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To: "nrcrep@nrc.gov" <nrcrep@nrc.gov>
Date: Tue, Dec 30, 2003 4:14 PM
Subject: comments 4th yr. ROP

11/13/03
68 FR 64374
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Mr. Mike Lesar,

Attached are public comments on the fourth year of the ROP from the Illinois Emergency Management Agency (formally IDNS). If questions or clarifications are needed, please contact me. We appreciate the NRC's openness in soliciting public comments, and appreciate the opportunity to do so.

Best Regards,

Neill Howey
Senior Policy Analyst
IEMA
217 785-9875

<<ROPYr04comments.doc.htm>>

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

Dear Mr. Lesar:

Attached are public comments on the Fourth Year of Implementation of the Reactor Oversight Process, as requested in the Federal Register notice of November 13, 2003. The Illinois Emergency Management Agency (formally Department of Nuclear Safety) appreciates the opportunity to make comments on what we consider to be a program of major importance in safeguarding the health and safety of the public. We will attempt to maintain continuity between this year's comments and those made last year.

If there are any questions about these comments, or further clarification is desired, please contact me at (217) 785-9875 or howey@iema.state.il.us.

Sincerely,

Neill Howey
Senior Policy Analyst
IEMA, Bureau of Nuclear Facility Safety

Questions Related to Specific ROP Program Areas

(1) *Does the Performance Indicator Program minimize the potential for licensees to take actions that adversely impact plant safety?* Last year we said, “Generally, licensees work to ensure that all their PI’s remain green. So concentrating on the limited scope of activities covered by the PI probably minimizes actions that adversely impact plant safety in that particular area. But this concentrated attention potentially reduces that given to other important areas not specifically covered by the PI. It would be more accurate to say that the potential is reduced, but not minimized.” This year we would add that licensees have become adept at planning activities in order to not trip a PI; postponing maintenance is an example.

(2) *Does appropriate overlap exist between the Performance Indicator Program and the Inspection Program?* Last year we said, “This is a question area not easily measured, and is one that might warrant more attention in developing a means to measure it; perhaps using industry historical databases. In any case, the two elements of PI’s and inspections do not exclusively reinforce one another. We believe that operator training and near-miss LOCA’s have safety significance. However, no inspection or PI caught a recent lapse in licensed operator training requirements, or the Davis Besse hole-in-the-head event.

The NRC should be on guard for an attitude that if an inspection finding is perceived not to rise above. This year we would add that Davis-Besse is still not started up, and incidents like the Quad Cities and

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

Last year we said, “Yes and no. Yes, the reports serve as a broad overview of a licensee’s performan.

(6) *Does the Significance Determination Process yield equivalent results for issues of similar significance in* Our comments from last year are still appropriate. We said, “The cornerstones are not directly comp

(7) *Does the NRC take appropriate actions to address performance issues for those licensees outside of the I* Yes, we believe so.

(9) *Are the ROP oversight activities predictable (i.e., controlled by the process) and objective (i.e., based on* Last year we said, “Yes, the oversight process is predictable and objective. However, some think the process is too prescriptively driven and restrictive. For example, inspectors must ensure inspection hours cover an ROP activity, even if there is not much of real safety value to inspect in that area. How the facts that go into an objective decision-making process are obtained is also important. For example, if facts are obtained from a PRA analysis that is done by personnel that are not familiar with the PRA’s strengths and weaknesses and the plant itself, results could be skewed.”

IEMA (formerly IDNS) recommended a cornerstone with PI’s for cross-cutting issues from the very l
As recently as December 19th, Platts reported that the head of the NRC on-site inspection team at Dav
So if the industry won’t or can’t police the softer human performance issues at the nuclear plants, and

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

Last year we said, “While there is general acknowledgment that the ROP, being risk-informed, performance-based and more objective, is better than the old, more subjective system of Systematic Assessment of Licensee Performance, there is not unanimous acknowledgment that it is providing adequate assurance.

In the deregulation-driven power shift from strict government regulation to industry self-regulation, the program has not yet evolved to the point where the outcome of adequate assurance is certain. The resulting shift seems to have changed the regulator’s role to one of auditor, rather than a pro-active seeker of

precursors that could lead to larger events. Unless event driven, licensees seem to be the gatekeepers of what is deemed serious enough to warrant attention.

Neither the ROP, nor licensee quality programs, connected enough dots to avert a near-miss at Davis Besse, even after the possibility of a problem was communicated by the regulator well in advance. In an effort to color-code everything into cornerstones, and to categorize them into well-organized safety significant categories, the real problem was not recognized until it was almost too late. The essence of having professional and independent oversight was lost. The fact is that the NRC has yet to issue a sanction as a result of Davis Besse. This proves the ROP system is slow to react, and a strict performance-based approach is not adequate. Yet both NRC and INPO have documented widespread management failures as root causes.

Therefore, IDNS continues to assert that adequate protection will not be assured for the whole family of nuclear plants until the ROP considers human performance in the cross-cutting issues in the process, and all licensees genuinely embrace risk-based regulation to the point where regulatory reforms no longer need to be voluntary. Except for the fact that Davis Besse eventually was issued a red finding, these comments remain valid this year

(14) Does the ROP enhance public confidence?

Last year we remarked, "From public meeting attendance, it seems the general public remains ambivalent about the ROP process, and has confidence in government regulators to do effective oversight for them. Those with the most radiological safety risk living near a plant also have economic reasons factored into their radiological safety risk-acceptance attitudes. So if the ROP has enhanced general public confidence, it is difficult to measure. IDNS passed out 11,700 doses of potassium iodide pills in our emergency planning zones in 2002. This indicates that there are a fair number of people still skeptical about nuclear power and governmental oversight.

From an informed public standpoint, access to ROP results through the Internet is a positive. IDNS continues to applaud the NRC for the openness of their regulatory activities and the access to information afforded by the staff and web pages.

These comments still apply. Note also that attendance at a recent Early Site Permit scoping meeting at Clinton was attended by about one hundred citizens. This kind of attendance at an Illinois public meeting is unprecedented; and attendees were about equally divided between those opposing a new plant there, and those supportive. So for at least some, public confidence is lacking.

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

Last year we made the following comments that still apply. "Industry operational and safety performance has dramatically improved in the last few years, especially at the Illinois plants. We attribute this to excellent management attention and focus. We certainly don't see a need to revert back to the old compliance-based regulatory program. We continue to believe in the efficacy of risk and performance based regulation.

However, recent events have afforded the opportunity to see where gaps exist. The ROP is worth fine-tuning, and that process is far from over. It is also becoming evident that some subjectivity is desirable in cross-cutting areas that are not monitored effectively by objective means. Trending ability is reduced in the ROP, especially in the cross-cutting issues where problems show up first. It is critical to a regulator that performance trending in key areas be accomplished. While difficult, we don't believe this is too hard to accomplish. The industry cannot be expected to be self-policing in holding member managements accountable for unsatisfactory performance.

The ROP is very structured by design and does not afford the NRC inspectors much time or latitude to follow their instincts into perceived problem areas. As stated, introducing some subjectivity back into the regulatory process might be beneficial. Also, since the vast majority of inspection findings are documented

as “very low safety significance”, there is always the threat that inspectors will become frustrated and not put maximum effort into their inspections.”