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From: "Janati, Rich" <rjanati@state.pa.us>
To: <nrcprep@nrc.gov>
Date: Fri, Dec 5, 2003 12:45 PM
Subject: Comments on the Fourth Year of the Implementation of the Reactor Oversight Process

Dear Mr. Lesar,

Attached please find our comments/responses to the NRC's questions on the Reactor Oversight Process (ROP).

If you have any questions or need additional information, please do not hesitate to contact me at 717-787-2163 or email rjanati@state.pa.us.

Thank you for the opportunity to provide comments on the new ROP.

Sincerely,

Rich Janati
Chief
Division of Nuclear Safety
Bureau of Radiation Protection
PA Department of Environmental Protection

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CC: <mjm3@nrc.gov>, "Allard, David" <dallard@state.pa.us>

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all - M. Maley (MJM3)

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Comments on the Fourth Year of the Implementation of the Reactor Oversight Process (ROP).

- (1) Does the Performance Indicator Program minimize the potential for licensees to take actions that adversely impact plant safety?

The PIs are actual plant data and provide a mechanism for objective criteria for evaluating plant performance. However, the basis for setting the existing PI thresholds are inconsistent; some are based on PRAs and others are based on regulatory requirements or technical specification limits. Therefore, some PIs and their associated thresholds do not directly correlate with risk. We encourage the NRC to expedite the development of the risk-based PIs. Some industry representatives have expressed concerns that there is a potential for licensees to inadvertently take actions that might adversely impact plant safety, particularly as it relates to “unplanned power reductions” and “unplanned scrams” PIs.

- (2) Does appropriate overlap exist between the Performance Indicator Program and the Inspection Program?

Yes, but there are areas of improvement. The ROP Inspection Program, including the SDP, is more focused on risk significant issues than the PI Program. This inconsistency has reduced the overall effectiveness of the ROP.

The PI verification inspection is a positive aspect of the ROP and it should continue. Considering that currently there are no PIs for cross-cutting areas (human performance, safety-conscious work environment, and corrective action program), we recommend NRC’s continuous attention to these areas. Also, see our response to question # 12.

- (3) Do reporting conflicts exist, or is there unnecessary overlap between reporting requirements of the ROP and those associated with the Institute of Nuclear Power Operations (INPO), the World Association of Nuclear Operations (WANO), or the Maintenance Rule?

The reporting requirements of the ROP and the Maintenance Rule are established by the NRC as part of the regulation of nuclear power plants. Therefore, any other reporting requirements by INPO or WANO are industry imposed requirements and should not be considered a burden on the licensees. However, it would be appropriate for the NRC and the industry to cooperate further in this area to remove any unnecessary overlap, as long as it does not diminish the effectiveness of the current regulatory reporting requirements.

- (4) Does NEI 99-02, "Regulatory Assessment Performance Indicator Guideline" provide clear Guidance regarding Performance indicators?

Overall, the NEI Guidance Document is very helpful in defining the PIs. It would be more appropriate for the licensees to comment on the effectiveness of this document.

- (5) Is the information in the inspection reports useful to you?

The information contained in the inspection reports is useful and overall, the quality of these reports has improved.

- (6) Does the Significance Determination Process yield equivalent results for issues of similar significance in all ROP cornerstones?

The SDP is a resource-intensive process and the lack of standardized risk analysis tools has further complicated the process. Therefore, SDP may not always yield equivalent results for issues of similar significance in all ROP cornerstones. Additionally, it may not yield consistent results within an NRC Region and especially across the various NRC Regions.

- (7) Does the NRC take appropriate actions to address performance issues for those licensees outside of the Licensee Response Column of the Action Matrix?

Based on our experience with the ROP implementation at the PA power plants, the NRC Region 1 has taken appropriate actions to address performance issues for those licensees outside the Licensee Response Column of the Action Matrix. Also, the NRC's supplemental inspection is a positive aspect of the ROP and should continue.

- (8) Is the information contained in the assessment reports relevant, useful and written in plain English?

The initial assessment reports were very stilted and sometimes unclear. However, the reports continue to improve in readability and content and usefulness.

- (9) Are the ROP oversight activities predictable (i.e. controlled by the process) and objective (i.e. based on supported facts, rather than relying on subjective judgment)?

The new ROP is more objective and predictable than the previous process. This is due to the combination of Performance Indicators and a more objective and better structured Inspection and Assessment Program.

- (10) Is the ROP risk-informed, in that the NRC's actions are graduated on the basis of increased significance?

Overall, the ROP is more risk-informed than the previous process and the NRC actions are generally graduated on the basis of increased risk significance. However, the lack of standardized risk analysis tools has diminished the effectiveness of the process.

- (11) Is the ROP understandable and are the processes, procedures and products clear and written in plain English?

Overall, the ROP is an understandable process. However, there are certain aspects of the new process that are not always as clear as they could be. For example, the SDP (particularly phase 2 and 3) is a complex and complicated process. The quality of inspection reports has improved, but the NRC should explain the basis for SDP findings, and the reassessment of the preliminary findings, more clearly and effectively.

- (12) Does the ROP provide adequate assurance that the plants are being operated and maintained safely?

There are no signs of declining plant safety at any of the nine operating reactors in Pennsylvania since the implementation of the ROP. Although, performance at one of the older plants is declining due to materials condition of the plant, human performance issues, and problems with plant procedures. We are also concerned about the recent problems at Davis-Besse plant and the ability of the ROP to detect problems/weaknesses in cross-cutting areas in a timely manner. It should be mentioned that the problems at Davis Besse have eroded public confidence in the new ROP.

- (13) Does the ROP improve the efficiency, effectiveness, and realism of the regulatory process?

In general, the ROP has improved the effectiveness of the regulatory process. However, one of its major weaknesses is in the area of timeliness. There continues to be challenges to the SDP greater-than-green findings by the licensees. These challenges, along with the lack of a standardized risk analysis tools have resulted in lengthy delays (several weeks to several months) in the determination of the final SDP findings. Also, additional time and data is needed to assess the ability of the ROP to detect, in a timely manner, adverse trends in cross-cutting areas.

- (14) Does the ROP enhance public confidence? AND

- (15) Has the public been afforded adequate opportunity to participate in the ROP and provide inputs and comments?

The NRC has been actively seeking stakeholders' input to further improve the ROP, but the level of participation by the general public has been very low and the public confidence in the process does not appear to be increasing. Some of the contributing factors are the complexity of the SDP, the delays in reaching a conclusion on SDP findings (the NRC's goal of 90 days from the issuance of the final inspection report is not considered timely), and recent problems at Davis Besse plant.

We recommend that the NRC develop and implement an effective mechanism to receive public input continuously and on a plant specific basis. The NRC resident inspectors should play a more active role in the agency's public involvement activities within the local communities. The posting of *plant specific information* (i.e., PIs, inspection and assessment reports, etc.) on the NRC Website can help improve public confidence in the process and should continue. Unnecessary changes to the ROP may reduce public confidence in the process and should be avoided.

(16) Has the NRC been responsive to public inputs and comments on the ROP?

The NRC has been slow to respond to public inputs and comments on the ROP. The past four years have yielded numerous comments on the inconsistent bases for the existing PI thresholds, the delay in issuing a final SDP finding, and the lack of standardized risk analysis tools. We recognize that the NRC has taken measures to address some of these issues or concerns, however the agency's response has been slow and these measures are not being implemented in a timely manner.

(17) Has the NRC implemented the ROP as defined by program documents?

Overall, it appears that the NRC has implemented the ROP as defined. There are no concerns in this area.

(18) Does the ROP reduce unnecessary regulatory burden on licensees?

It is our observation that the licensees are spending less time responding to issues of low safety significance (i.e., non-cited violations, etc.). However, the ROP's significance determination process is resource-intensive and the differences between plant PRAs and the NRC's SPAR models have further complicated the process. We recommend periodic surveys of NRC regional staff and the licensees to determine whether the ROP is making progress toward achieving this goal.

(19) Does the ROP result in unintended consequences?

Based on our experience in Pennsylvania and as it relates to plant safety, the ROP has not yet resulted in any unintended consequences.

(20) Would you benefit if NRC conducted a ROP Public Workshop in the future?

Yes, we encourage NRC to conduct a public workshop to: 1) discuss the results of the NRC's most recent self assessment of the ROP; 2) review recent changes or proposed changes to the ROP; and 3) seek input and comments from external stakeholders including utility representatives, states and members of the public.

(21) Please provide any additional information or comments on other program areas related to the Reactor Oversight Program.

We appreciate the NRC's willingness to share information with the states regarding security issues at the nuclear power plants and other material licensees. We encourage the NRC to inform the states, in a timely manner, of any security events or potential threats that could have generic implications. We are also encouraged by the NRC's decision to initiate the force-on-force drills at the nuclear power plants and we appreciate the agency's willingness to allow states' observation of these drills.