

Commissioner McGaffigan's Comments on
COMSECYs-99-036, -038, and -042

I recognize that the staff has been working diligently to update the draft NRC FY 2000-2005 Strategic Plan, which was provided to the Commission on February 11, 2000 (COMSECY-00-0012). I generally agree with the staff's proposed four performance goals that are common to the reactor, materials, and waste chapters. I also agree that the four performance goals contribute in linking the strategic goals with the agency activities that comprise office and regional operating plans, but that linkage is still somewhat tenuous. As we move forward in revising the draft NRC FY 2000-2005 Strategic Plan, I hope that we are able to clarify this linkage. I would also welcome other suggestions -- by internal and external stakeholders -- on how to improve the NRC's annual performance goals. My vote on COMSECY-00-0012 discusses this proposal in greater detail.

I appreciate that the staff has struggled with the issue of public confidence surveys. I have obviously been critical of various efforts to design a public confidence meter since this notion first came up last year. For the reasons discussed in my vote on SECY-00-0035, I differ with the staff's current thinking on how to implement this laudable concept of having an awareness of the public's confidence in NRC's performance.

The staff should plan to invite NEI, GAO, OMB, Congressional staff, NIRS, NRDC, Public Citizen and other interested stakeholders in addition to the Agreement States to the public workshop planned for the Spring of 2000.

Nuclear Reactor Safety Chapter (COMSECY-99-042)

1. On page 6, under the bullet on evaluating operating experience and the results of risk assessments, insert the word "economic" between "nuclear safety of" and "deregulation."

Nuclear Materials Safety Chapter (COMSECY-99-038)

Performance Goal 1

2. Strategy 1, paragraph 2 - At the recent State Liaison Meeting held at NRC Headquarters, some State representatives indicated an interest in having NRC give them an early "heads up" in cases where potential license applicants or licensees introduce a new technology that may have an impact on a State's regulatory program (e.g., the manufacturing of a new medical device or sealed source). I suggest that the staff modify this performance goal to recognize the need for NRC to determine on a case-by-case basis when early notification of the States is warranted.
3. Strategy 3, "*We will confirm that licensees understand and carry out their primary responsibility for conducting activities consistent with the regulatory framework*" - The discussion that follows focuses solely on the staff's approach to inspecting licensed activities. While I agree that inspection results can be a clear indicator of a licensee's understanding of their responsibility, it is not true in all cases. The staff should consider soliciting input from stakeholders on what other measures might be used by NRC from the time of application through licensing and inspection to address this strategy.
4. Strategy 5 - Sentence 3 in paragraph 1 and the last sentence should be modified to more accurately reflect [SECY-99-250](#) and the staff requirements memorandum. Specifically, the purpose of the NRC/State working group is to *address the impacts* of an increasing number of Agreement States *and make recommendations* to the Commission for possible future regulatory frameworks. It is premature to predict whether or to what degree NRC would shift its regulatory responsibility for the materials program to the States.
5. Performance Measures and Metrics - From the data provided, it appears that the metrics reflect the status quo. I would hope that full implementation of the Strategies would result in a downward trend of reportable events, overexposures, releases, etc. Therefore, the staff should consider reducing these numbers.

Performance Goal 2

6. Performance Measures and Metrics - Consistent with the draft Reactor Safety Chapter, the staff should consider adding specific measures for outreach activities and timeliness of responding to allegations, FOIAs, correspondence and [10 CFR 2.206](#) petitions.

Performance Goal 3

7. For consistency, the staff should consider adding a Strategy comparable to the one entitled, "We will assure that agency decisions are based upon technically sound and realistic information" in the Nuclear Waste Safety Chapter.
8. I support the proposal that NRC will make realistic decisions that contain no undue conservatism. I encourage the staff to seek stakeholder comments on how well we are meeting this goal as opportunities present themselves during rulemaking or other regulatory activities.
9. This section is silent on the "quality" of NRC actions or work products. I suggest that the staff consider discussing how it might increase or improve the quality of its work products (e.g., rulemaking packages, licensing actions) since there is a direct correlation between the quality of products and the efficiency of NRC's processes.
10. I commend the staff for adding a strategy to empower the NRC staff and suggest that, in implementing performance goal 3, it may not be absolutely necessary to develop a formal plan and process for delegating authority to senior staff. Instead, empowering the staff should become a natural part of the day-to-day operations to improve efficiency and effectiveness.
11. Consistent with comment 4, above, sentence 3 of paragraph 2 should be deleted.

12. Performance Measures and Metrics - Consistent with the Reactor Safety Chapter, we should be able to state specific timeliness goals for: 1) rulemaking; 2) resolution of generic safety issues; 3) exemption requests; 4) certain licensing actions (e.g., 10 CFR 20.2002 requests); and 4) enforcement actions. It is unclear whether the metric (80%) for performance measure 2 represents the status quo or a realistic goal for future licensing actions, inspection efforts and rulemaking activities, or whether it is even appropriate to lump these three program areas together.

Performance Goal 4

13. The language used for performance measures 1 and 2 needs to be consistent between the Nuclear Materials and Nuclear Waste Safety Chapters.

Nuclear Waste Safety Chapter (COMSECY-99-036)

14. Unlike the Reactor and Nuclear Materials Safety Chapters, there is no introductory paragraph to explain what the Strategic Goal represents. Either add such a discussion to this Chapter for consistency or, if it is determined not to be necessary, delete it from all Chapters.

Performance Goal 1

15. Strategy 3: The discussion that follows focuses solely on the staff's approach to inspecting licensed activities. While I agree that inspection results can be a clear indicator of a licensee's understanding of their responsibility, it is not true in all cases. The staff should consider soliciting input from stakeholders on what other measures might be used by NRC from the time of application through licensing and inspection to address this strategy.
16. The last sentence in paragraph 4 under Performance Goal 1 should read as follows (changes in bold):

"NRC will continue to **consult with its independent Advisory Committee on Nuclear Waste and** assist and coordinate with **the States, the Environmental Protection Agency (EPA), DOE,....."**

Performance Goal 2

17. Performance Measures and Metrics - Consistent with the draft Reactor Safety Chapter, the staff should consider adding specific measures for outreach activities and timeliness of responding to allegations, FOIAs, correspondence and 10 CFR 2.206 petitions.

Performance Goal 3

18. I strongly support the proposal that NRC will make realistic decisions that contain no undue conservatism. I encourage the staff to seek stakeholder comments on how well we are meeting this goal, particularly in the development of 10 CFR Part 63, its related guidance and guidance for the license termination rule.
19. This section is silent on the "quality" of NRC actions or work products. I suggest that the staff consider discussing how it might increase or improve the quality of its work products (e.g., rulemaking packages, licensing actions) since there is a direct correlation between the quality of products and the efficiency of NRC's processes.
20. I commend the staff for adding a strategy to empower the NRC staff and suggest that, in implementing performance goal 3, it may not be absolutely necessary to develop a formal plan and process for delegating authority to senior staff. Instead, empowering the staff should become a natural part of the day-to-day operations to improve efficiency and effectiveness.
21. Performance Measures and Metrics - We should be able to state specific timeliness goals for: 1) rulemaking; 2) resolution of generic safety issues; 3) exemption requests; 4) certain licensing actions (e.g., 10 CFR 20.2002 requests); and 4) enforcement actions. It is unclear whether the metric (95%) for performance measure 2 represents the status quo or a realistic goal for future licensing actions or inspection efforts, or whether it is even appropriate to lump these two program areas together.

Performance Goal 4

22. The language used for performance measures 1 and 2 needs to be made consistent between the Nuclear Materials and Nuclear Waste Safety Chapters.