

April 8, 2008

MEMORANDUM TO: Anthony C. McMurtray, Branch Chief  
Regulatory Improvements & Outreach Branch  
Division of Preparedness and Response  
Office of Nuclear Security and Incident Response

FROM: Randy L. Sullivan, Sr. EP Specialist */RA/*  
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SUBJECT: SUMMARY OF MARCH 5, 2008, PUBLIC MEETING TO DISCUSS A  
CONCEPTUAL PERFORMANCE BASED EMERGENCY  
PREPAREDNESS REGULATORY REGIMEN

On March 5, 2008, a category 2 public meeting was held between the U.S. Nuclear Regulatory Commission (NRC), and industry representatives, State representatives and interested stakeholders, at NRC Headquarters, Two White Flint North, 11545 Rockville Pike, Rockville, MD. The purpose of the meeting was to discuss a conceptual basis for a performance based emergency preparedness regulatory regimen. A summary of the meeting discussion and a list of meeting attendees are enclosed. A description of the concept can be found in ADAMS Accession Number ML080440163 and the slides presented by NRC can be found in ADAMS Accession Number ML080630514.

Enclosures: 1. Meeting Summary  
2. Attendance

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SUNSI Review Complete by: Randy Sullivan

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## **SUMMARY OF MARCH 5, 2008 MEETING TO DISCUSS A CONCEPTUAL PERFORMANCE BASED EMERGENCY PREPAREDNESS REGULATORY REGIMEN**

The U. S. Nuclear Regulatory Commission (NRC) staff is considering the merits of a performance based emergency preparedness (EP) regulatory regimen. The purpose of the meeting was to discuss the conceptual framework of such a regimen with industry and other stakeholders to solicit informal stakeholder feedback. A concept paper was made available prior to the meeting to inform stakeholders of the staff's current thinking on how the rule language could be written. The NRC did not solicit formal public comments on the concept paper. The performance based regulatory regimen has not been reviewed in detail by the Commission and may be subject to significant revision. The staff will continue to seek stakeholder input and in late 2008 provide recommendations for Commission consideration regarding the merits of the concept. However the staff believes that outreach early in the process will facilitate better communication and a smoother transition if the concept is to proceed to rulemaking.

Several comments and questions were provided by stakeholders and industry committed to provide feedback to the NRC on the new proposed regimen by the end of April, 2008. The comments and questions include:

- Will NRC use the present American Nuclear Society performance standards, or will there be new ones?
- NRC was strongly encouraged to work with offsite agencies in the development of the regimen.
- Has the NRC looked at the priority ranking of the performance standards? Are some failures more important than others?
- Is there any conflict or duplication of effort between this new regimen and the present rulemaking to enhance the regulations?
- Does this mainly impact the onsite organization or are offsite response groups also affected?
- What will happen to the current EP performance indicators (PIs)? Will these PIs remain voluntary or will they now be tied to regulations?
- How would the new PIs be incorporated into the existing PI programs?
- What is the enforcement process for licensees that fall outside the licensee response band?
- Would the new regimen allow for drills with mitigation success paths, for example, drills without melting the core and/or large release?
- NRC will need some offsite response organization involvement to go forward with this.
- What happens to the biennial exercise, i.e., is it still required?
- How will the emergency plan be impacted with the new regulations?
- How does the definition of "Reasonable Assurance" change with the new regimen?
- Is the suite of drill scenarios the key factor in the new regimen?
- Would the emergency drills be approved ahead of time for a 6-year period?
- Does the NRC know of any other countries using a performance-based regimen?
- How can NRC require more realistic scenarios, without affecting the offsite performance criteria?
- NRC must get buy-in from FEMA and offsite agencies to implement this concept
- How will the drill suite be submitted and approved?
- For a pilot plant, would there be a cost (fee recovery for inspection) for the pilot drills?

- What is the benefit to a licensee for piloting this new regimen?
- Would there be some sort of hiatus period while piloting the new regimen, i.e., relief from one to pilot the other?

**ATTENDEES FOR MEETING TO DISCUSS**  
**CONCEPTUAL PERFORMANCE BASED EMERGENCY PREPAREDNESS**  
**REGULATORY REGIMEN**  
**MARCH 5, 2008**

Name	Organization
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Anthony McMurtray	NRC/NSIR
Barney Simonton	Georgia
Dan Cleavenger	SCE
Dan Hill	West Virginia
Dave Green	Tennessee
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Edward J. Weinkam	NMC
EJ Smith	Mississippi
Ernie Moore	South Carolina EMA
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