UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

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SUBJECT: SOLICITATION OF PUBLIC COMMENTS ON THE IMPLEMENTATION OF THE REACTOR OVERSIGHT PROCESS

The Nuclear Regulatory Commission (NRC) continues to seek to improve its approach to inspecting and assessing the operation of commercial nuclear reactors. The Reactor Oversight Process (ROP) approach is based upon many years of inspection, regulatory, and plant operating experience. The ROP has been in effect at all commercial operating nuclear power plants since April 2000. It is briefly described in the attached Federal Register Notice (FRN).

To continue to improve the ROP, the NRC is requesting feedback from the public and other external stakeholders in the attached Federal Register Notice. A summary of the feedback obtained will be included in the annual ROP self-assessment report and will be provided to the Commission.

We welcome your comments and insights on the ROP. The attached FRN lists questions on topics on which the NRC is specifically seeking public comment. Please send us your responses and any other comments by December 16, 2004. You may send them either by e-mail to nrcrep@nrc.gov or via the U.S. Postal System to:

Michael T. Lesar
Chief, Rules and Directives Branch
Office of Administration (Mail Stop: T6-D59)
Nuclear Regulatory Commission
Washington, DC 20555-0001

Thank you for your interest in our Reactor Oversight Process.

Stuart A. Richards
Office of Nuclear Reactor Regulation
Division of Inspection Program Management
Inspection Program Branch

Attachment: Federal Register Notice Soliciting Public Comments on the Implementation of the Reactor Oversight Process

E-RIDS=ADM-03
Add=S. Sanders (SXS5)
S.M. Anderson (SMA1)

SISP Review Complete

Template=ADM-013

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U.S. NUCLEAR REGULATORY COMMISSION

SOLICITATION OF PUBLIC COMMENTS ON THE IMPLEMENTATION OF THE REACTOR OVERSIGHT PROCESS

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Request for public comment.

SUMMARY: Nearly five years have elapsed since the U.S. Nuclear Regulatory Commission (NRC) implemented its revised Reactor Oversight Process (ROP). The NRC is currently soliciting comments from members of the public, licensees, and interest groups related to the implementation of the ROP. This solicitation will provide insights into the self-assessment process and a summary of the feedback will be included in the annual ROP self-assessment report to the Commission.

DATES: The comment period expires on December 16, 2004. The NRC will consider comments received after this date if it is practical to do so, but is only able to ensure consideration of comments received on or before this date.

ADDRESSES: Completed questionnaires and/or comments may be e-mailed to nrcrep@nrc.gov or sent to Michael T. Lesar, Chief, Rules and Directives Branch, Office of Administration (Mail Stop T-6D59), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Comments may also be hand-delivered to Mr. Lesar at 11554 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Documents created or received at the NRC after November 1, 1999, are available electronically through the NRC's Public Electronic Reading Room on the Internet at http://www.nrc.gov/reading-rm.html. From this site, the public can access the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. For more information, contact the NRC's Public Document Room (PDR) reference staff at 301-415-4737 or 800-397-4209, or by e-mail at pdr@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Serita Sanders, Office of Nuclear Reactor Regulation (Mail Stop: OWFN 7A15), U.S. Nuclear Regulatory Commission, Washington DC 20555-0001. Ms. Sanders can also be reached by telephone at 301-415-2956 or by e-mail at SXS5@nrc.gov.

SUPPLEMENTARY INFORMATION:

PROGRAM OVERVIEW

The mission of the NRC is to regulate the civilian uses of nuclear materials in the United States to protect the health and safety of the public and the environment, and to promote the

common defense and security by preventing the proliferation of nuclear material. This mission is accomplished through the following activities:

- License nuclear facilities and the possession, use, and disposal of nuclear materials.
- Develop and implement requirements governing licensed activities.
- Inspect and enforce licensee activities to ensure compliance with these requirements and the law.

While the NRC's responsibility is to monitor and regulate licensees' performance, the primary responsibility for safe operation and handling of nuclear materials rests with each licensee.

As the nuclear industry in the United States has matured for more than 27 years, the NRC and its licensees have learned much about how to safely operate nuclear facilities and handle nuclear materials. In April 2000, the NRC began to implement more effective and efficient inspection, assessment, and enforcement approaches, which apply insights from these years of regulatory oversight and nuclear facility operation. Key elements of the Reactor Oversight Process (ROP) include NRC inspection procedures, plant performance indicators, a significance determination process, and an assessment program that incorporates various risk-informed thresholds to help determine the level of NRC oversight and enforcement. Since ROP development began in 1998, the NRC has frequently communicated with the public by various initiatives: conducting public meetings in the vicinity of each licensed commercial nuclear power plant, issuing FRNs soliciting feedback on the ROP, publishing press releases about the new process, conducting multiple public workshops, placing pertinent background information in the NRC's Public Document Room, and establishing an NRC Web site containing easily accessible information about the ROP and licensee performance.

NRC PUBLIC STAKEHOLDER COMMENTS

The NRC continues to be interested in receiving feedback from members of the public, various public stakeholders, and industry groups on their insights regarding the CY 2004 implementation of the ROP. In particular, the NRC is seeking responses to the questions listed below, which will provide important information that the NRC can use in ongoing program improvement. A summary of the feedback obtained will be provided to the Commission and included in the annual ROP self-assessment report.

This solicitation of public comments has been issued each year since ROP implementation in 2000. In previous years. the question had been free-form in nature requesting written responses. Although written responses are still encouraged, we have added specific choices to best describe your experience to enable us to more objectively determine your level of satisfaction.

In addition, we are asking for feedback under distinct time frames to enable us to trend your level of satisfaction: during the initial year of ROP implementation (2000), and current ROP implementation. In future years, we will ask for feedback only for current ROP implementation.

QUESTIONS

As previously discussed, we are asking for feedback under distinct time frames to enable us to trend your level of satisfaction. The questionnaire has been modified to benchmark the results. In responding to these questions, please consider your experiences using the NRC oversight process during initial implementation (first year of ROP) and current ROP implementation.

Shade in the circle that most applies to your experiences as follows:

1) very much 2) somewhat 3) neutral 4) somewhat less then needed 5) far less then needed

If there are experiences that are rated as unsatisfied, or if you have specific thoughts or concerns, please elaborate in the "Comments" section that follows the question and offer your opinion for possible improvements. If there are experiences or opinions that you would like to express that cannot be directly captured by the questions, document that in question number 20.

Questions related to specific ROP program areas
(As appropriate, please provide specific examples and suggestions for improvement.)

(1) Does the Performance Indicator Program promote plant safety?

	1	2	3	4	5
Initial ROP Implementation	O	O	O	⊗	O
Current ROP	O	O	O	⊗	O

Comments: DECISIONS MADE BY NRC DON'T ALWAYS ALIGN (OR ARE BASED UPON) PI's.

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

	1	2	3	4	5
Initial ROP Implementation	O	O	⊗	O	O
Current ROP	O	O	⊗	O	O

Comments:

(3) Is the reporting of PI data efficient?

	1	2	3	4	5
Initial ROP Implementation	O	O	X	O	O
Current ROP	O	X	O	O	O

Comments: CDE PROCESS IS MUCH IMPROVED OVER ORIGINAL PI WEB.

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

	1	2	3	4	5
Initial ROP Implementation	O	X	O	O	O
Current ROP	O	X	O	O	O

Comments: THE FAQ PROCESS IS A GOOD TOOL TO RESOLVE SPECIFIC ISSUES

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

	1	2	3	4	5
Initial ROP Implementation	O	O	X	O	O
Current ROP	O	O	X	O	O

Comments:

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

	1	2	3	4	5
Initial ROP Implementation	O	O	⊗	O	O
Current ROP	O	⊗	O	O	O

Comments:

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

	1	2	3	4	5
Initial ROP Implementation	O	O	O	⊗	O
Current ROP	O	O	O	⊗	O

Comments: SEE ATTACHED

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

	1	2	3	4	5
Initial ROP Implementation	O	O	⊗	O	O
Current ROP	O	O	⊗	O	O

Comments:

Questions related to the efficacy of the overall Reactor Oversight Process (ROP)
(As appropriate, please provide specific examples and suggestions for improvement.)

(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 judgement)?

	1	2	3	4	5
Initial ROP Implementation	O	O	O	⊗	O
Current ROP	O	O	O	⊗	O

Comments: SEE ATTACHED

(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
Initial ROP Implementation	O	O	O	⊗	O
Current ROP	O	O	O	⊗	O

Comments: SEE ATTACHED

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

	1	2	3	4	5
Initial ROP Implementation	O	O	O	O	⊗
Current ROP	O	O	O	O	⊗

Comments:
SEE ATTACHED

(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
Initial ROP Implementation	O	O	X	O	O
Current ROP	O	O	X	O	O

Comments: SEE ATTACHED

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

	1	2	3	4	5
Initial ROP Implementation	O	O	O	O	X
Current ROP	O	O	O	O	X

Comments: SEE ATTACHED

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

	1	2	3	4	5
Initial ROP Implementation	O	O	O	X	O
Current ROP	O	O	O	X	O

Comments: SEE ATTACHED

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

	1	2	3	4	5
Initial ROP Implementation	O	O	O	O	O
Current ROP	O	O	O	O	O

Comments:

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

	1	2	3	4	5
Initial ROP Implementation	O	O	O	O	O
Current ROP	O	O	O	O	O

Comments:

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

	1	2	3	4	5
Initial ROP Implementation	O	O	O	O	O
Current ROP	O	O	O	O	O

Comments:

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

	1	2	3	4	5
Initial ROP Implementation	O	O	O	X	O
Current ROP	O	O	O	X	O

Comments: SEE ATTACHED

(19) Does the ROP minimize unintended consequences?

	1	2	3	4	5
Initial ROP Implementation	O	O	O	X	O
Current ROP	O	O	O	X	O

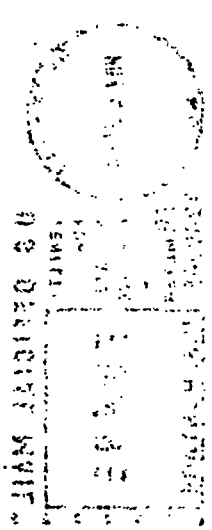
Comments: SEE ATTACHED

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

Dated at Rockville, Maryland, this 25th day of October 2004.

For the U.S. Nuclear Regulatory Commission

Stuart A. Richards
Office of Nuclear Reactor Regulation
Division of Inspection Program Management
Inspection Program Branch



Additional ROP Survey Comments

(7) Comment:

Based on our experiences, the NRC action is delayed, inappropriate, and very burdensome for issues that have been resolved. Due to the long lead times in determining the significance color, many issues have been longed resolved before a 95001 or 95002 inspection occurs. These inspections are very burdensome for utilities, especially when the performance deficiency has been corrected, as was the case in each of our findings. While the 95002 process may be appropriate, the timing and level of effort involved pulls folks away from solving current issues to supporting closure of past issues for which corrective actions have already been completed.

(8) Comment:

Relevant - yes, Useful - yes, In plain English - no. The information contained in an assessment would be very difficult for members of the public to digest, and is often confusing to the licensee. This is evidenced by the local media's non-understanding of either the ROP process and the results.

(9) Comment:

Predictability is clearly an area that needs improvement. We have our PRA model and the NRC has theirs. We can both have supportable inputs which differ and yield different results, and the NRC will always default to the most conservative "because they can". In an example, the NRC uses an unapproved draft model to predict PSV failure rates. A utility charters an EPRI-sanctioned Expert Elicitation Panel to study the issue and arrives at slightly different failure rates. The EPRI value is a clearly more recent, and arguably more accurate, document yet the NRC will not accept it. This seems contrary to the notion of using the most accurate available information. It seems that the most predictable and objective approach would be to inspect our use of our PRA to see if our inputs are reasonable and our results are valid.

(10) Comment:

Yes, but...Actions taken for CDF results of 1.04 E-6 are significantly above 9.99 E-7, and there is no real increase in risk. There should be judgment applied, but NRC approaches in a "black or white" manner. The NRC seems to follow the process "blindly" with no room for judgment or interpretation. The default position is that in time where judgment can be applied, the NRC just says potentially > green and calls the utility down to defend itself. This is incredibly resource intensive and again, diverts resources from solving current safety issues to defend an issue which may be over 2 years old and already solved. It also puts the utility in the "guilty until proven innocent" column with no incentive for the NRC to come to any conclusion except "guilty" as the NRC has already invested great resources into the issue.

(11) Comment:

No - Especially in the case of the 95002 inspection guidance. The scope of this type of inspection can be expanded or contracted based solely on inspector preference. There is absolutely no predictability in this area, nor will NRC engage in meaningful conversations ahead of a 95002 inspection to bound the issue.

(12) Comment:

Due to the long time for development of issues and assessment in SDP space, many issues are already corrected by the time a finding is assessed. The ROP needs to provide more timely results and assessments, and timing seems to run from 1 year to over 3 years before an issue is finally resolved and a risk color assigned.

(13) Comment:

Not entirely. There is nothing efficient about the ROP, as the process drags on and does not promptly assess possible performance deficiencies. We have several items open for over 2 years without being informed of a performance deficiency. If a PD is identified, the issue will then enter the SDP process and it will be even longer before a finding is issued for something that was corrected years ago. Regarding realism, I would offer that once a performance deficiency is found, the SDP process allows too many "what ifs" that are not realistic. For instance, you could say "what if you had a 3g earthquake", and that probability would be entered into the risk equation. A 3g earthquake "could" occur, but the plant is not licensed to that. This would appear to be a defacto backfit in that we are not required to factor in things beyond our approved licensing basis.

(14) Comment:

It certainly could if the workings in the Phase III determination were not so "secret". Basically, the assumptions made for a specific scenario by the NRC are, many times, not known by the utility until the "choice letter" is received. An example of this is the non-industry reviewed tool for evaluating RV head cracks on heads that were replaced years ago. The utility had no idea a Phase III determination was underway until informed during a phone call. From our perspective, ROP is far from transparent.

(18) Comment:

This certainly depends on the plant. In many cases, this is true but for older plants, the opposite is true. Overall regulatory burden has actually increased significantly at our facility.

(19) Comment:

The answer here would tend to be no, as often is the case, the original issue has long since been solved via the corrective action program before ROP issues a finding and SDP determines the risk. This ties back to timeliness, as the unintended consequence is often "punishment" that

occurs years after the event in question. This delay in not effective in driving the desired utility behaviors in the right direction.