

September 8, 2000

Dr. William D. Travers
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

SUBJECT: PROPOSED HIGH-LEVEL GUIDELINES FOR PERFORMANCE-BASED
ACTIVITIES

Dear Dr. Travers:

During the 475th meeting of the Advisory Committee on Reactor Safeguards, August 29 - September 1, 2000, we met with representatives of the staff to discuss the proposed high-level guidelines for performance-based activities. Also, during our June 7-9, 2000 meeting, we discussed this matter with representatives of the staff and the Public Citizen Critical Mass Energy Project. We had the benefit of the documents referenced.

Conclusions and Recommendations

1. We support the staff's proposal to apply the guidelines for performance-based activities to an example regulation.
2. The guidelines should explicitly state that the performance levels and reliability parameters should be set at the highest practical level.
3. Guidance should be given on the extent to which multiple performance parameters that provide redundant information should be used to satisfy the defense-in-depth philosophy.
4. Expanded discussions should be provided in the guidelines of the responses to the relevant questions that appeared in the *Federal Register* Notice of May 9, 2000.

Discussion

The proposed high-level guidelines provide a systematic method to incorporate performance-based principles into regulatory activities. These guidelines are comprehensive. They incorporate important principles and strategies and Commission policy and direction. These guidelines provide consistency among new performance-based regulations and coherence with the current body of regulations. The determination of performance parameters using the proposed hierarchical structure is logical and systematic.

The guidelines are structured to, among other things, assess performance-based regulatory changes. One such guideline, II.C(2), states that:

An assessment would be made of the performance criteria and the level in the performance hierarchy where they have been set. In general, performance criteria should be set at a level commensurate with the function being performed. In most cases, performance criteria would be expected to be set at the system level or higher.

The guidelines should explicitly state that the performance criteria should be selected at the highest practical level, and that this principle should be applied to the other guidelines. This enhances licensee flexibility and reduces regulatory burden while maintaining the appropriate level of safety.

The guidelines are also structured to assess consistency and coherence with overarching NRC goals and principles. In cases in which redundant performance parameters are identified, the staff will need to provide guidance on balancing the use of a minimum number of parameters with the use of multiple parameters consistent with the defense-in-depth philosophy. We believe that the guidelines should state the degree to which redundant, overlapping, or confirmatory performance indicators are required to validate the data or provide defense-in-depth.

The discussion of the draft guidelines in the May 9 *Federal Register* Notice contains a number of relevant questions related to the application of performance-based regulatory guidelines. In Attachment 2 to the proposed Commission paper, the staff responded to public comments related to these questions. The guidelines should more clearly identify the staff positions stated in response to these questions, because many users of the guidelines may have these same questions.

We look forward to reviewing the report to the Commission on the trial applications of these guidelines.

Sincerely,

/RA/

Dana A. Powers
Chairman

References:

1. U.S. Nuclear Regulatory Commission, "High-Level Guidelines for Performance-Based Activities [Predecisional]," Draft Commission paper from W.D. Travers, Executive Director for Operations, for the Commissioners, received August 25, 2000.
2. U.S. Nuclear Regulatory Commission, "Revised High-Level Guidelines for Performance-Based Activities (10 CFR Chapter I)," *Federal Register*, Vol. 65, No. 90, May 9, 2000, pp. 26772-26776.

3. A. Vietti-Cook, Secretary, U.S. Nuclear Regulatory Commission (NRC), memorandum to W.D. Travers, Executive Director for Operations, NRC, Subject: Staff Requirements - SECY-99-176 - Plans for Pursuing Performance-Based Initiatives, September 13, 1999.
4. D.A. Powers, Chairman, Advisory Committee for Reactor Safeguards (ACRS), NRC, letter to W.D. Travers, Executive Director for Operations, NRC, Subject: Pilot Application of the Revised Inspection and Assessment Programs, Risk-Based Performance Indicators, and Performance-Based Regulatory Initiatives and Related Matters, June 10, 1999.
5. R.L. Seale, Chairman, ACRS, NRC, Letter to L.J. Callan, Executive Director for Operations, NRC, Subject: Plans to Increase Performance-Based Approaches in Regulatory Activities, April 9, 1998.
6. L. Gue, Public Citizen's Critical Mass Energy and Environment Program, Statement to the ACRS, NRC, Subject: Revised Proposal for High-Level Guidelines for Performance-Based Regulation, June 8, 2000.
7. A. Shollenberger, Public Citizen, Critical Mass Energy Project, Letter to N.P. Kadambi, NRC, Subject: Proposed High-Level Guidelines for Performance-Based Regulation, March 7, 2000.
8. J. Riccio, Public Citizen, Critical Mass Energy Project, Letter to D.L. Meyer, NRC, Subject: High-Level Guidelines for Performance-Based Activities, March 22, 2000 .
9. S.D. Floyd, Nuclear Energy Institute, Letter to David L. Meyer, NRC, Subject: NEI Comments on Proposed Guideline for Performance-Based Activities March 24, 2000.
10. J.H. McCarthy, Virginia Power Company, Letter to D. Meyer, NRC, Subject: 10 CFR Chapter 1; High-Level Guidelines for Performance-Based Activities, March 20, 2000.
11. J.A. Hutton, Jr., PECO Energy Company, Letter to Chief, Rules and Directives Branch, NRC, Subject: Comments Concerning "High Level Guidelines for Developing Performance Based Activities," March 21, 2000.
12. D.F. Stenger, Hopkins & Sutter, Letter to D.L. Meyer, NRC, Subject: NRSRG Comments on Proposed Guidelines for Performance-Based Activities, March 24, 2000.