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Date: Thu, Dec 1, 2005 6:06 PM
Subject: Region IV Utility Group - Comments on ROP Program

The Region IV Utility Group - RUG IV - is comprised of the 14 utilities in NRC's Region IV as listed in Attachment 1 to our comment letter.

We appreciate this opportunity to provide our comments on the 2005 implementation of the Reactor Oversight Program.

Should you have questions with regard to this submittal, please contact me at the information below or Mr. Robert L. Biggs, RUGIV Chairman at rbiggs@entergy.com (225) 381-3731.

Ted Enos, RUGIV Administrator

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RUG IV

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December 01, 2005

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

SUBJECT: Solicitation of Public Comments on the 2005 Implementation of the Reactor Oversight Process

Dear Mr. Lesar:

The Region IV Utility Group (RUG IV) is pleased to submit our comments regarding the implementation of the Reactor Oversight Process (ROP). The RUG IV Licensing Managers collectively developed the response to this federal register request.

In general, we believe the ROP is meeting the established performance goals. We appreciate the opportunity to meet on a monthly basis with the NRC and the public to provide direct input to revisions and enhancements of the ROP and look forward to ongoing discussions in the coming year. Our more detailed comments to the Federal Register solicitation request are contained in the attachment to this letter.

If there are any questions regarding these comments, please contact me at 225-381-3731 or rbiggs@entergy.com.

Sincerely

/s/ Robert L Biggs

Robert L. Biggs
Chairman, RUG IV

Attachment 1 – List of Participating Utilities

Attachment 2 – RUG IV Comments on the Sixth Year of Implementation of the Reactor Oversight Process

Attachment 1

List of Participating Utilities

Ameren UE – Callaway Plant
Arizona Public Service – Palo Verde
Energy Northwest – Columbia Generating Station
Entergy Operations, Inc. – ANO
Entergy Operations, Inc. – Grand Gulf
Entergy Operations, Inc. – River Bend
Entergy Operations, Inc. – Waterford 3
Nebraska Public Power District – Cooper Nuclear Station
Omaha Public Power District – Ft. Calhoun Station
Pacific Gas & Electric – Diablo Canyon
Southern California Edison – San Onofre
STP Nuclear Operating Co. – South Texas Project
TXU Electric – Comanche Peak SES
Wolf Creek Nuclear Operating Company – Wolf Creek Generating Station

Attachment 2

RUG IV Comments on the Sixth Year of Implementation of the Reactor Oversight Process

RESPONSES TO FEDERAL REGISTER NOTICE QUESTIONS

(1) Does the Performance Indicator Program provide useful insights to help ensure plant safety?

1 ☒ 2 3 4 5

YES

Comments

Performance Indicators have resulted in plants improving performance (industry overall). Mitigating Systems Performance Index (MSPI) implementation is expected to improve the insights to plant safety. RUG IV fully supports NRC and industry efforts to enhance the current indicators such as Safety System Unavailability (SSU), Scrams with Loss of Normal Heat Removal (SWLNHR) and Reactor Coolant System Leakage (RCS).

Discussion

Two areas have the potential to cause Licensees to take actions that can adversely impact plant safety. One is in the current Mitigating Systems Cornerstone, specifically with the Safety System Unavailability (SSU) PIs. The Safety System Unavailability (SSU) PIs are not risk informed and are not consistent with Maintenance Rule Program goals in most cases. Planned maintenance schedules are managed in order to maintain plant performance in the "GREEN band". The second area is in the Scrams with Loss of Normal Heat Removal metric. This metric could possibly cause an operator to delay or eliminate actions they may have taken to make a transient easier to control simply due to some perceived performance standard being communicated by the metric.

A significant effort has been made by the industry and the NRC to aggressively address the problems associated with the Safety System Unavailability PIs by better risk-informing them. The Mitigating Systems Performance Index (MSPI) has been piloted and accepted as a replacement for the Safety System Unavailability (SSU) PIs. We continue to support the implementation of the Mitigating Systems Performance Index (MSPI) and are supportive of the scheduled implementation in April of 2006. The Performance Indicator (PI) relative to Scrams with Loss of Normal Heat Removal has been modified by the Reactor Oversight Process Task Group and is being piloted for implementation.

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

1 ☒ 2 3 4 5

YES

Comments

In most cases appropriate overlap exists between the Performance Indicator Program and the Inspection Program. There are, however, exceptions to this. For example, NRC performs an SDP for single equipment failures even though the Safety System Unavailability (SSU) PI (soon to be MSPI) and the Safety System Functional Failure (SSFF) PI monitors this. Another example would be the Occupational Radiation Safety PI, "Occupational Exposure Control Effectiveness". This PI monitors the number of technical specification high radiation area occurrences, very high radiation area occurrences, and unintended exposure occurrences. Even though this PI effectively monitors these regulatory requirements, NRC continues to document inspection findings (NCVs) related to the same issues. These examples seem to be inconsistent with some of the underlying precepts of the ROP when implemented—if it can be monitored adequately with a PI, then no inspection activities are required other than PI verification.

(3) Does NEI 99-02, "Regulatory Assessment Performance Indicator Guideline" provide clear guidance regarding Performance Indicators?

1 ☒ 2 3 4 5

YES

Comments

NEI 99-02 provides sufficient guidance on the implementation and administration of the PI process. We particularly applaud NRC and Industry efforts to clarify ambiguities; especially as related to the new Frequently Asked Question Process (FAQ). The revisions made to the Frequently Asked Question (FAQ) template now being used by industry improves the communication of specific nuances and assures a more common understanding by the NRC and the ROP Task Group.

Currently the NRC, Industry and NEI are working to improve the Scrams with Loss of Normal Heat Removal PI to remove subjectivity and help ensure consistency of reporting. NEI and Industry are compiling data from reviews of historical licensee event reports (LERs) to further implementation efforts.

(4) Does the Inspection Program adequately cover areas important to safety and is it effective in identifying and ensuring prompt correction of performance deficiencies?

1 2 3 4 5

YES

Comments

The current inspection program can be improved by performing only one ALARA inspection per cycle and combining the ALARA and Access Control to Radiologically Significant Areas

Inspections. One ALARA Inspection per fuel cycle would be sufficient to provide adequate oversight of this program. Additional consideration should also be given to combining the ALARA Inspection with the Access Control to Radiological Significant Areas Inspection during a licensee's outage. This is where the success of the ALARA and radiation protection programs can be measured most effectively (during implementation). The current practice of performing Radiation Protection Team Inspections as implemented in Region IV has been highly effective.

If the recommended approach regarding ALARA and Access Control to Radiologically Significant Areas Inspections is implemented, a site could expect two team inspections each cycle with any additional inspection effort being covered by resident baseline and the action matrix as appropriate. We believe that given the improved performance in the area of radiation protection a reduction in inspection hours is warranted and the combination of these inspections may be appropriate and would result in a resource savings as well.

A second area worthy of comment is engineering inspections. The new effort to replace the "Safety System Design and Performance Capability Inspection" by focusing on low margin systems/components appears to be an improvement with regard to safety focus. Given the size of the team and duration of the activity it may prove adequate to extend the frequency beyond two years for this inspection procedure. However, it is recognized that additional inspections must be conducted to develop a better understanding in this regard.

The NRC's baseline inspection process and "Problem Identification and Resolution Inspection" have been providing adequate focus on actions to correct performance deficiencies. Additionally, the NRC's Action Matrix provides additional oversight when warranted to ensure prompt correction of performance deficiencies.

(5) Is the information contained in the inspection reports relevant, useful and written in plain English?

☒ 1 2 3 4 5

YES

Comments

Information in inspection reports is generally useful. The organization of the reports and the ties to cornerstones help to provide better definition and focus in problem areas. The listing in the reports of inspection scope is duplicative of the Inspection Procedures and could be eliminated.

Recent definition changes to IMC 0612 to allow more credit for licensee identified findings (NCVs) and improvements to Appendix 'E' (adding additional examples of cross-cutting aspects) are applauded. We encourage working with NEI and the Industry to develop and implement a process to apply thresholds to cross-cutting aspects as discussed in the September 2005 ROP Meeting.

One area of concern to licensees is the recent change to IMC 0612 and its expansion of what constitutes a performance deficiency. The current guidance provided imposes standards beyond those specified or committed to by a licensee in their licensing basis. This process circumvents the backfit process. Additionally, the use of findings has greatly increased since its inception. Inspection reports should contain regulatory based findings for the docket. Observations with insights now being developed in the findings are very useful to the licensees; however, when documented as a "finding" in an inspection report and on the PIM they take on the same weight as a violation (NCV). This practice seems inappropriate and may result in inappropriate resources being applied to the issue at the expense of potentially more significant issues.

(6) Does the Significance Determination Process yield an appropriate and consistent regulatory response across all ROP cornerstones?

1 2 3 ☒ 4 5

NO

Comments

The Significance Determination Process (SDP) does not apply the same risk significance to issues across the seven cornerstones. Some SDPs are still deterministic in nature – especially in the areas of Emergency Preparedness and to a lesser degree, Occupational and Public Radiation Safety. Deterministic thresholds have the effect of aggregating lesser items of minor risk significance to create findings with a final significance out of proportion to the risk presented by any credible situation.

We recognize that both the industry and the NRC have been working to better the Emergency Preparedness and the Radiation Safety SDPs. Additional effort is warranted in both areas.

A generic area of concern to us is the current guidance provided by IMC 609-01 for the conduct of Significance and Enforcement Panels (SERP). The guidance states: "Use of licensee provided information and use of the plant specific Standardized Plant Analysis Risk (SPAR) model is at the discretion of the SRA or other analyst and their management but these review efforts must take into account the SDP timeliness goal."

Our specific concern is that in the interest of timeliness alone a SRA could at his discretion discount licensee information relevant to accurate risk determination. We believe that all relevant information available should be considered to reach the most accurate risk determination.

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

1 **2** 3 4 5

YES

Comments

The NRC follows the Action Matrix and takes appropriate actions to address performance issues.

We continue to believe an improvement that should be considered is limiting the length of time a finding is reflected against licensee performance. A graduated approach should be considered correlating the length of time a finding remains visible (or effective in the action matrix) to the severity of the finding (e.g., a green finding stays for one quarter, a white finding stays for 2 quarters, etc.) rather than retaining all findings for four quarters, this approach results in retaining the finding for a period of time commensurate with its significance. We do not think that two whites are equivalent to a yellow given that the numerical risk thresholds in the reactor SDP for yellow are nominally ten times that of the threshold for white. This is another area where NRC could further risk inform the process. Of course, findings should continue to be retained until the NRC is satisfied that the performance issue has been satisfactorily resolved.

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

1 2 3 4 5

YES

Comments

Significant improvement has been noted in the NRC's efforts to address the basis and closure process for Substantive Cross-cutting Issues identified in the assessment letters.

Additional effort is needed in the use of cross-cutting aspects in the assessment process—especially the threshold for identification. However, the current process guidance is much better than last year and if implemented consistently will be a step in the correct direction.

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

1 2 **3** 4 5

YES

Comments

For the majority of the normal baseline inspections, the ROP oversight activities are predictable and objective as reported in the end product (i.e. the inspection report). During the course of the actual inspection activities this is not always the case. Most inspectors follow the guidance but a few still appear to use aggregation and "reverse SDP" techniques.¹

The subjective nature of some of the SDP screening questions reduces the predictability of the ROP oversight activities. NRC has substantially improved the inspection process guidance—especially IMC 0612, Appendix 'E'. However, some inspectors continue to default to "the issue I found is not in the Appendix". This approach allows them to move into the more subjective process of minor questions. The expectation should be that most types of issues are included within the scope of examples within IMC 0612 Appendix 'E' and that few exceptions would be found.

The use of cross-cutting aspects in the inspection process has been improved by the recent changes to the inspection process. The process now provides specific "buckets" in which to categorize issues for consistency. However, much subjectivity remains when deciding whether or not to "flag" a specific finding as having a cross-cutting aspect. As the process is written, essentially all findings will be flagged as having a cross-cutting aspect. The current guidance provided would not identify a "substantive" cross-cutting issue unless there is an NRC concern

¹ **Reverse SDP** means predetermining significance of an issue based on subjective judgment then developing the supporting arguments.

with the licensee's scope of efforts or progress in addressing the cross-cutting area performance deficiency. We believe that this is appropriate and properly measured.

Characterization of a performance deficiency not associated with any regulatory requirement as a finding is of concern to us when docketed in an inspection report.

This is especially true in light of the new definition of performance deficiency that would allow NRC to document on the docket a finding resulting from a licensee not implementing a standard that the licensee had not committed to it in its license basis.² This activity circumvents the backfit process when implemented and does not represent past NRC practice. Additionally, the documentation of findings in inspection reports that are not related to specific regulatory requirements is not in keeping with the enforcement practices of the NRC. Specifically, what response is required?

It is recommended that the NRC reconsider the documentation of non-regulatory based findings on the docket of a licensee. Observations may be a better method to communicate these issues to the licensee.

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

1 2 **3** 4 5

YES

Comments

The majority of the ROP is risk-informed due to actions taken over the past years of implementation to further risk-inform the process. Actions that result from findings that are classified using the Reactor Safety SDP, IMC 0609 App A, are the most risk-informed and are the ones most graduated on the basis of an actual increased significance. Actions resulting from findings that are classified based on SDPs that are still deterministic in nature are not as likely to be graduated consistent with actual significance. For example, the number of occurrences does not equate readily to the "significance" of an issue. It would seem that the "significance" of each occurrence would have to be the overriding consideration, rather than the aggregation of a few "minor" items or the sheer number of insignificant occurrences (Radiation Safety, Physical Security, etc.). We believe that a degraded cornerstone should result from three, rather than two, white outcomes (inspection findings and PIs), and the period of time findings remain in the action matrix should be graduated based on safety significance.

² **IMC 0612 Definition: Performance Deficiency:** An issue that is the result of a licensee not meeting a requirement or standard where the cause was reasonably within the licensee's ability to foresee and correct, and that should have been prevented. The licensee does not have to be committed to a standard in order to determine whether there is a performance deficiency (PD). For example, a PD is determined to exist if the licensee fails to adhere to a widely accepted industry standard.

Implementation of the Mitigating Systems Performance Index (MSPI) will be an improvement in risk informing the ROP.

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

☒ 1 2 3 4 5

YES

Comments

In general the ROP is understandable and the processes, procedures, and products are clear and written in plain English. Good examples are the recent improvements to IMC 0612 and IMC 0305 relative to cross-cutting issues and their use in the assessment process.

Some of the newer SDPs do require a technical background to understand. The Fire Protection and Steam Generator SDPs are particularly difficult to follow.

(12) Does the ROP provide adequate regulatory assurance when combined with other NRC regulatory processes that plants are being operated and maintained safely?

☒ 1 2 3 4 5

YES

Comments

The ROP provides adequate assurance that plants are being operated and maintained safely as indicated by the continuously improving industry trends.

(13) Is the ROP effective, efficient, realistic, and timely?

1 ☒ 2 3 4 5

YES

Comments

The ROP improves the efficiency, effectiveness, and realism of the regulatory process over the old SALP process. However, in some cases the efficiency and effectiveness are decreasing in the existing ROP process. The scope and resources needed for the baseline Radiation Protection Cornerstone inspections seem excessive relative to overall industry performance (See item #4 above). The NRC should consider reevaluating the frequency of these inspections. The development of many SDPs are complicating the ROP process and causing significant training issues for the NRC inspection staff as well as licensees.

The Physical Security process is vague, not well communicated and is developed with little stakeholder input. Security inspections continue to judge compliance subject to interpretations by individual inspectors. This area needs improvements in transparency and communication with stakeholders. Additionally, security needs to get back to using the regulatory process and get out of the "order" mode.

(14) Does the ROP ensure openness in the regulatory process?

1 ☒ 3 4 5 (REACTOR)

1 2 3 4 ☒ (SECURITY)

YES (REACTOR) NO (SECURITY)

Comments

The ROP provides an objective, repeatable process for assessing plant performance. PIs and inspection results are readily available for public review and scrutiny (with the exception of Physical Security). Regular public meetings are held with licensees to discuss annual performance assessment results.

The Security process needs to return to the rulemaking process and improve stakeholder involvement and transparency. NRC needs to consider a Security specific website much like

INPO uses with assigned passwords for licensees to use to share information and operating experience.

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

☒ 2 3 4 5 (REACTOR)

1 2 3 4 ☒ (SECURITY)

YES (REACTOR) NO (SECURITY)

Comments

The public is afforded adequate opportunity to participate and provide input and comment. Regular public meetings are held with licensees to discuss annual performance assessment results. Additionally, public representatives attend the monthly ROP Task Force meeting.

Security is not visible to the stakeholders and public. Additionally, licensee and stakeholder input are somewhat stifled by the continued operation outside the normal rulemaking process.

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

☒ 1 2 3 4 5 (REACTOR)

1 2 3 4 ☒ 5 (SECURITY)

YES (REACTOR) NO (SECURITY)

Comments

The NRC makes special efforts to recognize the public representatives at the monthly public ROP meetings and allows the public to have an opportunity to voice their opinion on the issues discussed. Additionally, annual performance review meetings are held with each licensee and the public is encouraged to participate. Public comments are received, evaluated, and dispositioned in a professional manner.

In the area of Security see item #15 above.

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

☒ 1 2 3 4 5 (REACTOR)

1 2 3 4 ☒ 5 (SECURITY)

YES (REACTOR) NO (SECURITY)

Comments

The NRC as a whole has implemented the ROP as defined by the program documents. NRC has made significant improvements in the program guidance relative to cross-cutting issue identification, characterization and evaluation. Additionally, IMC 0612, Appendix 'E' has been improved to provide more specific focus on cross-cutting aspects that may exist relative to NRC findings.

See items #15 and 16 above for Security.

(18) Does the ROP result in unintended consequences?

☒ 1 2 3 4 5 (REACTOR)

1 2 3 4 ☒ 5 (SECURITY)

NO (REACTOR) YES (SECURITY)

Comments

The ROP has the potential to cause unintended consequences. Two Performance Indicators could cause unintended consequences as discussed earlier in question # 1 above.

A potential unintended consequence may result from the recent practice of identifying cross-cutting aspects for essentially all NRC findings. This practice naturally results in additional regulatory focus during mid-cycle and end-of-cycle performance meetings by NRC staff. However, the impact should only be the additional time expended by NRC during the assessment process. The potential exists to equate numbers with significance and this was never understood to be the intent of the ROP at its inception—no aggregation of minor or green findings was intended.

Security: The practice of notifying the state and local officials per the action matrix and implementing a “no comment policy” could have the unintended consequence of undermining public trust and confidence.

(19) Please provide any additional information or comments related to the Reactor Oversight Process.

- ☐ With the implementation of Regulatory Guide (RG) 1.200 PRAs, industry is concerned regarding how the significance determination process (SDP) will deal with licensees that have RG 1.200 compliant PRAs. This concern is founded on the basis that the NRC SPAR Model has not been made to comply with RG 1.200.
- ☐ NRC has been open to comments and change when needed (exception Security).
- ☐ Inspection Manual changes very positive and an overall improvement to process—especially the self-identification of findings and guidance regarding substantive cross-cutting issues.
- ☐ NRC should institute a quality review on some periodicity with regard to the Website as there are disconnects at times between inspection report data and the PIM.
- ☐ NRC continues to pursue the development of limited scope SDPs that are not as risk informed as would be expected at this stage of ROP (should rely upon Reactor Safety SDP whenever possible). This complicates the ROP and should be minimized.

- A change to the Action Matrix should be considered such that three white findings are required to transition to the Degraded Cornerstone column. The additional effort required to prepare for and implement a 95002 inspection is rarely warranted for two low safety significance issues. A threshold of three white findings to change from the Regulatory Response column to the Degraded Cornerstone column in the Action Matrix would be a better use of available resources.
- Enforcement manual guidance needs to be improved to clarify expected actions relative to NCVs within the ROP.

Discussion

Since the inception of ROP, most licensee's have dispositioned NCVs as determined by their corrective action process relative to the significance of the particular issue. Subsequently, NRC has evaluated this disposition during the Baseline and Problem Identification and Resolution Inspections. The NRC evaluations have appropriately focused on the licensee's corrective action program and its adequacy in response to the issue. It has come to our attention that some individuals within NRC and licensee organizations are questioning this practice and the wording of the Enforcement Guidance and interpreting the guidance to mean that all NCVs require root causes and actions to prevent recurrence.

It is our understanding that NRC expectations are that inspectors will address the adequacy of corrective actions to prevent recurrence for a NCV within the specific inspection report that discusses the issue based upon the information available at that time. This evaluation would be based upon a "reasonableness" determination by the inspector at that time. Additionally, NCVs do not necessarily require a root cause determination. The important aspects are correct the condition and take reasonable actions to address recurrence.

Presently, no specific guidance is available to inspectors reflecting how to evaluate this area and this lack of guidance could result in unintended consequences. We suggest that the enforcement guidance, inspection guidance, and performance assessment guidance be revised to clarify expectations.