



Performance Based Regulations

Food for Thought Session

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Performance vs. Prescriptive Regulation

A performance regulation requires an outcome or result but leaves the means of achieving that outcome to the discretion of the regulated entity.

A prescriptive regulation is more specific on how the regulated entity must achieve the desired outcome or level of performance.

Analogy: How to Manage Your Health

Performance Standard:

Ensure wellness by considering the following factors:

- family history,
- diet,
- stress,
- exercise, and
- regular check-up findings.

Prescriptive Standards:

- If your history includes a heart attack or cancer prior to age 65, get stress tests every five years and relevant cancer screenings every 3 years.
- Check cholesterol and urinalysis annually, and a chest x-ray every five years.
- Take medication if blood pressure exceeds 120/80.
- Walk at least 20 minutes daily or equivalent.

How to Manage Pipeline Health

Performance Standard:

Ensure pipeline integrity by considering the following factors:

- Operating history, design, and other elements important to a risk analysis.
- Develop and utilize a damage prevention program.
- Conduct emergency drills according to plan.

Prescriptive Standards (part of the integrity management rule):

- Assess every 5 years by an approved means (smart pig, hydrotest) & make repairs as required.
- Maintain approved pressure limits.

Most agencies use a mix of performance and prescriptive regulations

Performance Based Regulations Require A Much Stronger Oversight Framework (SG)

Some prerequisites to think about:

- Qualification/training of inspectors in performance based oversight
- Prior conceptual discussion/review to including full stakeholder analysis
- Peer review within advisory committee context
- Protocols for inspection and oversight detailed in advance
- Metrics defined and consensus on approach
- Adequate review of standards and technologies
- Best practices identified
- Safety culture focused and understood

Performance Based Regulations Require A Much Stronger Oversight Framework (LE)

- Regulators/inspectors must have strong technical skills to fully understand operators' analyses, and thus they must be highly paid
- There must be sufficient numbers of regulators/inspectors to perform oversight
- Enforcement is more challenging than with prescriptive requirements
- Worker engagement is critical, including the ability to stop operations
- Transparency on outcomes, including adverse outcomes like near misses, is essential