

New England Coalition on Nuclear Pollution

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December 31, 2002  
By e-mail nrcprep@nrc.gov

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Dear Mr. Lesar,

Please accept the following comments on the third year of implementation of the Reactor Oversight Process as per Federal register Notice: FR22NO02-123.

**Questions Related to Specific ROP Program Areas**

(As appropriate, please provide specific examples and suggestions for improvement.)

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

No. One hard look at the near Small Break Loss of Coolant Accident at Davis-Besse should answer this question. The PI program seems to us to be a "rear-view mirror" program as opposed to a "windshield" program with some sort of defect at the plant data/indicator interface. If plant conditions and event are dealt with an atomistic fashion rather than in a wholistic way, then the inherent safety message is missed. Again, taking Davis-Besse as an example. Every indicator of a leaking RPV head was of itself of very low safety significance; clogged filters, elevated radiation levels, the appearance of boric acid crystals, and so on. None of this triggered enhanced NRC oversight until the situation became extreme and, apparently, no one knew just how extreme. The trend has been to extend intervals of surveillance and testing and this not in aggregate without impact on risk- directly as components fail and indirectly through its adverse influence on plant and NRC safety culture. A lesser example: Vermont Yankee issued two Notifications to NRC, October 6 and October 7, 2002. Notificiation One declared the RCIC inoperable because a check valve did not fully close resulting in "high pump suction pressure trip which would have prevented further system operation" On October 11, VY retracted this notification stating, "The RCIC pump does not have this device." On October 7, 2002 VY filed

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notice that the plant had failed integrated primary containment leakrate testing. On December 11, 2002 VY filed a retraction stating that they had confused maximum pathway leak criteria for minimum pathway leak criteria. NRC has determined that there is not enough of a problem with personnel unfamiliar with plant design, technical specification, and regulations to merit any increased attention. Last year maintenance personnel unfamiliar with electrical circuitry at VY inadvertently caused a reactor trip while changing an indicator light bulb on a control room instrument panel. Each event, because it is deemed to be of low safety significance, is ignored and never entered into any equation about safety culture. An NRC Petition Review Panel refused to consider the indirect safety implications first retraction under a 10CFR2.206 petition.

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

Please see response to Question (1).

**(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?**

We do not perceive any conflicts or overlaps with the Maintenance rule. We do believe this question to be entirely inappropriate with respect to INPO or WANO activities. Until all INPO and WANO documents are made public, they can have no place in NRC consideration of reactor oversight or regulation. Any consideration of INPO or WANO activity or opinion, a very limited amount of commercial proprietary information excepted, that is not made public stands in violation of one or more of the following: AEA, as amended, the APA, NEPA, and NRC's stated goal of increasing public confidence. The nuclear industry is to be lauded for efforts at self-improvement and self-regulation, but unless those efforts are carried out and/or reported to NRC in the full light of public scrutiny, they cannot be allowed to affect either oversight or regulation. It follows that it should not make any difference to NRC what licensees think with respect to burdens or overlaps in their privately subscribed programs

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

Clear? Yes, but we cannot say that NEI 99-02 results in more appropriate or telling PIs.

**(5) Is the information in the Inspection reports useful to you?**

Yes, And they have been improving but in general we are still looking for more detail. Also,

when items are excluded from an inspection because they have been entered in the Voluntary Industry Initiatives Program (VIIP), for example, we would appreciate some notice of when they might be expected to emerge. Certain electrical circuitry was exempted from the most recent round of triennial fire inspections and it would be helpful to know the VIIP results will surface before Puxatawney Pete. Ditto, for all set aside items mentioned as entered into corrective action programs.

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

We embraced the findings in the recent OIG Report on the SDP. The SDP appears vulnerable to industry pressure tactics both with individual determinations and with molding the program to suit in general. Representatives of at least two state oversight programs told me they were disturbed at the way in which utility executives increasingly involve themselves in lobbying for lesser findings. We too are disturbed when it is not licensee technical staff clarifying plant specific conditions that might affect SDP, but licensee senior executives, the business/political arm, who wade into the discussions.

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

We have no comment here.

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

Here we concur with comments made by the Union of Concerned Scientists; boilerplate should be minimized. The brief explanation of the ROP contained in every report is useful to a first time reader and should remain.

**(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)?**

Again, we invoke the OIG Report on SDP. We remain concerned that PRAs remain inconsistent and that both risk assessment and significance determination must have at their base a firm and comprehensive grasp of plant design and physical condition. WE do not believe that the CAL of 1996 regarding design basis documentation was fully met; even with the various initiatives taken

since then. It is startling to us that in August 2001 Entergy could not begin a \$500 million dollar program of improvements at Indian Point II without first investing an enormous effort in reconciling plant documentation with plant physical state. We insist that the missing element of in depth comprehensive physical inspection, as in the diagnostic evaluation team program, be restored in order to assure that the pyramid of assumptions that supports the SDP rests on a firm base. Standard baseline inspections and independent plant examination failed to document significant safety issues in the now famous Millstone and Maine Yankee cases as they did at Davis-Besse and apparently also did at Indian Point II.

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

Please see above.

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

No. It is cumbersome and in reporting it seems almost circumspect; good English, bad storytelling.. The general public equates the color-coding to traffic signals.

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

No. See above. Also, Refer to the Detroit Free Press for Davis-Besse coverage.

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

We do not believe that realism is improved. In the case of Vermont Yankee, cited above, NRC isolated the components affected for risk evaluation without a thorough examination of the reasons VY personnel didn't know their plant,; didn't know their documentation. The goofiness of the personnel is what can get dangerous in a hurry given yet another set of physical circumstances.

**(14) Does the ROP enhance public confidence?**

No, it is not for reasons stated above. In addition, we suggest that the ROP cannot be separated in the public's assessment from all of the actions and statements of NRC. NRC spokesmen have been quick to criticize activists (public) but I have yet to hear an NRC spokesman criticize a licensee or the industry. A review of the Commissioner's comments at last year's RIC ( and those of 2001, as well) will show even the most obtuse reader that NRC and the industry are pals looking forward to lots of licensing and more liberal standards while the public interest sector are

just pests. In departing Chairman Meserve's comments where is there anything but crème sauce for the industry? You and I together have paved the way for them to get anything they want, he says. NRC spokesmen told the public that they were never at increased risk just because Davis-Besse was some swollen cladding away from a LOCA. So what is the public then to think of endless swathes of green?

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

NRC failed to uphold the safeguards cornerstone before and after 9/11 and has stiff-armed the public in defense of itself and the industry. No public working meeting (save for the RIC which was adversarial) has been held. If only the agency were as energetic in defending our nuclear facilities. Annual plant site evaluation meetings should devote a formal segment to exchange with the public. Post-meeting one on one conversations are good, but most of the attending public loses the benefit of every question and answer.

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

Some of our recommendations appear to have surfaced, but without acknowledgement directly addressing our input, we can't tell if we have had impact or not. NRC has been excellent about answering ROP questions and providing requested documents.

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

This question will be easier to answer when the program documents are brought together and ordered so as to form a coherent reference. We haven't done that. At this point, we simply cannot answer the question.

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

Apparently. The ROP was designed in cooperation with NEI and it is unlikely they would contribute to increasing or maintaining regulatory burden on their subscribers. From a public perspective, to the extent that the ROP appears to be part of an overall shift of responsibility to the licensee, it reduces regulatory burden.

(19) Does the ROP result in unintended consequences?

Yes, we believe that the ROP does have unintended consequences. In synergy with increased

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intervals of testing, maintenance, and surveillance, the voluntary industry initiatives program, power uprates of up to 20%, on line maintenance, emerging human performance issues, the terrorist threat, suppressed aging issues, and a premature sign-off on design basis issues, the ROP will , at bottom line, fail to provide adequate protection in part because it fails to compensate for increased risk introduced by these synergistic factors. If the bundle of design and documentation issues that emerged at Indian Point and the RPV head degradation at Davis-Besse occurred with the ROP in place then they are consequences of the ROP –or of an as yet unanalyzed failure of the ROP.

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

A few narrow areas occur.

- Risk determination should not be luck and circumstance dependent. The public will never buy the notion that an event, some component failure for example, is of low safety significance because the reactor was in cold shutdown at the time it was discovered. The public will never buy the notion that a goof by a reactor operator on a minor system is not risk significant. Lucky, maybe. But in the public view, operators must be trained not to goof.
- NRC personnel speaking to the public should focus on more facts; less spin.

Thank You for this opportunity to comment. I regret the breezy quality of our comments. It is an artifact of time constraints. For future comment solicitations please consider allowing 60 days and plenty of notice.

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