



11/23/04 RDB received *(signature)*

D. R. Woodlan, Chairman  
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P.O. Box 1002, Glen Rose, Texas 76043

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SCWE

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*(15)*

STARS-04020

November 15, 2004

Michael T. Lesar, Chief, Rules and Directives Branch  
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Office of Administration, Mail Stop: T-6D59  
U. S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**STRATEGIC TEAMING AND RESOURCE SHARING (STARS)  
COMMENTS ON PROPOSED GENERIC COMMUNICATION;  
ESTABLISHING AND MAINTAINING A  
SAFETY CONSCIOUS WORK ENVIRONMENT  
(69 FR 61049)**

Gentlemen:

Attached are comments from the Strategic Teaming and Resource Sharing (STARS)<sup>1</sup> nuclear power plants on the NRC's proposed generic communication to provide guidance for licensees on establishing and maintaining a safety conscious work environment (69 FR 61049 of October 14, 2004). The NRC plans to issue a Regulatory Issue Summary (RIS) entitled, "Establishing and Maintaining a Safety Conscience Work Environment (SCWE)." The Federal Register notice includes a draft and requests comments. The Commission has directed that the document be issued. Only comments on content will be entertained.

Responsibility for establishing and maintaining a SCWE belongs to licensees. It is not appropriate for NRC to issue a "best practices" document, even if it includes caveats that try to disclaim that label. This is more appropriately done by the industry. STARS encourages the NRC to work with the NEI (Nuclear Energy Institute, Inc.) to produce the type of guidance deemed appropriate for the operating reactor licensees. The STARS plants have been working with NEI and support the comments being submitted by NEI. In addition, specific STARS concerns with the draft RIS are attached to this letter.

<sup>1</sup> STARS is an alliance of six plants (eleven nuclear units) operated by TXU Power, AmerenUE, Wolf Creek Nuclear Operating Corporation, Pacific Gas and Electric Company, STP Nuclear Operating Company and Arizona Public Service Company.

R-RIS-ADM-03

SIS Review Complete

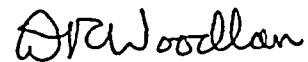
Callaway • Comanche Peak • Diablo Canyon • Palo Verde • South Texas Project • Wolf Creek

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Adm = G. Markley (FWM)

The STARS plants appreciate the opportunity to comment on the proposed Regulatory Issue Summary. If there are any questions regarding these comments, please contact me at 254-897-6887 or [dwoodl1@txu.com](mailto:dwoodl1@txu.com).

Sincerely,

A handwritten signature in black ink that reads "D. R. Woodlan". The signature is written in a cursive style with a large, stylized "D" and "W".

D. R. Woodlan, Chairman  
Integrated Regulatory Affairs Group  
STARS

**STARS Comments on**  
**Draft RIS (Regulatory Issue Summary) on SCWE (safety conscious work environment)**

Included below are STARS comments and concerns regarding the draft RIS proposed by the NRC regarding establishing and maintaining a safety conscious work environment (SCWE).

- Responsibility for establishing and maintaining a SCWE belongs to licensees. It is not appropriate for NRC to issue a “best practices” document, even if it includes caveats that try to disclaim that label. STARS encourages the NRC to work with NEI to produce the type of guidance deemed appropriate for the operating reactor licensees. The industry has already developed guidance in NEI 97-05, “Nuclear Power Plant Personnel-Employee Concerns Program – Process Tools in a SCWE,” which covers many of the same issues and has samples of many of the kinds of documents suggested for use in the RIS.
- The RIS should also clearly note that it is not creating new requirements or definitions and is not changing the requirements and definitions that already exist. This RIS could easily become a “de facto” regulatory requirement. Stronger statements are needed to clearly state that the RIS should not be used as inspection guidance. The RIS needs to make it clear that not employing one or more of the actions or activities in the RIS does not make a SCWE program deficient. Licensees should not be put in the position of having to defend why one or more actions or activities listed in the RIS were not performed.
- The NRC staff “clarified” in the draft that some of the practices outlined in the guidance may not be practicable or appropriate for every NRC licensee depending on the existing work environment and the size, complexity, or hazards of licensed activities. It is highly unlikely that these are the only parameters that affect which practices should be employed by a licensee. This thought occurs in several locations in the draft RIS and should be modified to include “other factors” in addition to those cited.
- Senior management review of every disciplinary action above an oral reprimand is probably overly restrictive and unnecessarily burdensome. The discipline programs at licensees vary widely and generally include several levels, stages or layers of action. The appropriate level for senior management review varies from licensee to licensee and may even vary from department to department for a given licensee. Management review, therefore, should be at the discretion of each licensee.
- The draft RIS calls the main text of the document “Elements of a Safety Conscious Work Environment.” The characterization is incorrect. Most of the document lists options, attempts to summarize legal requirements, generally describes programs which are described better elsewhere (e.g., operability, reportability, corrective action) or provides elementary guidance on related activities (e.g., self-assessments and surveys). Other included practices such as additional training, incentive programs and 360 degree appraisals may be considered burdensome and ineffective. Incentive programs can be motivating to personnel, but can also undermine the intrinsic motivation, and can cause other negative effects. Therefore, incentive programs should not be included in the RIS. STARS recommends that if these components are to remain in the RIS, the document needs an upfront description of its

content and the character of each component. Clearly most of the options in the documents are not “elements” and should not be so labeled. Note that many of the descriptions are summaries only which are described better elsewhere (provide the appropriate references).

- The reference to appeal processes “(e.g., differing professional opinion or alternative dispute resolution processes)” should be deleted. The complex processes provided as examples have, themselves, had problems in the past. It is our opinion that such processes can actually create SCWE problems that did not already exist.
- In several locations the draft document says that feedback should be provided to the concerned individual. The concept is acceptable but in many (possibly most) cases unnecessary. In many cases, the key is making the action taken and final resolution available. When standard programs are followed (PI&R or CAP processes), this is the most common and practical method of keeping the concerned individual informed. The implied need for direct contact with the concerned individual in such cases is inappropriate and such direct contact would be unnecessary and burdensome.
- In those locations where the document attempts to summarize other regulatory requirements or legal issues (e.g., the definitions at the end), a better discussion of the summaries is needed. It should be clearly stated that such information is only a simplified summary and that licensees should refer to the actual regulations, associated guidance for those regulations and commissions rulings and decisions for more complete and detailed discussions.
- In several locations, the draft RIS says that the employer should allow employees to identify concerns on company time and should, in fact, encourage such activity. Employers control the work assignments of the employees. Employees should be allowed company time in which to report concerns to their employer via established reporting paths. A SCWE program should not be an excuse for an employee to ignore assigned work to investigate or resolve potential concerns, unless assigned to do so.
- The document discusses safety over production. STARS agrees that safety comes first. The paper seems to imply, however, that safety issues which demonstrate “safety objectives over production goals” are more important than other safety concerns. STARS does not agree with this implication. Safety concerns which do not challenge production goals can be equally or even more important. Safety concerns should be recognized and prioritized based on the potential impact to safety and not on the relationship to production.
- The RIS includes a discussion of performance indicators. Most potential indicators, when taken by themselves, are weak and quite possibly misleading. Trends tend to be more important than absolute values. True feedback is rarely obtained unless multiple indicators are assessed collectively. As stated in their name, these are only indicators. The actual condition of the SCWE will not be known until the events affecting the suspect indicators are evaluated in more detail. STARS recommends that these limitations be emphasized at the beginning of the section.