

From: Maria Lopez-Otin
To: KRH *Ken Hart, JRG*
Date: 9/30/96 9:41am
Subject: Draft SRM SECY-96- 189

Ken,

Please look at the attachment to the Commissioner's vote. On page 5, we want the entire phrase deleted, i.e., a period after facilities. The sentence would then read:

The NRC has concluded that it requires information that can be used to verify compliance with the terms and conditions of your license(s) and NRC regulations, and assure that the plant USFAR(s) properly describe the facilities.

The deleted phrase restates language from 50.54(f), which is implied, and does not need to be repeated.

Sorry for the confusion,

Maria

CC: MMS, MXK, BWJ, JRG

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September 26, 1996

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PROPOSED ISSUE OUTLINE
CURRENT LICENSING BASIS-MILLSTONE LESSONS LEARNED

I Fundamental Issues

- A. What requirements and information are applicable to and legally binding upon the licensee during operation. "Legally binding" in this context means a legal requirement upon the licensee, a violation of which may be the basis for an enforcement action.
- (i) The legally-binding licensing basis currently must consist of the license, (including any license conditions), technical specifications, the NRC rules and regulations in Title 10 of the Code of Federal Regulations (CFR) and the FSAR.

The important policy issue is to what extent certain information in addition to the above should be deemed or otherwise determined by regulation to be "legally binding." This set of information includes but are not limited to, licensee commitments in "confirmatory letters/orders," responses to 10 CFR 50.54(f) requests for information, and responses to notices of violation.

so licensee's response to Doherty Bates letter becomes a legal reqt.!

- (ii) Secondary Issue: What information is necessary for licensee to comply with its license, technical specifications, orders, and NRC regulations. In a true, performance-based approach, this is not a consideration-the licensee is free to determine what information is necessary for it to assure compliance.

- B. What information is necessary for the NRC to assure that it fulfills its regulatory responsibilities under the Atomic Energy Act of 1954, as amended (AEA) and other relevant statutes (e.g., Clean Air Act, Clean Water Act, National Environmental Policy Act) with respect to operating nuclear power plants.

- (i) This entails determining: (1) what are the regulatory responsibilities of the NRC vis-a-vis operating NPPs, (2) what NRC activities, and are necessary to fulfill that responsibility (e.g., inspections of operations, reviews against design basis), and (3) what information is necessary to perform those activities in an effective, timely and cost-effective manner.
- (ii) Paramount regulatory responsibility: under Section 103 of AEA: protecting the public health and safety and promoting the common defense and security; under Section 182: provide adequate protection to public health and safety.
- (iii) [Staff needs to delineate the necessary activities]

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- (iv) [Staff needs to define information necessary-this is one area where the Staff would discuss the relevance of information and commitments made as part of CP and OL proceedings.]

II. As each necessary NRC regulatory activity and the nature of information required to perform each activity is identified, then the following matters need to be addressed with respect to the information:

- (i) To what extent must information be "readily available" to NRC upon demand; versus what information must be in the hands of the NRC.
- (ii) To what extent must this information be kept up to date.
- (iii) To what extent should licensee have this information ("compiled") in one or more documents.
- (iv) To what extent must the NRC be notified of any changes in this information (including any change to the information that would no longer render the information subject to any recordkeeping/reporting process requirements).
- (v) To what extent must changes to this information be subject to prior NRC review and approval (including any change to this information that would no longer render the information subject to any recordkeeping/reporting process requirements).
- (vi) What new information must be subject to these recordkeeping and reporting requirements, and subject to requirements for NRC review and prior approval.
- (vi) What information should be available to the public.
- (vii) To what extent should the public have an opportunity for hearing in conjunction with any NRC review and approval of the information.

III. Once these matters are defined, then current NRC requirements and practices must be reviewed to determine whether they are sufficient to provide the necessary information in a manner consistent with NRC determinations on the matters in Item II above.