be appropriately identified as Limited or Restricted Distribution. Consistent with previous legal decisions sanctioning the exchange of proprietary information between INPO and NRC and in the interest of improving nuclear plant safety, NRC will control distribution of INPO proprietary documents and information within the agency and will exert best efforts to protect it from unauthorized disclosure. The NRC understands that INPO proprietary documents are all integral parts of INPO's private, routine interactions with its members. Exceptions to this policy for control of INPO proprietary documents and information will be addressed by the parties to this agreement on a case-by-case basis.

This Agreement supersedes the previous Agreement dated October 21, 1991. The appendices to this agreement are as follows:

- **Appendix Number One, Coordination Plan for NRC/INPO Exchange of Operational Experience Data**
- **Appendix Number Two, Observation and Coordination Plan for NRC/INPO Inspection and Evaluation Activities**
- **Appendix Number Three, Observation and Coordination Plan for NRC/INPO Training-related Activities**
- **Appendix Number Four, Coordination Plan for INPO/Industry Participation in NRC Incident Investigation Teams**


James M. Taylor
Executive Director for Operations
U.S. Nuclear Regulatory Commission


Zack T. Pate
President
Institute of Nuclear Power Operations

Effective Date: September 17, 1993

APPENDIX NUMBER ONE

COORDINATION PLAN FOR NRC/INPO EXCHANGE OF OPERATIONAL EXPERIENCE DATA

1. BACKGROUND

The purpose of this plan is to coordinate selected NRC and INPO activities related to the collection and feedback of operational experience, information and data related to the safety and reliability of nuclear power plants. There are several underlying assumptions, including the following:

- a. NRC as the government entity has statutory responsibilities and authorities which are paramount. Nothing in this plan dilutes that responsibility and authority to take action in accordance with applicable statutes.
- b. Recognizing the ability of INPO to contribute to safe and reliable operation with a resulting benefit to public health and safety, the following statements apply:
 - (1) NRC and INPO share the common objectives that reporting of operational experience information and data be efficient and that duplicative or inconsistent reporting be minimized.
 - (2) NRC and INPO agree that the validity of analysis results may depend upon the completeness and quality of input information.
 - (3) NRC and INPO agree that the effectiveness of operational data feedback is dependent upon a proper understanding of the significant lessons learned from industry operating experience.

2. OVERALL COORDINATION

- a. NRC and INPO will regularly exchange, on a timely basis, the results of completed and formally documented generic analysis and event evaluation of operational data.
- b. INPO will provide the NRC with timely listings of the significant events that have been identified by the SEE-IN screening process as

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significant events for analysis. Similarly, the NRC will provide INPO in a timely manner with a listing of NRC generic communications and temporary instructions being considered or under development. Additionally, on a periodic basis, a conference call will be held between INPO and the NRC to discuss the facts relating to recent events at nuclear power plants. Should differences in the understandings of facts arise, each party will make a reasonable effort to re-review the facts and the event will be discussed on a subsequent conference call.

- c. Information and data obtained by the NRC from foreign sources, that do not include restrictions on further distribution, will be entered into a computerized data bank and will be made available for INPO analysis activities. Foreign information and data obtained by INPO that does not include restrictions on further dissemination will similarly be entered into an INPO data base and will be made available for NRC analysis activities.
- d. INPO will provide the NRC access to and use of the Nuclear Plant Reliability Data System (NPRDS) operated and maintained by INPO. Additional agreements regarding NPRDS access and usage are contained in a contract between NRC and INPO that is separate from this agreement.
- e. NRC and INPO intend to have periodic informal technical discussions on generic or event-related studies in progress that are of mutual interest.
- f. Prior to issuing to the industry an Information Notice or other completed and formally documented analysis on a specific event at a nuclear power plant, the NRC agrees to make reasonable efforts to review available INPO SEE-IN products to determine whether INPO has additional technical information which bears on the subject matter. Similarly, INPO agrees to make reasonable efforts to review available NRC Information Notices or other completed analysis to determine whether the NRC has additional technical information which bears on an INPO SEE-IN product. Unless a compelling safety concern dictates otherwise, the party identifying technical inaccuracies, if any, will give the other party reasonable advance

notification of the inaccuracies and seek resolution before formally issuing the information to the industry.

APPENDIX NUMBER TWO

**OBSERVATION AND COORDINATION PLAN
FOR
NRC/INPO INSPECTION AND EVALUATION
ACTIVITIES**

1. **BACKGROUND**

The purpose of this plan is twofold: First, to maintain NRC and INPO awareness of inspection and evaluation activities, respectively. Second, to coordinate selected NRC inspection and INPO evaluation activities in order to minimize the impact placed on utility personnel.

There are several underlying assumptions, including the following:

- INPO recognizes NRC's regulatory responsibilities and authority.
- NRC recognizes INPO's efforts to promote excellence in nuclear plant operations.
- NRC desires to recognize INPO evaluation activities to the extent that these activities are effective in helping meet NRC's responsibilities and lessen the burden imposed on the industry by duplicative oversight activities.
- NRC requires access to selected INPO documents and information and the opportunity to observe selected INPO activities to give credit for INPO activities and thereby avoid unnecessary duplication.

2. **INPO ACTIVITIES**

This section outlines INPO evaluation activities.

- a. INPO will conduct evaluations of operating nuclear plants on a periodic basis.
- b. INPO will also conduct periodic evaluations or assistance visits related to corporate support of nuclear stations either on utility request or as scheduled by INPO. This phase of INPO activities will usually be

conducted coincident with (in close time proximity to) an evaluation of the utility's nuclear plant(s).

- c. INPO will prepare a written report for each evaluation. These reports will include appropriate utility responses in each area identified by INPO as needing improvement.
- d. Each succeeding evaluation will include follow-up on the responses developed during the preceding evaluation.
- e. INPO will conduct appropriate visits to Near Term Operating License plants and their corporate organizations to assist in their preparation for operation.

3. NRC OBSERVATION OF INPO ACTIVITIES

- a. INPO expects its member utilities to make operating plant evaluation reports available to the NRC resident inspector and appropriate management personnel for review or reading on site. Further, INPO will make final evaluation reports available to the NRC for generic review or reading by appropriate NRC management personnel at the INPO offices in Atlanta as part of an ongoing exchange of information concerning the evaluation program.
- b. Current copies of, and any changes to, INPO evaluation performance objectives and criteria will be provided to NRC.
- c. NRC may, on request, have a representative observe an INPO evaluation. INPO will obtain the necessary concurrence from the host utility. While specifying a maximum number to be observed is not considered necessary by either party, it is anticipated that an NRC representative may observe INPO evaluations several times annually. Where NRC Regional personnel participate as observers, they would not normally accompany an INPO team on an evaluation in their own Region.
- d. INPO will brief personnel of the NRC Office of Nuclear Reactor Regulation (NRR) upon request on any or all aspects of INPO's evaluation and assistance program.

- e. NRC review of INPO evaluation activities will be coordinated by the NRC Office of the Executive Director for Operations. Because INPO has its own system for obtaining member corrective action, NRC's role in pursuing correction of INPO evaluation findings will involve only significant safety problems for which NRC has no other reasonable alternative in meeting its legislated responsibilities. Any other NRC follow-up enforcement action would be in accordance with paragraph 3.h. below.
- f. Subject to the continued development and success of the INPO program as outlined above and NRC's ability to effectively review the program, NRC intends to recognize INPO evaluations and, in those areas deemed appropriate, to minimize NRC inspections that duplicate INPO evaluations.
- g. NRC and INPO will coordinate NRC inspections (involving two or more inspectors) and INPO evaluations to minimize the impact on the utility involved. Where feasible, NRC and INPO will coordinate event related or other emergency on-site activities such as NRC augmented inspection teams (AITs), incident investigation teams (IITs), diagnostic evaluation teams (DETs), and INPO event investigations, although each party recognizes that it may not be possible to coordinate all of these efforts.
- h. The NRC will apply the established Commission enforcement policy for licensee identified non-compliances to those non-compliances identified by utilities as a result of INPO evaluations.

4. **INPO OBSERVATION OF NRC INSPECTION ACTIVITIES**

- a. INPO may, on request, have a representative observe an NRC inspection (typically a team inspection). While specifying a maximum number to be observed is not considered necessary by either party, it is anticipated that an INPO representative may observe NRC inspections several times annually. NRC will obtain concurrence from the host utility.
- b. INPO observation of NRC inspection activities will be coordinated by the NRC Office of the Executive Director for Operations.

APPENDIX NUMBER THREE

OBSERVATION AND COORDINATION PLAN FOR NRC/INPO TRAINING-RELATED ACTIVITIES

1. BACKGROUND

The purpose of this plan is to coordinate selected NRC and INPO activities related to nuclear power industry training. It is also intended to provide a mechanism and a basis for information sharing and NRC recognition of INPO and National Academy for Nuclear Training efforts in this area.

There are several underlying assumptions:

- INPO recognizes NRC's regulatory responsibility and authority.
- NRC and INPO share the goal of improving and maintaining the quality of nuclear utility training.
- NRC recognizes the industry's initiative and commitment to INPO programs that promote high quality training through development of integrated training and qualification systems, including accreditation of key training programs.
- NRC recognizes INPO accreditation and associated training evaluation activities (see also Appendix Number Two, "Observation and Coordination Plan for NRC/INPO Inspection and Evaluation Activities") as an acceptable means of self-improvement in training. Such recognition encourages industry initiative and reduces evaluation and inspection activities. NRC recognizes accreditation is a means but not a requirement for meeting the requirements of 10 CFR 50.120 rule on Training and Qualification of Nuclear Power Plant Personnel.
- INPO recognizes that the NRC requires access to selected INPO documents and information, as well as the opportunity to observe selected INPO activities related to training and accreditation, in order to ensure that the NRC meets its obligations to the public and the Congress.

- Coordination of NRC and INPO training-related activities and sharing of information will increase overall effectiveness as well as lessen the burden imposed on the industry by duplication of activities.

2. OVERALL COORDINATION

In order to promote overall coordination of NRC and INPO training-related activities, the following actions will be taken:

- a. NRC/INPO Coordination Meetings will be held periodically with representatives from NRC's Office of Nuclear Reactor Regulation (NRR) and INPO's Training and Education organization. At these meetings, information on ongoing projects, plans, and selected INPO and National Academy documents undergoing revision will be discussed. Written reports of progress and results may be exchanged.
- b. INPO will provide the NRC with access to selected INPO and National Academy documents and information, and will provide updated copies of the INPO and National Academy training guidelines and Training System Development Manual.

3. INPO ACTIVITIES

This section outlines INPO and National Academy activities related to the accreditation of performance-based programs for the training and qualification of nuclear power plant personnel. The INPO point of coordination for the implementation of this plan is the vice president, Training and Education.

- a. INPO will continue to manage the accreditation of utility training programs including:
 - self-evaluations by member utilities, with assistance from the INPO staff;
 - on-site evaluations of training and qualification programs by teams of INPO and utility personnel;
 - preparation of a report for each accreditation team visit;

- follow-up on recommendations developed during the accreditation process; and
 - review of training programs by the National Nuclear Accrediting Board for the purpose of awarding, deferring, renewing, placing on probation, or withdrawing of accreditation.
- b. INPO will continue to conduct periodic performance-oriented evaluations of personnel training and qualifications as part of its operating plant evaluations and follow-up to accreditation. This provides another means of independent feedback on the quality of training.
- c. INPO will provide updated copies of the accreditation objectives and criteria document as it is revised. This document will be made publicly available.
- d. INPO will review and consider NRC recommendations regarding INPO-managed training-related programs, documents, and criteria.
- e. INPO will provide periodic detailed briefings on accreditation to appropriate NRC management personnel, including review of the activities described in 3.a above and documentation of industrywide accreditation status.
- f. INPO intends to brief the Commission periodically on National Academy activities.

4. NRC ACTIVITIES

This section outlines the NRC's continuing efforts to monitor INPO activities as part of NRC's assessment of the effectiveness of industry's training and qualification program improvements. The NRC point of coordination for implementation of this plan is the director, Division of Reactor Controls and Human Factors, NRR.

- a. To avoid "codifying" or the appearance of "codifying" INPO documents, NRC will not issue documents that duplicate INPO and National Academy training documents and will not refer to INPO and National Academy documents as a means of satisfying NRC requirements. Exceptions to this

policy for control of proprietary INPO and National Academy documents will be addressed by the parties to this agreement on a case-by-case basis.

- b. NRC will assess the effectiveness of industry's training and qualification program improvements as follows:
- conduct operator initial licensing exams;
 - audit, monitor, and/or conduct operator requalification exams, consistent with 10 CFR Part 55;
 - monitor plant and industry trends and events involving personnel errors;
 - conduct performance-based inspections of training and qualification program effectiveness as necessary and consistent with 10 CFR 50.120 and the NRC Inspection Manual.
- c. NRC will monitor INPO activities in training and accreditation as follows:
- receive periodic briefings and/or reports from INPO and review a sample of applicable INPO and National Academy documents;
 - nominate prestigious and appropriately experienced individuals who are not on the NRC staff to serve as members of the National Nuclear Accrediting Board with full voting privileges;
 - have an NRC staff member attend and observe selected National Nuclear Accrediting Board meetings (not to include executive session decision-making deliberations);
 - on request, have an NRC representative observe INPO accreditation team site visits for the purpose of monitoring the effectiveness of the accreditation process. It is anticipated the NRC will observe several visits annually, sending only one observer on any visit. In rare instances, more than one observer may be included on a visit with prior mutual agreement between NRC and INPO. INPO will obtain the necessary concurrence from the host utility. Where NRC Regional personnel participate as observers, they would not normally

accompany an INPO accreditation team on a visit in their assigned Region;

- be notified of any modifications in the program objectives and criteria as currently described in the National Academy for Nuclear Training document, *The Objectives and Criteria for Accreditation of Training in the Nuclear Power Industry*, (ACAD 91-015).
- d. NRC recognizes that training program probation does not mean the loss of accreditation and will allow the utility to correct the weaknesses in training while being held accountable by the National Academy. A utility will be requested to notify the NRC promptly when accreditation status has changed.
- e. Because INPO has its own system for obtaining member corrective action, NRC's role in pursuing correction for INPO identified training and qualification problems will involve only significant safety problems for which the NRC has no other reasonable alternative in meeting its legislated responsibilities. INPO expects its member utilities to make accreditation reports available to the NRC resident inspector and appropriate management personnel for review or reading on site. Likewise, INPO will make available in its offices accreditation reports for generic review by NRC managers.
- f. NRC will provide INPO copies of NRC's performance-oriented inspection program, including applicable inspection guidelines.
- g. NRC will coordinate any team inspections with INPO accreditation team visits and evaluations to minimize the impact on the utility involved. On request and with concurrence of the utility, an INPO employee may observe an NRC training inspection. It is anticipated INPO would observe such inspections occasionally, sending only one observer on any visit. In rare instances, more than one observer may be included on a visit with prior mutual agreement between NRC and INPO.

APPENDIX NUMBER FOUR

COORDINATION PLAN FOR INPO/INDUSTRY PARTICIPATION IN NRC INCIDENT INVESTIGATION TEAMS

1. The purpose of this plan is to establish guidance for INPO or other industry representatives involvement with NRC Incident Investigation Teams (IITs). It is also intended to minimize duplication of event investigation efforts to reduce the impact on the affected utility and to promote dissemination of accurate operating experience information to the industry.
2. NRC and INPO recognize the importance of NRC's incident investigation activities in identifying significant operational experience information. Participation by industry representatives on an IIT should result in a more complete and thorough understanding of the factors contributing to the incident and actions needed to prevent recurrence. In carrying out this plan, INPO recognizes NRC's responsibility and authority.
3. In view of these considerations, INPO and NRC agree on the following:
 - a. INPO or other industry representatives' participation on an IIT will be coordinated between the Director of the Office for Analysis and Evaluation of Operational Data (AEOD) for the NRC and the Vice President for Government Relations, INPO. A request for participation by an industry representative can be initiated by either party to this agreement.
 - b. NRC will provide INPO with a copy of the current Incident Investigation Manual and any other procedures which apply to the operation of an IIT.
 - c. NRC will notify INPO promptly when an IIT is being activated and provide all necessary information to enable INPO to facilitate industry participation.
 - d. INPO will serve as the central point of contact for coordination of all issues and procedures regarding industry participation on IITs.
 - e. INPO will recommend industry participants to the NRC.

Effective Date: September 17, 1993

- f. INPO will request each industry nominee to sign a statement regarding proprietary information, conflicts of interest, and waiver of compensation. In addition, each industry nominee will be requested to comply with the procedures established for the operation of IITs, which include procedures for handling differences in professional opinion and the release of investigation information. This signed statement will be provided to the NRC as part of the nomination process.
- g. INPO will provide assistance in coordinating with the affected utility to obtain site access for the industry representative(s).
- h. INPO will work with the affected utility and the IIT so that the Significant Event Report (SER), if any, being prepared by INPO on the event under investigation by an IIT is factually correct. To this end, INPO will request that the affected utility coordinate a review of the draft SER with the IIT and provide comments to INPO.

H.3 NPRDS PROPRIETARY INFORMATION

- a. All data provided to the NRC are furnished with "limited rights" to their use. For the purposes of this contract, the term "limited rights" means that NRC and NRC contractors will treat "plant/unit-specific" information on the NPRDS as proprietary commercial information (i.e., NPRDS data that identify a specific nuclear plant or utility by name). NRC or its contractors will not disclose plant/unit-specific NPRDS data outside the NRC except as allowed by this contract or by separate written agreement with INPO.
- b. Plant/unit-specific NPRDS data would be publicly disclosed only if (1) the data which forms a basis for the regulatory decision appear in an NRC document addressing a safety concern, and (2) an NRC Office Director determines pursuant to 10 CFR 2.790(b)(5) that the public's right to know that basis warrants the release of the data. Unless a compelling immediate safety concern dictates otherwise, INPO will be given reasonable advanced notification of the NRC decision to make the specific data public on a given date so that INPO will have the opportunity to exercise its legal options regarding such disclosure. The letter from W. J. Dircks (NRC) to Z. T. Pate (INPO) dated November 18, 1985 provides additional background information and guidance.
- c. NRC recognizes that INPO makes reasonable efforts to identify and follow up on questionable data, but that ultimate responsibility for data reporting accuracy rests with the submitting plant. Accordingly, NRC agrees to verify all plant/unit-specific data with the applicable plant(s) before any such data is used for plant-specific regulatory decisions.
- d. INPO grants NRC the right to publish plant/unit-specific analyses of NPRDS data provided by INPO subject to the following: NRC will continue to offer INPO the opportunity to provide comments on documents or reports containing information derived from NPRDS data. For substantive NRC documents, this will be consistent with NRC procedures for release of draft documents (e.g., NRC Management Directive 3.4, "Release of Information to the Public," approved September 1, 1993) including public disclosure of the draft document and any comments submitted. For other documents, INPO will be on distribution and NRC will consider any comments provided. These provisions apply only to documents and reports that NRC intends to make available external to the NRC.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

NOV 18 1985

Dr. Zack T. Pate, President
Institute of Nuclear Power Operations
1100 Circle 75 Parkway
Suite 1500
Atlanta, GA 30339

Dear Dr. Pate:

In Mr. Wilkinson's letter of February 15, 1984, he requested that the NRC protect the confidentiality of unit-specific NPRDS data under the provisions of 10 CFR 2.790(b). Specific information was provided in the form of a sworn affidavit that addressed the pertinent requirements of this regulation.

Mr. Wilkinson indicated that the NRC should consider NPRDS unit-specific data exempt from mandatory public disclosure for the following reasons:

1. NPRDS unit-specific data is held in confidence by INPO and its member utilities;
2. NPRDS unit-specific data is unique and there is a rational basis for INPO holding it in confidence;
3. NPRDS unit-specific data has been provided to the NRC in confidence and it is not available in public sources;
4. NPRDS unit-specific data is important to INPO's member utilities in their selection of equipment vendors and public disclosure of this data would result in an economic harm to INPO; and
5. Public disclosure of NPRDS unit-specific data would, in INPO's judgment, impair the NRC's ability to obtain this data in the future because the NRC under present law and regulation is not entitled to this data as a right, and if such unit-specific data were made available publicly, INPO and its member utilities would reassess the appropriate scope of NRC's access to this data.

Based upon this submittal, we have reviewed INPO's application and the material based on the requirements and criteria of 10 CFR 2.790, and we have determined that NPRDS unit-specific data constitutes confidential commercial information and thus is exempt from mandatory public disclosure. Accordingly, I am initiating action to inform the NRC staff of this determination and to specifically direct that NPRDS unit-specific data reported subsequent to January 1, 1982, is to be protected from unauthorized disclosure.

We understand that INPO has no objection to the reasonable and appropriate public use by the NRC of NPRDS data since January 1, 1982 that is not unit-specific and that where NPRDS unit-specific data forms a basis for a specific NRC regulatory decision, INPO would be amenable to its public disclosure. Within this context, the NRC interprets the phrase "specific regulatory decisions" to include both decisions which result in a specific formal regulatory action being taken and decisions where it is concluded no formal agency action is necessary.

In either type of decision, NPRDS unit-specific data will be released only if (1) the data which forms a basis for the regulatory decision appears in an NRC document addressing a safety concern, and (2) an NRC Office Director determines pursuant to 10 CFR 2.790(b)(5) that the public's right to know that basis warrants the release of the data. Unless a compelling immediate safety concern dictates otherwise, INPO will be given reasonable advance notification of the NRC decision to make the specific data public on a given date so that INPO will have the opportunity to exercise its legal options regarding such disclosure.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly involved with NRC activities to inspect the documents. If the need arises, we may send copies of this information to our consultants working in the area under review. We will, of course, ensure that any non-NRC employees requiring access to NPRDS data have signed the appropriate agreements for handling proprietary information.

If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You should also understand that the NRC may have cause to review this determination pursuant to 10 CFR 2.790 in the future if the scope of a Freedom of Information Act request includes NPRDS unit-specific information.

Should you have any questions on this subject, please contact Jack Heltemes at 301/492-4484.

Sincerely,

(Signed) Jack W. Roe

for William J. Dircks
Executive Director for Operations

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