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From: "Janati, Rich" <rjanati@state.pa.us>
To: "nrcprep@nrc.gov" <nrcprep@nrc.gov>
Date: Sat, Dec 28, 2002 2:00 PM
Subject: FW: Request for Public Comments on the Third Year of Implementation of the Reactor Oversight Process (ROP)

Dear Mr. Lesar,

Attached is our REVISED responses/comments to the NRC's questions on the Reactor Oversight Process (ROP), which was listed in the Federal Register notice of November 15, 2002.

Please disregard my previous email and its attachment. On 12/27/02, I mistakenly emailed you a DRAFT document which did not reflect the changes that are incorporated in the final document.

If you have any questions or need additional information, please contact me via email or at 717-787-2163.

Sincerely,

Rich Janati
PADEP/BRP

P.S. At our request, Mr. Maley extended the comment period from December 27 to December 31, 2002.

<<ROP update Dec 2002.doc>>

> -----Original Message-----

> From: Janati, Rich
> Sent: Friday, December 27, 2002 2:08 PM
> To: 'nrcprep@nrc.gov'
> Cc: 'mjm3@nrc.gov'; Allard, David
> Subject: Request for Public Comments on the Third Year of Implementation of the Reactor Oversight Process (ROP)
> Importance: High

> Dear Mr. Lesar,

> Attached is PA DEP/BRP's responses to the NRC 's questions on the revised Reactor Oversight Process (ROP), which was listed in the Federal Register notice of November 15, 2002.

> Thank you for the opportunity to comment on the revised ROP.

> If you have any questions or need additional information, please do not hesitate to contact me.

> Sincerely,

> Rich Janati
> Chief
> Division of Nuclear Safety and
> Acting Director
> Bureau of Radiation Protection
> PA Department of Environmental Protection

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2002 JUN -2 AM 11:20
Nuclear and Directives
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template = ASM-013

F-IDS = ADM-03
Call = M. Hanley (MJM3)

CC: "mjm3@nrc.gov" <mjm3@nrc.gov>

PUBLIC COMMENTS on the Third Year of the Implementation of the Reactor Oversight Process.

The following comments are based on Commonwealth of Pennsylvania, Department of Environmental Protection, Bureau of Radiation Protection participation in the ROP workshops and public meetings, interactions with the NRC inspectors, and communications with members of the public.

- (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.

There is still a small 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), it is recommended that the NRC (Resident or Regional) inspections focus more on these areas.

- (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. However, for some external stakeholders there exists confusion in the use of the phrase "possible (color) finding". This is of particular concern when the "final" SDP finding is a different color –more often a lower classification. To some extent, this has eroded public confidence in the process.

- (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, the 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 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 the more objective and structured Inspection and Assessment Program. However, as mentioned previously, the reassessment (and downgrading) of the preliminary SDP findings occurs frequently enough that could undermine the predictability of the ROP.

- (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 a 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 is a complex and complicated process. Also, the use of no-color issues and findings in the inspection reports are causing some confusion to the public. The quality of inspection reports has improved, but the NRC should explain the basis for SDP findings more clearly and effectively.

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

The ROP does 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.

- (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 unnecessary challenges to the SDP not-green findings by the

licensees. These challenges, along with the lack of adequate number of risk analysts in the regional offices have resulted in lengthy delays (several weeks to several months) in the determination of the final SDP findings. These delays are unacceptable. 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 issues.

- (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 extreme delays in reaching a conclusion on inspection findings (SDP results), and increasing trends in downgrading of preliminary color findings.

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 three years have yielded numerous comments on the inconsistent bases for the existing PI thresholds, the delay in issuing a final SDP finding, the lack of standardized risk analysis tools, the lack of adequate number of regional risk analysts, and the confusion over no-color issues. 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 lack of standardized risk analysis tools has 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 PA and as it relates to plant safety, the ROP has not yet resulted in any unintended consequences. The ROP, although designed to reduce regulatory burden, has inadvertently increased some challenges. This, to some extent, has resulted from the licensees disproportionate concern about non-green findings, particularly if there are more than one in a cornerstone area. These unnecessary challenges can reduce the effectiveness and efficiency of the ROP.

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

In the area of "Plant Security", we request that NRC conduct a government representative-only workshop in the near future. The purpose of this workshop should be to share the latest information concerning the NRC post 911 review of the Design Basis Threat (DBT), the proposed changes to the DBT, and the future of the NRC performance-based evaluations of the security programs at the nuclear power plants.