

December 29, 1999

Mr. David L. Meyer  
Chief, Rules and Directives Branch  
Division of Administrative Services  
Office of Administration  
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U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555-0001

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RULES & DIR. BRANCH  
US NRC

Subject: Public Comments on the Pilot Program for the New Regulatory Oversight Program  
(Reference 64FR40394 dated July 26, 1999 and 64FR60244 dated November 4, 1999).

Dear Mr. Meyer:

The FirstEnergy Nuclear Operating Company (FENOC) is the operator and licensee of the Beaver Valley Power Station, Davis-Besse Nuclear Power Station and the Perry Nuclear Power Plant. As a 10 CFR Part 50 licensee, FENOC has a vested interest in any revisions in the oversight of the safety performance of commercial nuclear power plants. FENOC is responsible for not only ensuring the safe operation of its nuclear facilities but for also ensuring they are operated in a cost-effective manner for its customers.

FENOC has monitored development of the new oversight process by participation in industry workshops, review of pertinent documentation and dialogue with other licensees. Further, FENOC is actively preparing for the April 2000 implementation of the new oversight process at each of its nuclear facilities. The Nuclear Energy Institute (NEI) has provided final industry comments on the new oversight process by letter dated December 29, 1999. FENOC supports and endorses these comments.

FENOC provides the following comments to support and amplify the NEI comments:

- FENOC believes that the requirements of 10 CFR 50.9 are best served by a rigorous and thorough review process that is not encumbered with time pressure. Therefore, FENOC recommends a Performance Indicator (PI) data submittal due date of at least 21 calendar days after the end of the quarter or a period comparable to the required period for publishing inspection reports whichever is longer. Of particular interest to FENOC is the fact that the April 2000 implementation corresponds with the start of the twelfth refueling outage at the Davis-Besse Nuclear Power Station, which is an additional burden in the process for assuring accurate PI data.

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- The issue of how 10 CFR 50.9 is to be applied for inadvertent errors in the voluntary submittal of PI data must be resolved prior to implementation. FENOC concurs with the NEI recommendations that errors in reporting historical data submitted on January 21, 2000, not be subject to enforcement and that enforcement discretion be provided for a period time during which data errors and technical questions caused by differing plant configurations and processes can be resolved. Given that changes are possible in some of the PIs, it is recommended that this period of discretion be one year after the date of full implementation. Only when an error would affect NRC action should enforcement action be considered. In the majority of cases a minor or non-cited violation should be considered based on the significance unless the criterion for issuing a Level IV violation as described in the interim enforcement policy applies.
- The Security Equipment Performance Index performance indicator is deficient and must be corrected. Of particular concern to FENOC is the incentive to change prudent business practices to manage and maintain the indicator above the green-white threshold with no corresponding increase in safety. This unacceptable change results from the need to take prompt action to restore a security zone to operable status thereby incurring the added expense of maintaining around the clock availability of maintenance personnel when compensatory measures that comply with regulations and the approved security plan could be utilized. Further, given that a properly compensated security zone represents no reduction in safety there should be no white-yellow threshold.
- The NRC should continue with the performance indicator (PI) development activities originally discussed in SECY 99-007, Recommendations for Reactor Oversight Process Improvements, dated January 8, 1999, (SECY 99-007). Specifically, the PI thresholds were based on a small number of sensitivity studies and PRA models of differing levels of detail, which provided differences in results. Threshold values chosen for safety system performance, for example, must now be considered when scheduling on-line maintenance, even though the plant-specific risk analysis of the planned maintenance activities is sufficient to appropriately balance equipment availability and reliability. The imposition of these thresholds encroaches upon the ability of site management to make the appropriate, risk-informed maintenance decisions. Consequently, the NRC should continue to review the results and determine whether PI thresholds can or should be established for plant classes or on a plant specific basis.

Thresholds based on plant class or plant specific design will more accurately reflect safety performance for specific design, operations and maintenance characteristics of a plant. Further, the thresholds will become more risk informed and aligned with the plant specific aspects of the significance determination process. The PI and inspection finding inputs to the assessment process will then provide an indication of plant performance more closely correlated with the true safety performance.

December 29, 1999

Page 3 of 4

The NRC should continue with the development of risk based PIs as discussed in SECY 99-007. However, in doing so the NRC must balance the improvement in licensee performance assessment with the increased licensee burden of an expanding number of PIs. Existing PIs that do not significantly enhance the risk based PIs should be eliminated. Further, as PIs are added or revised the baseline inspection process needs to be reviewed for any corresponding revision including appropriate decreases in scope.

Regardless of how the NRC proceeds with the development of PIs or the significance determination process, the process used to develop the current PIs and significance determination process should be followed.

- FENOC concurs with the recommendation that the NRC continue its national overview of finding determinations, performance indicator questions, and inspection reports to ensure consistency across the four NRC Regions and consistent, fair and equal treatment for licensees. This is particularly important prior to full implementation in April to resolve questions and concerns that will arise for non-pilot plant licensees. Further, the frequently asked question program has proven to be successful and should be continued to support full implementation in April and the development of future assessment tools.
- Currently, related and similar data is compiled by utilities to comply with the Maintenance Rule and submit performance data to WANO. Similar indicators now exist for the NRC oversight process. Common definitions need to be developed to limit licensee burden and reduce the potential for reporting errors due to the need to keep multiple sets of data. FENOC considers this to be a significant issue to be resolved for effective implementation of the oversight process.
- In reviewing the pilot program results FENOC believes that the significance determination process (SDP) has not been exercised to the degree necessary for a meaningful validation of all aspects of the SDP. The NRC and industry should develop a formal review and change process for the SDP and accelerate the process to resolve relevant issues prior to full implementation. The process should be utilized for the development of new SDPs.

The development of the plant specific SDP for the non-pilot plant licensees is of concern to FENOC due to the April 2000 scheduled start of the twelfth refueling outage at the Davis-Besse Nuclear Power Station. The need to work with the NRC staff in developing an accurate and meaningful SDP will be an additional burden during preparations for the refueling outage.

December 29, 1999  
Page 4 of 4

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- The guidance in NEI 99-02, Revision D for the Emergency Preparedness Drill and Exercise Performance Indicator defines a more restrictive time limit as an exclusive determinate for classification performance and PAR development than that defined in Emergency Preparedness Position (EPPOS) No. 2, dated August 17, 1995. This aspect of the indicator should be reviewed for consistency with established regulatory and industry expectations.
- FENOC believes that specific guidance should be provided to licensees regarding electronic submittal of NRC Performance Indicator data under the requirements of 10 CFR 50.4. Although sub-section (c) provides exceptions for submitting electronic media, specific guidance has not been provided at this time.

The FirstEnergy Nuclear Operating Company recognizes the significant effort by the NRC to develop the revised reactor oversight process and commends the NRC for the significant improvements that have been developed.

If you have questions or require further assistance please contact Mr. James L. Freels, Manager - Regulatory Affairs, Davis-Besse Nuclear Power Station, at (419) 321-8466.

Sincerely,



John P. Stetz