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Mr. David Meyer, Chief
Rules and Directives Branch
Office of Administration
Mail Stop T6-D59
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

April 17, 2001

Dear Mr. Meyer:

These comments are being submitted in response to the Federal Register Notice dated January 10, 2001 concerning the first year of initial implementation of the new reactor oversight process. In keeping with your format, we addressed your questions as outlined in the Federal Register Notice.

Questions related to the efficacy of the overall process.

1. Does the ROP provide adequate assurance that plants are being operated safely?

NO

The performance indicator information provided by the companies is useful for assessing performance but not definitive. We have argued that the performance indicators in their present form can not be relied upon because they are not risk based, are not plant specific, and the corresponding thresholds are not risk based or plant specific. This blurs the intent of the process in this area. From our perspective, we have to assess the data on its own merits, on a plant specific basis, and with the whole plant in mind. The ROP performance indicator data tells a small piece of the performance story.

Regarding inspections, we have argued that more time, not less is needed in many of the inspections for them to be performed at the level required to identify plant concerns. We have participated in many inspections and we have seen first hand that most require more inspection time not less. We don't see the NRC moving in a direction that expands the time of the inspections but we do see the NRC reducing the scope of the inspections.

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Regarding the significance determination process (SDP), most SDPs are complex and have been subject to extensive revisions and changes. Few inspection findings are categorized other than green. Industry reacts by engaging in a strong debate to change many non-green inspection findings. The discussions, which take place over the color assigned to the inspection finding, can dilute the credibility of the process and be perceived as negotiations - not a desired outcome of the process. Finally, the SDP is founded on plant probabilistic risk assessments. These were submitted as IPEs and IPEEs. They are outdated. If the SDP is to be accurate and credible, then the underlying probabilistic risk assessment must be reviewed, approved and current.

2. Does the ROP provide sufficient regulatory attention to utilities with performance problems?

YES

Once a finding or performance indicator, other than green is identified, sufficient regulatory attention is paid to the issue. This may be an unintended consequence due to the limited number of findings and performance indicators not green.

In most cases, the regulatory attention paid to plants with performance problems is too narrow. The regulatory attention paid to performance indicators and inspection findings other than green are focused on the area in question. The ROP would be more credible if the regulatory attention for non-green performance indicators and inspection findings were expanded to larger plant issues. For example, cross-cutting issues, management oversight, and economic influences are possible areas of review that could be assessed.

The more important question is whether or not this system can find performance problems and ensure they are corrected. Thirteen plants had 14 white performance indicators this last quarter as it appeared on the NRC web page. One plant had a yellow performance indicator. We question the credibility of the performance indicator system when close to 99% of them are green. During the year, the ROP identified 15 inspection findings at thirteen plants that were other than green. These included 13 white, 1 yellow and 1 red finding. About 50% of these were self identified or the result of an incident, not due to the ROP.

3. Does the ROP reduce unnecessary regulatory burden on licensees?

YES

It may have reduced necessary, as well as, unnecessary regulatory burden. The ROP was designed to reward green plants by requiring a baseline of inspection, which meant predictable, time limited intrusion at the plant. It is still unclear what the real inspection hours are for the ROP. The ROP does focus resources on apparent risk significant issues.

The ROP has such high thresholds that it will not lead to many findings and therefore render most inspection activity unimportant. Under the previous oversight process, plant

owners took every inspection seriously because each had the real possibility to uncover an issue – significant or not. The industry now knows that most inspections will not lead to a finding. Therefore the influence of the inspections is greatly diminished. This minimizes the importance of NRC inspectors and their role in the process.

4. Does the ROP improve the efficiency, effectiveness, and realism of the regulatory process, focusing NRC resources on those issues with the most safety significance?

There is insufficient data to draw any conclusion.

5. Has the public information associated with the ROP been appropriate to keep the public informed, in a timely and understandable fashion, of NRC activities related to plant safety?

YES

The NRC has made a concerted effort to keep the public informed in a timely and understandable fashion regarding plants and plant safety as defined by the ROP. The NRC has done a good job with the presentation of ROP information on the web. The web page captures the performance indicator information and major inspection information in a timely and understandable manner.

6. Does the ROP increase the predictability, consistency, clarity and objectivity of the NRC's oversight activities?

NO

On paper the ROP looks very nice. But in reality and in application, the performance evaluation of a nuclear power plant is complicated, cumbersome and, difficult. You need a variety of perspectives from a variety of sources covering a variety of activity to piece together the performance puzzle at an operating nuclear power plant. The ROP gives the false impression that nuclear power plant performance assessment it is a neat, easy process. In particular, by conveniently omitting the uncertainties associated with the IPEs, and not even describing additional uncertainties, a false impression of precision is conveyed.

7. Has the public been afforded adequate opportunity to provide input/comments and involvement in the ROP development process?

YES

8. Has the NRC been responsive to input/comments provided by the public regarding the ROP development process?

NO

We are exhausted in submitting comments regarding the ROP. Whether it is participating in workshops, attending meetings, or submitting comments, it has always been our intention to provide feedback so that your revised oversight process has the benefit of external stakeholders. We believe that our comments have had little impact in your process.

Questions related to specific ROP program areas.

1. Do the performance indicators or other aspects of the ROP create unintended consequences?

YES

Unfortunately, the ROP is becoming a two-tiered system: Plants that are all green and plants that are not all green. This is due to the limited number of other than green performance indicators and inspection findings. This is creating an interesting regulatory situation. Plants that are all green can enjoy the benefit of classifying themselves as safe and the public, who are beginning to understand the process, are doing the same. Also, owners want to be all green. Plants that are not all green are going to be questioned. In the eyes of the program, industry, and the public – something is wrong with these plants. The real unintended consequence is that plant owners will do everything possible to eliminate any performance indicators or inspection findings that are not green.

2. Do any aspects of the ROP inappropriately increase regulatory burden?

NO

We are not aware of any inappropriate increase in regulatory burden, except for the increased debate that ensues when an inspection finding other than green has been identified.

3. Is the SDP usable and does it produce consistent and accurate results?

Insufficient data to respond, except to mention that the SDP process is burdensome and complicated and difficult to use.

It is constructive as a tool to inform the discussion about the significance of an inspection finding or incident. With so few inspection findings, it has not been tested very much.

4. Are there areas of unnecessary overlap between the inspection program and the performance indicators?

NO

5. Does the ROP assessment program provide timely, consistent, and relevant assessment information?

The NRC provides as timely, consistent, and relevant assessment information as they can given the dynamics of the ROP. The inspection reports are usually written and issued in about a month's timeframe. Any inspection findings, other than green, usually take a long time to assess. In the mean time, the performance indicator information and inspection report information is being made available on a quarterly basis but this is well after the fact. The ROP is a lagging assessment program. By the time the performance indicators or inspection findings enter the web page, a quarter has already passed. It is still debatable if the ROP assessment information is relevant.



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