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NUCLEAR ENERGY INSTITUTE

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Mr. Michael T. Lesar
Chief, Rules and Directives Branch
Division of Administrative Services
Office of Administration
Mail Stop: T-6 D59
U.S. Nuclear Regulatory Commission
Washington DC 20555-0001

SUBJECT: Public Comment on the Second Year of Implementation of the Reactor Oversight Process (ROP)

Dear Mr. Lesar:

On behalf of the nuclear energy industry, the Nuclear Energy Institute (NEI) is submitting the enclosed comments on the second year of implementation of the ROP, as requested by the Nuclear Regulatory Commission in the *Federal Register* on November 21, 2001 (66 *Fed. Reg.* 58529).

As we have stated in previous comment letters on the new Reactor Oversight Process, we appreciate NRC's openness and willingness to consider stakeholders' comments and recommendations. The continuing degree of public interaction has allowed the process to effectively address most emerging questions and unforeseen concerns in a timely and fair manner. Without forsaking its responsibility to make the final decision, NRC has been willing to openly share its ideas and to allow public comment on a real-time basis. The result has been a far better product than could have been achieved in the past. This new paradigm of communication and understanding between the regulator, licensees and the non-industry public is to be commended. It should also be emulated for future regulatory improvement initiatives.

While the enclosure provides specific comments on questions posed by the NRC, there are several issues that we believe should receive priority treatment:

1 Template = ADM-013 E-RIDS = ADM-03
Add = M.S. Haley (MSH3)

1. Concerted effort is necessary to address the mitigating systems performance indicator. The inconsistency between NRC, WANO, EPIX, Maintenance Rule, and probabilistic risk assessments cause a great deal of unnecessary burden to plant personnel required to report data and needs to be addressed expeditiously. The more recent series of public meetings in the topic area have shown considerable progress, but much work remains to be done. Among the issues that need to be addressed are: (1) replacing design basis assumptions with risk important functions; (2) replacing the fault exposure term with some measure of unreliability; (3) eliminating the practice of cascading support systems onto front line systems; (4) providing more realistic credit for operator action, (5) reassessing the performance thresholds to ensure consistency with actions prescribed in the maintenance rule, (6) the burden of many additional data elements on data collectors and the quality requirements to ensure data accuracy commensurate with 10 CFR 50.9, and (7) the impact of additional performance indicators on the action matrix. Despite these significant issues, we believe that new indicators can be developed, piloted, and implemented in the first half of 2003. We are ready to fully support an expedited effort.

2. The reactor safety significance Determination Process (SDP) is a useful conservative tool for assessing risk and screening out findings of very low safety significance. However, because of its conservative nature, it often provides preliminary results (white or greater) that are determined after more detailed discussion and assessment to be of lower safety significance. Therefore, to avoid unnecessarily raising public concern, we recommend that when the NRC issues a preliminary finding it only state that the issue is "potentially greater than green." This will avoid unnecessary burden on licensees and unwarranted public concern and later confusion when the more appropriate result is announced following a Phase 3 evaluation.

   Another concern sometimes expressed about the SDP is the amount of time required to resolve the safety significance of issues. While we believe improvement can and will be achieved in average time of resolution (because of more experience and issuance of the Phase 2 SDP notebooks), we do not feel that the relatively small number of SDP resolutions that have taken extended periods of time to resolve have had any deleterious effect on the overall program. It is our belief that the use of the Phase 2 SDP is an effective tool in providing an early screen of risk significance. Without the Phase 2 process, we would be left with an extensive, unnecessary burden of performing Phase 3 risk assessments for many very low risk issues.

   The non-reactor safety SDPs offer significantly more consistency to the process when compared to the prior inspection process. However, problems have arisen in the physical security, radiation exposure, and fire protection areas that need to be resolved in a public and controlled manner. We believe a process similar to that used to manage change in the PIs should be applied to changes in SDPs, to

include setting clear criteria for change, table-top testing and piloting, and training for NRC and industry prior to implementation.

4. We have not noted any unintended safety consequences of the performance indicators (PI). However, we would like to address several situations that have been discussed by internal and external stakeholders over the past year.

   - We are aware of a concern by some in the NRC that the unplanned power change PI is susceptible to manipulation by the licensee; however, there have been no actual examples in which safety was even a peripheral issue. Licensees continue to operate their plants in accordance with procedures and in a safe manner.

   - As the industry moves into a deregulated environment, power reductions may be planned as part of economic and power availability considerations. Proactive down powers to improve reliability will likely become more common. NRC has at times suggested changes to this indicator that could unwisely penalize licensees for taking appropriate actions to operate their plants in a safe and economic fashion. We believe that all stakeholders should work together to monitor the effectiveness of this indicator to provide meaningful information while not penalizing appropriate action.

5. A key premise of the new ROP is that weaknesses in cross-cutting issues, such as the corrective action program, will manifest themselves in the PIs and inspection findings by crossing thresholds to be greater than green (the licensee response band). Having been revealed through the PIs or inspection findings, the weaknesses can be addressed through licensee actions and NRC supplemental inspection to ensure performance is improved before safety is compromised. We believe the program is working as intended, and therefore, no additional PIs or SDPs are necessary in the cross-cutting area.

6. Additional opportunities exist to make the inspection and oversight process more efficient with fewer burdens on licensees. For example:

   - With the merging of many licensed operators into larger multi-site companies that share common programs and procedures, efficiency will be gained by combining programmatic inspections. A single inspection can review a common program used by multiple sites. This common inspection will reduce the inspection resources and the fees billed to a licensee while still providing adequate assurance of the program's wellness.

   - Industry efforts in the area of self assessment could also provide an opportunity for more efficient use of NRC resources and unnecessary burden reduction. We would recommend a pilot effort to take advantage of licensee

self assessment in lieu of current inspector resources for certain inspection procedures. For example, NRC could participate as an evaluator on the assessment team rather than send in its own team. The evaluator could determine if the assessment approach, methodology and results met NRC standards such that the assessment could replace an NRC inspection. Among the areas in which self assessment could be used in place of full NRC inspections are: Problem Identification and Resolution, Safeguards Performance Assessment, and Fire Protection.

6. The removal of the ROP information from the NRC website in response to security concerns is understandable. However, a key feature of the new ROP was its ability to display to the public in a very timely manner the safety levels being achieved at our nuclear power plants and hence enhanced the public's confidence that the NRC and industry were ensuring the public health and safety. We believe that this information should be restored as soon as a security review has been performed.

We recognize that further refinements to the ROP will occur in the future. The ROP should be a continuously improving process which corrects weaknesses, while maintaining stability through well thought out change management processes. We believe the program is now operating in an effective manner, and is a vast improvement over the previous inspection, assessment and enforcement process of industry oversight. With the resolution of the above issues, NEI believes that the new oversight process can be successful in achieving its goals to:

- ensure that nuclear power plants continue to operate safely;
- improve NRC efficiency by focusing resources;
- reduce unnecessary regulatory burden on licensees; and
- enhance public confidence in the safe operation of nuclear power plants.

The industry looks forward to a continuing dialogue with the NRC and other stakeholders as we enter the next year of program implementation.

Sincerely,

Stephen D. Floyd

Stephen D. Floyd

Enclosure

RESPONSE TO FEDERAL REGISTER NOTICE QUESTIONS

Questions related to the efficacy of the overall Reactor Oversight Process (ROP)

(1) Are the ROP oversight activities predictable (i.e., controlled by the process) and objective (i.e., based on supported facts, rather than relying on subjective judgment)?

In general, the ROP oversight activities are predictable and objective. Issues of more than minor significance are treated in a consistent and predictable manner. We believe this consistency is due to the quality of the SDPs and the oversight review of SDP findings conducted by headquarters. The NRC is following the action matrix without exception. NRC generally seems to be following its new process procedures; however, there are some inconsistencies between the NRC regions. Industry is pleased with the NRC's efforts to achieve consistency and their willingness to address region-to-region differences. We note that most of the inconsistency is in the area of documenting issues with low safety significance, as minor violations or crosscutting issues. In particular, we see some minor violations documented in inspection reports. In addition, the crosscutting issues that are documented are not well defined. It is not well understood by reading the reports how they are to be inspected or evaluated. As a result, the crosscutting issues have the possibility of becoming a "storage bin" for issues that do not rise to the safety significance required by the Commission for being formally cited in an inspection report.

We believe the cause of the implementation inconsistencies has been subjective guidance in IMC 0610* (10/6/00) for issue characterization. A new version of IMC 0610* has been drafted and was provided to the public at a recent public meeting. We are reviewing the document at this time. We recommend that NRC devote additional effort to ensure that a common interpretation can be made across regions and inspectors. This guidance should be explained to licensees and other external stakeholders in a public meeting. Also, there are several inconsistencies in the issue characterization process as described in IMC 0610* and IMC 0609. We recommend that issue characterization in IMC 0609 be eliminated to avoid unnecessary duplication and inconsistencies with 0610*. Also, to ensure licensee/public understanding of the basis for characterization of a particular issue, IMC 0610* should require that inspectors document in inspection reports the disposition of issues through the various stages of the issue characterization process.

(2) Is the ROP risk-informed, in that the NRC's actions are graduated on the basis of increased significance?

Yes. The ROP is specifically devised to increase the level of regulatory attention to plants with performance problems by additional inspection oversight commensurate with the level of safety performance. Four bands of safety performance exist which provide for a graduated increase in oversight as performance, measured in terms of risk, degrades, moving from the baseline inspection, through supplemental inspections, to the potential for a shutdown order. In addition, the ROP reviews performance across each cornerstone of safety, and across all cornerstones (using the Action Matrix), to assess potential weaknesses and assign additional oversight resources as necessary. The NRC website, before being severely restricted, clearly displayed the different levels of attention being paid to plants with different levels of performance; i.e., it showed that several plants had in fact exceeded thresholds of performance and were receiving the appropriate graduated level of increased NRC attention.

(3) Is the ROP understandable and are the procedures and output products clear and written in plain English?

Before removing information from its website, the NRC had done a very good job of explaining the key concepts of the ROP in language that could be understood by average citizen. The more detailed explanation of procedures and output products (for example, the Significance Determination Processes) could be readily understood by the informed layman.

(4) Does the ROP provide adequate assurance that plants are being operated and maintained safely?

Yes. The ROP provides a uniform, consistent process by which NRC deploys its inspection forces to determine whether plants are being operated safely. The improved inspection program consists of a baseline program of inspections for all plants, with an increased focus on critical safety significant aspects of licensee activities. NRC can also perform additional inspection, as deemed necessary, based on a consistent, repeatable and scrutable process, to assure operational safety. The ROP provides an improved framework which focuses decision making based on an objective assessment of safety performance in each of seven specific cornerstones. The key attributes to assure operational safety for each of the cornerstones are assessed using performance indicators and risk-informed assessments of inspection findings. These performance indicators and inspection finding safety determinations provide a consistent, measurable, and objective assessment of nuclear power plant safety performance. Performance can be judged in a disciplined manner and appropriate resources deployed based on safety performance. Thresholds of safety performance exist such that issues can be addressed and

corrected in a timely manner to assure operating safety.

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

Overall, yes. The greatest improvement in focus has been in the reactor safety area where the performance indicators and reactor SDP have permitted NRC and licensees to allocate resources based on safety significance. While an improvement, the gains in efficiency, effectiveness and realism have been less pronounced in the radiation protection and fire protection inspection areas.

(6) Does the ROP enhance public confidence?

Yes, the public information associated with the ROP has been appropriate. The website, prior to being severely restricted, had expanded the amount of information available to the public with a format that is easy to use and understand. It is evident that the NRC considers public information on the new process to be of very high significance, and the staff has obviously expended significant worthwhile efforts to make information timely, user-friendly, and very available to experts and laymen alike. We strongly urge a swift security review of the ROP information and its return to the public website. In addition, NRC must learn how to communicate a perspective that "operation in the green" is a regulatory success, since it means that the nuclear industry is operating more safely.

There is a perception among some of the public that the new Reactor Oversight Process consists solely of the "Performance Indicators" and less awareness of the improved Inspection Process, Significance Determination Process, Action Matrix, and Enforcement Policy. Criticism has been unfairly made that if most licensees are "all Green" then the process isn't working – ignoring the fact that the 18 Performance Indicators are only a small part of how the NRC assesses licensee performance. NRC has been upgrading the website format to improve this situation.

The website convention of using the color blue to denote "no color" findings without explanation is confusing. It tends to inappropriately draw attention to these issues in that they are notably different than the vast majority of findings/violations that are Green. (The use of no color findings is also confusing to licensees.) We understand that NRC intends to eliminate the use of no color findings except in those cases addressing enforcement related findings that cannot be assessed using an SDP (e.g., willfulness, withholding information). We support this change.

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

The NRC has been very proactive in encouraging public involvement with the ROP. Throughout the process the NRC has used public meetings to develop the new process, has held workshops to explain the implementation of inspection and reporting of performance indicators, has conducted lessons learned meetings, and has provided many opportunities for formal comment via Federal Register Notices. In addition, many public meetings have been conducted at plant sites to provide ample opportunity for local public participation. Again, we strongly recommend reinstating information on the ROP to the NRC external website after security reviews are completed.

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

The industry cannot comment on whether the non-regulated public feels the NRC has been responsive to its input. However, we have noted the efforts of NRC staff to listen and respond to the public's comments and have seen changes made to the program based on that input.

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

NRC generally seems to be following its new process procedures; however, there are some inconsistencies between the NRC regions. Industry is pleased with the NRC's efforts to achieve consistency and their willingness to address region-to-region differences. We note that most of the inconsistency is in the area of documenting issues with low safety significance, as discussed in response to question 1.

Many of the SDPs continue to be revised to address inconsistencies and strengthen their technical merit. While this has resulted in some consternation by both the licensee and the regulator on several occasions, it has not posed any significant impediment to the implementation of the process. The appearance of consistency differences between similar inspections performed at different locations was not a major stumbling block in the program implementation.

We understand that a major revision to IMC 0609, Significance Determination Process, is in progress. While some aspects of the changes to this inspection manual chapter have been discussed in public meetings, we request that the entire revision be made publicly available for comment. We then need to minimize further changes, to allow the program to stabilize in the eyes of both the public and industry stakeholders.

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

Overall there has been a reduction in unnecessary regulatory burden on licensees. The burden has primarily been reduced due to the Significance Determination Process (SDP) and the new Enforcement Policy that is aligned with the SDP. In most cases, the SDP assessment of inspection findings has had the positive effect of placing minor issues and minor violations in a proper risk perspective. These issues can be placed in the licensees corrective action program, and NRC's and licensee's time and effort can be devoted to more risk important issues. The new Enforcement Policy also reduces the administrative and management burden associated with documenting and responding to cited violations of low safety significance.

It should be pointed out however, that there are additional improvements that can be made in reducing unnecessary regulatory burden.

First, continued effort is necessary to address the mitigating systems performance indicator. The inconsistency between NRC, WANO, the Equipment Performance and Information Exchange (EPIX), Maintenance Rule, and probabilistic risk assessments needs to be addressed as soon as possible. The differences in definitions cause a great deal of unnecessary burden to the plant personnel required to report data. Among the issues that need to be addressed are: (1) replacing design basis assumptions with risk important functions; (2) replacing the fault exposure term with some measure of unreliability; (3) eliminating the practice of cascading support systems onto front line systems; (4) providing more realistic credit for operator action, (5) reassessing the performance thresholds to ensure consistency with actions prescribed in the maintenance rule, (6) the burden of many additional data elements on data collectors and the quality requirements to ensure data accuracy commensurate with 10 CFR 50.9, and (7) the impact of additional performance indicators on the action matrix. Despite these significant issues, we believe that new indicators can be developed, piloted, and implemented in the first half of 2003. We are ready to fully support an expedited effort.

Second, some inspectors are pursuing issues that have negligible safety significance and no historical regulatory basis. In some cases, the acceptance criteria and/or thresholds established in the inspection modules and SDP have no regulatory basis (for example, the dose-based criteria in the Occupational Radiation Safety module and SDP). Examples can be found in the security, radiation protection, and fire protection inspection modules and the SDPs. This results in issues being pursued that are not regulatory-based or have low safety significance. Our technical groups continue to interact with NRC staff in public meetings to address these concerns.

Third, the Performance Indicator process, if not effectively managed, could become unnecessarily burdensome. For example, some inspectors are devoting excessive effort to inspecting the detailed reporting of PIs and trying to identify

undercounting in amounts of hours that are just so small as to not be worth the effort. The PIs are meant to be indicators, and investing inspection and licensee resources to address reporting issues that are de minimus is not using resources wisely. NRC management oversight of NRC resources devoted to PI verification should be enhanced.

Fourth, the reactor safety significance Determination Process (SDP) is a useful conservative tool for assessing risk and screening out findings of very low safety significance. However, because of its conservative nature, it often provides preliminary results (white or greater) that are determined after more detailed discussion and assessment to be of lower safety significance. Therefore, to avoid unnecessarily raising public concern, we recommend that when the NRC issues a preliminary finding it only state that the issue is "potentially greater than green." This will avoid unnecessary burden on licensees and unwarranted public concern and later confusion when the more appropriate result is announced following a phase 3 evaluation.

Another concern sometimes expressed about the SDP is the amount of time required to resolve the safety significance of issues. While we believe improvement can and will be achieved in average time of resolution (because of more experience and issuance of the Phase 2 SDP notebooks), we do not feel that the relatively small number of SDP resolutions that have taken extended periods of time to resolve have had any deleterious effect on the overall program. It is our belief that the use of the Phase 2 SDP is an effective tool in providing an early screen of risk significance. Without the Phase 2 process, we would be left with an extensive, unnecessary burden of performing Phase 3 risk assessments for many very low risk issues.

Fifth, with the merging of many licensed operators into larger multi-site companies that share common programs and procedures, efficiency can be gained by combining programmatic inspections. A single inspection can review a common program used by multiple sites. This common inspection will reduce the inspection resources and the fees billed to a licensee while still providing adequate assurance of the program's wellness.

Sixth, industry efforts in the area of self assessment could also provide an opportunity for more efficient use of NRC resources and unnecessary burden reduction. We would recommend a pilot effort to take advantage of licensee self assessment in lieu of current inspector resources for certain inspection procedures. For example, NRC could participate as an evaluator on the assessment team rather than send in its own team. The evaluator could determine if the assessment approach, methodology and results met NRC standards such that the assessment could replace an NRC inspection. Three areas in which self assessment could be used in place of full NRC inspections are Safety System Design Implementation, Problem Identification and Resolution, Physical Security, and Fire Protection.

Finally, lessons learned from the first twenty-one months of implementation suggest the need for improvements in scope, frequency and implementation of inspections in the areas of Radiation Protection, Fire Protection, and Physical Security.

(11) Does the ROP result in unintended consequences?

We have not noted any unintended safety consequences of the ROP. However, we would like to address several situations that have been discussed by internal and external stakeholders.

We are aware of a concern by some in the NRC that the unplanned power change PI is susceptible to manipulation by the licensee; however, there have been no actual examples in which safety was even a peripheral issue. Licensees continue to operate their plants in accordance with procedures and in a safe manner.

As the industry moves into a deregulated environment, power reductions may be planned as part of economic and power availability considerations. Proactive down powers to improve reliability will likely become more common. NRC has at times suggested changes to this indicator that could unwisely penalize licensees for taking appropriate actions to operate their plants in a safe and economic fashion. We believe that all stakeholders should work together to monitor the effectiveness of this indicator to provide meaningful information while not penalizing appropriate operations.

The implementation of the NRC PIs and the inclusion of the Maintenance Rule Program as one of the ROP inspectable areas has resulted in increased regulatory oversight of planned unavailable hours for systems monitored under both programs. At the same time, many plants are using a risk-informed process to support doing more planned maintenance on-line which may have the potential, over time, to drive the indicators into the White band for the PI's. Yet, the basis for granting on-line maintenance requests is that they are safety enhancing or safety neutral. The thresholds for the unavailability performance indicators do not always properly reflect the site-specific unavailability limits allowed by the maintenance rule or other license provisions, in particular, NRC-approved extended AOTs.

As stated elsewhere in this comments, we recommend that NRC, with stakeholder involvement, continue to expedite the development and implementation of a common unavailability definition with site-specific thresholds that recognize the variance across the industry of the safety value of the monitored safety systems.

Questions related to specific ROP program areas

(12) Does the ROP take appropriate actions to address performance issues for those licensees that fall outside of the Licensee Response Column of the Action Matrix?

Yes. The ROP is specifically devised to increase the level of regulatory attention to plants with performance problems by additional inspection oversight commensurate with the level of safety performance. As performance degrades within a cornerstone of safety, or in multiple cornerstones, the action matrix increases both the amount of supplemental inspection and the focus of NRC inspectors (i.e., the focus shifts from assessing the licensee's root cause evaluation to conducting its own assessment). In addition, if not satisfied with the licensee's assessment or corrective action, NRC can determine if additional weaknesses exist in the licensees program. Inspection findings can be retained longer than the standard one year period if improvement is not noted. In addition, if improvement in a cornerstone does not improve after a year's period, additional inspection is called for. The action matrix provides a rational, risk-informed process to assess safety performance and for determining where to place its resources in an effective manner. Before being removed from the NRC external website, the action matrix clearly displayed the different levels of attention being paid to plants with different levels of performance.; i.e., it showed that several plants have in fact exceeded thresholds of performance and have received the appropriate graduated level of increased NRC attention.

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

Yes. The revised ROP process and the new assessment reports have afforded a more relevant and useful assessment of licensee performance than the previous approach. As a result of the ROP, most licensees have reported experiencing more effective and productive communication with the regulator. With the use of the performance bands ("colors" reflecting level of safety) for PIs and inspection findings issues can now be placed in a more consistent safety context and addressed in a more objective manner. The assessment reports are written more clearly and in language understandable to the informed layman.

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

Yes. The inspection reports for the most part provide clear and useful information on the inspection issue and its risk significance.

(15) Does the Performance Indicator Program minimize the potential for licensees to take actions that adversely impact plant safety?

Please see the answer to Question 11.

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

There is unnecessary overlap in the area of radiation safety inspection and the Occupational Exposure Control Effectiveness performance indicator.

(17) Do reporting conflicts exist, or is there unnecessary overlap between reporting requirements of the ROP and those associated with the Institute of Nuclear Power Operations, the World Association of Nuclear Operations, or the Maintenance Rule?

Considerable burden could be reduced by consolidating definitions in the mitigating system PIs. The establishment of a parallel unavailability tracking system for the NRC PIs has resulted in a significant increase in utility burden in this area – not to mention a large number of FAQs. The NRC and industry need to continue to work toward one set of systems performance indicators and definitions - integrating current INPO/WANO, Maintenance Rule, and ROP Performance Indicators. The differences in definitions cause a great deal of unnecessary burden to the plant personnel required to report data. Among the issues that need to be addressed are: (1) replacing design basis assumptions with risk important functions; (2) replacing the fault exposure term with some measure of unreliability; (3) eliminating the practice of cascading support systems onto front line systems; (4) providing more realistic credit for operator action, (5) reassessing the performance thresholds to ensure consistency with actions prescribed in the maintenance rule, (6) the burden of many additional data elements on data collectors and the quality requirements to ensure data accuracy commensurate with 10 CFR 50.9, and (7) the impact of additional performance indicators on the action matrix. Despite these significant issues, we believe that new indicators can be developed, piloted, and implemented in the first half of 2003. We are ready to fully support an expedited effort.

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

NEI 99-02, Revision 2 has recently been published and a RIS has been issued endorsing its use in reporting performance indicators. The guideline revision reflects comments, suggestions and answers to frequently asked questions to make it more understandable and clear. Although there will continue to be interpretation questions, we believe it provides clear guidance.

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

Please see our response in question 10 regarding the Reactor SDP.

The non-reactor safety SDPs offer significantly more consistency to the process when compared to the prior inspection process. However, these SDPs did not benefit from the same review and use during the pilot process as did the reactor SDP. As a result, problems have arisen in the physical security, radiation safety, and fire protection areas that need to be resolved in a public and controlled manner. We believe a process similar to that used to manage change in the PIs should be applied to changes in SDPs, to include setting clear criteria for change, table-top testing and piloting, and training for NRC and industry before implementation.

The NRC has proposed changes to the occupational radiation safety SDP that we believe will help resolve some of the issues that have become apparent during implementation. However, recent experience with the public radiation safety SDP has revealed issues that may require additional clarification or modification to the SDP. For example, the logic in the public radiation safety SDP section on radioactive material control program, may lead to white findings that have little or no health and safety significance. These issues are currently being discussed with the staff.

The minimum significance level is "Yellow" for a Type B finding under the Containment Integrity SDP. A "Yellow" rating seems inappropriately high and not representative of the risk significance of a containment penetration(s) being left open for less than three days.

We strongly support interactive efforts to develop a new Physical Security SDP. Development of an SDP to pilot will of course depend on the availability of specific language and criteria in the impending rule change to 10CFR73.55. During the industry proposed one year pilot of the Safeguards Performance Assessment (SPA) program, the concepts developed for an SDP can be piloted and the SDP adjusted as appropriate.

The interim Physical Security SDP contains a reference to "Greater than 2 similar findings in 4 quarters," ostensibly because of the potential of a repeat issue to be exploitable or predictable. Three random failures, for example, over an entire year are certainly not exploitable or predictable.

NEI recently provided extensive comments on the fire protection SDP, addressing the issues noted in previous reports. These issues include excessive complexity, inadequate communication of inspector assumptions in its use to licensees, and the need for improvement in several technical areas. NRC has requested industry input on its forthcoming decision whether to develop a new fire protection SDP or revise the existing one. NEI will provide this input in early January.

Whether or not a decision is taken to develop a new fire protection SDP, it must retain and strengthen its current characteristic of being risk-informed. Despite its weaknesses, the use of risk information in the current SDP is a significant improvement over previous mechanisms to evaluate the significance of fire protection inspection findings. Methods should be provided which allow the use of risk information while minimizing the complexity that currently exists. NEI believes that frequent communication between NRC staff and stakeholders during the development or revision of the SDP will result in a much more useful product.

Finally, to determine whether an SDP provides an equivalent safety result across different cornerstones, inspection reports need to do a better job of explaining how the inspection finding results are derived. Too often now, the logic and path to safety significance (color) is not clear, and sometimes is not even discussed.

(20) Please provide any additional information or comments on other program areas related to the Reactor Oversight Process. Other areas of interest may include the treatment of cross-cutting issues in the ROP, the risk-based evaluation process associated with determining event response, and the reduced subjectivity and elevated threshold for documenting issues in inspection reports.

We support the NRC's change management process to control evolution and necessary improvements to the program. The change management process allows for stability by requiring careful consideration of potential changes to the program, and piloting of performance indicator changes. The FAQ element of the change process has been a very positive element of the program, providing a timely and responsive mechanism to ask questions about the implementation of PIs. In addition, the NRC has been responsive to questions about SDPs and inspection findings, addressing them primarily through questions at public meetings. We believe it would be appropriate to consider placing some information on SDP issues on the NRC website, after the SDP finding has become final. We believe more than minor changes to inspection procedures, SDPs, and the Action Matrix should be piloted in the same way as new performance indicators. This approach would avoid unintended consequences (such as occurred in the physical security SDP) and ensure that the changes would indeed be an improvement to the ROP.

During the initial year of the ROP period, a special Enforcement Discretion period was created whereby interpretations in the guidance would not be subject to Enforcement. This Enforcement Discretion period expired on January 31, 2001. We believe that if a new PI is implemented, that NRC should provide discretion during the first year of implementation of the new PI.

A key premise of the new ROP is that weaknesses in cross-cutting issues, such as the corrective action program, will manifest themselves in the PIs and inspection findings by crossing thresholds to be greater than green (the licensee response

band). Having been revealed through the PIs or inspection findings, the weaknesses can be addressed through licensee actions and NRC supplemental inspection to ensure performance is improved before safety is compromised. We believe the program is working as intended, and therefore, no additional PIs or SDPs are necessary in the cross-cutting area.

We believe the procedures for preparing inspection reports to be appropriate. For the most part, the NRC has been following the procedure and providing reports that are concise, safety performance focused, provide appropriate information for both licensees and the public, and remove the subjectivity and conjecture that marred reports in the previous program. Improvement is necessary in the areas of explaining the NRC reasoning in arriving at its inspection finding results (i.e., discussion of the screening steps and the details of the decision paths in the SDPs), and in greater discipline in the area of minimizing "no-color" findings.

We do believe that inspectors have insights which licensees appreciate receiving. However, to avoid confusion and unintended implications that the inspectors opinions are requirements which must be implemented, we recommend that inspector insights and suggestions be provided verbally at the exit meeting for the licensees consideration rather than in the inspection report itself, which should focus on safety performance outcomes, not on how the outcomes are achieved.