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NUCLEAR MANAGEMENT AND RESOURCES COUNCIL

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Byron Lee, Jr.  
President & Chief  
Executive Officer

January 28, 1991

Mr. Samuel J. Chilk  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Washington, D.C. - 20555

ATTENTION: Docketing and Service Branch

RE: Notice of Availability  
SECY-90-347 "Regulatory Impact Survey Report"  
55 Fed. Reg. 53220 (December 27, 1990)  
Request for Comments

Dear Mr. Chilk:

These comments are submitted by the Nuclear Management and Resources Council, Inc. ("NUMARC") in response to the request of the U.S. Nuclear Regulatory Commission ("NRC") for comments on the Notice of Availability of SECY-90-347 "Regulatory Impact Survey Report" (dated October 9, 1990) (55 Fed. Reg. 53220 - December 27, 1990).

NUMARC is the organization of the nuclear power industry that is responsible for coordinating the combined efforts of all utilities licensed by the NRC to construct or operate nuclear power plants, and of other nuclear industry organizations, in all matters involving generic regulatory policy issues and on the regulatory aspects of generic operational and technical issues affecting the nuclear power industry. Every utility responsible for constructing or operating a commercial nuclear power plant in the United States is a member of NUMARC. In addition, NUMARC's members include major architect/engineering firms and all of the major nuclear steam supply system vendors.

The industry welcomed the NRC's decision in the Fall of 1989 to undertake the Regulatory Impact Survey, as documented in SECY-90-80, SECY-90-205, and SECY-90-250. We believe this NRC initiative is timely and the most important effort undertaken over the past ten years to improve the regulatory process. We strongly believe it can, if completed thoroughly, lead to significant improvements in the regulatory process to the benefit of the public, the NRC, and the industry. This effort, and associated follow-on activities, are vitally important because this matter significantly affects the ability of the NRC to satisfy its statutory responsibilities and of licensees of commercial nuclear power plants to satisfy their fundamental responsibilities.

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The NRC undertook the Regulatory Impact Survey to obtain the perceptions of the industry and of the regulatory staff of the effect of NRC activities on the safe operation of nuclear power plants and to assist the staff in determining if regulatory programs require modification. The draft survey report "Industry Perceptions of the Impact of the Nuclear Regulatory Commission on Nuclear Power Plant Activities" (Draft NUREG-1395) contains an excellent summary by the staff of the candid comments provided by the personnel from various levels within the licensees that participated in the survey. We commend the survey team for an excellent job of listening and accurately reporting the information received. These comments clearly indicate that modifications to existing regulatory programs are needed.

The Regulatory Impact Survey effort has now reached its most important phase -- that of determining the proper corrective actions necessary to resolve the underlying causes of the concerns identified. In our letter to Chairman Carr of May 14, 1990, we stressed that, "If real benefit is to be gained from this effort, the staff should apply the same principles they ask licensees to apply: evaluate all the information available, determine the root cause, and develop a plan with an implementation schedule to make corrections to the process consistent with your regulatory responsibilities."

From the vast amount of information provided to the staff in the Regulatory Impact Survey, the staff identified only three specific regulatory areas for improvement. We have provided specific comments on those and related areas in the Attachment to this letter to assist the staff in addressing those areas.

Unfortunately, the corrective actions proposed in SECY-90-347 fall short of addressing the significant, long-standing and pervasive problems in the regulatory process identified by the survey and will not correct the underlying causes of those problems. The recommended actions fail to address the two principal themes that were developed by the staff from licensee concerns with current NRC regulatory activities and attitudes, which were documented in draft NUREG-1395. Specifically:

- (1) "licensees acquiesce to NRC requests to avoid poor numerical Systematic Assessment of Licensee Performance ("SALP") ratings and the consequent financial and public perception problems that result, even if the requests require the expenditure of significant licensee resources on matters of marginal safety significance; and
- (2) NRC so dominates licensee resources through its existing and changing formal and informal requirements that licensees believe that their plants, though not unsafe, would be easier to operate, have better reliability, and may even achieve a higher degree of

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safety, if they were freer to manage their own resources."

From our evaluation of the comprehensive survey information documented by the NRC we conclude that the underlying common element is the need for improvement in the overall management effectiveness of the NRC in order to achieve appropriate management discipline and accountability over NRC regulatory activities and actions. The surveys contain numerous examples that indicate the need for clearly defined management expectations to be established for all NRC activities and, more importantly, for the assessment and follow-up processes necessary to ensure that management expectations are properly carried out. The underlying cause of many of the issues identified by the survey has its roots in needed management involvement and follow-up and the development of a mechanism to measure the effectiveness of the NRC in conducting its regulatory programs and operating the agency. We firmly believe that if overall agency management effectiveness were improved, a major improvement in the regulatory environment would result, with a corresponding reduction in the adverse impact on licensee activities, all of which would be in the public interest.

The fundamental precept in nuclear regulation that both the industry and the NRC agree upon is that the ultimate responsibility for safe plant operation rests with the utility holding the operating license. It has been repeatedly stressed in NRC's documents and reports by outside groups, that the licensee has -- and must have -- the day-to-day, week-by-week, and month-by-month responsibility for safety. The licensee is the frontline guardian of safety. The NRC's responsibility as stated in the Atomic Energy Act of 1954, the Energy Reorganization Act of 1974, and NRC regulations is to provide reasonable assurance that the public health and safety and the environment are protected in the operation of nuclear power plants.

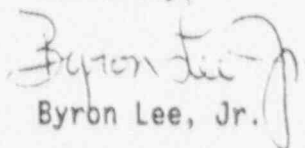
Over the past several years, we have seen a shift in the approach taken by the NRC. Some NRC personnel appear to believe that NRC must be, or attempt to be, all pervasive in their efforts to regulate licensee management and performance. This is apparently based on the premise that virtually every action a licensee takes could have some impact on safety. This is manifested by the NRC's desire, and sometimes insistence, to participate in decisions that should be, indeed that must be, the responsibility of utility management or to measure utility performance on bases other than those required by the regulations (e.g., the definition for SALP categories 1, 2 and 3). The survey report contains many examples where NRC management and staff insert themselves in the licensee's management process. The damage in this approach is that, over time, it undermines the authority and responsibility of utility management and also tends to compromise the NRC's role as an independent safety regulator. We believe that a common theme of the concerns identified in the survey regarding the current regulatory environment is the failure by the NRC to appropriately recognize and accept the complementary responsibilities of the regulator and individual licensees.

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We believe that strong and timely Commission action is necessary to ensure that the underlying causes of the problems expressed in the survey are identified so that effective corrective action to resolve those problems is undertaken. We are encouraged by the Commission's direction to the staff in the Staff Requirements Memorandum ("SRM") on SECY-90-347 dated November 29, 1990. In that SRM and the accompanying vote sheets it is clear that the Commission believes that additional action on these important issues is necessary. We agree, and we encourage the Commission to take advantage of this unique opportunity to address these fundamental, long-standing institutional and regulatory problems and we encourage the Commission to consider the use of outside assistance to evaluate and assess management effectiveness. Many in the industry have been faced with similar problems and have found benefit in commissioning independent analyses as well as conducting critical self-assessments to address these complex problems.

We request that the Commission consider our comments and not take action on the staff's recommendations until the more fundamental problems have been addressed. We are anxious to work with the NRC in a productive dialogue to address the broader issues associated with the regulatory environment and its impact. We have learned much about self-assessment and management of nuclear facilities in the last ten years and are anxious to share our experience and knowledge. We would welcome that opportunity at the staff's and the Commission's earliest convenience -- this important effort should not end with the closure of the comment period on SECY-90-347.

Sincerely,

  
Byron Lee, Jr.

BLjr/RWB:bjb  
Attachment

cc: Chairman Kenneth M. Carr  
Commissioner Kenneth C. Rogers  
Commissioner James R. Curtiss  
Commissioner Forrest J. Remick  
James M. Taylor, Executive Director  
for Operations

**REGULATORY IMPACT SURVEY**  
Specific Comments

The purpose of the Regulatory Impact Survey was to derive feedback from the industry regarding NRC generic and site-specific activities because of concern that those activities "may be tending in a direction such that the desired safety effects may not be realized." (SECY-89-238, August 4, 1989). That endeavor was consistent with the 1981 survey conducted by the NRC to obtain viewpoints on the safety impact of regulatory activities, documented in NUREG-0839, August 1981. Unfortunately, the feedback provided by these two separate analyses is remarkably similar, notwithstanding the significant period of time between these two efforts and the demonstrated improved performance by the industry over that time period. For example, NUREG-0839 contained the following observations, which are entirely consistent with the observations in draft NUREG-1395: "[a] basic concern of the licensees is the number and scope of requirements imposed by the NRC through its several organizational elements;" "NRC requirements, and pending requirements, are poorly integrated as to their overall effect on plant operation and utility resources;" "[c]hanging requirements provide[] a moving target which is wasteful of finite capital and manpower resources;" "[t]he strongest comments received on the NRC organization were that NRC presented the image of an uncontrolled organization;" "the lack of appreciation by NRC of the impact of requirements on their organizational effectiveness." The long-standing nature of these unresolved concerns is in itself a symptom of the overall problem.

The report of the President's Commission on the Accident at Three Mile Island (the "Kemeny Report") detailed the Kemeny Commission's concern with a "preoccupation with regulations" which characterized the nuclear power safety program and its conclusion that a preoccupation with regulation, particularly once regulations become as voluminous and complex as the regulations then in place, can serve as a negative factor in nuclear safety. A similar concern was identified in the NRC's 1981 survey on the safety impact of regulatory activities, which was documented in NUREG-0839. Unfortunately, the tendency appears to continue to be to address any problem with the adoption of additional regulations or new programs. Broadly stated, the NRC needs to more effectively manage its resources, consistent with its statutory responsibilities, for the goals delineated in the Atomic Energy Act, as amended, to be attained and for the industry to be able to effectively satisfy its own responsibilities to the public. The focus should be on the quality, not the quantity, of regulatory activities.

There have been widespread improvements in the safety of nuclear power plants and their operations over the last decade, and that conclusion is uncontroverted. With over a hundred plant-years of operational experience being accumulated annually, our experience and the predictability of system and equipment performance continues to grow. However, there are significant differences of opinion as to whether many of these improvements were, as suggested in SECY-90-347, a result of the increased NRC attention to

operational matters, or because of independent licensee and industry activities, which would have occurred in large measure without significant NRC involvement. The broad view of the industry feedback from both 1981 survey and the 1989 survey suggests it is probably a mixture of the two. What is missing is the necessary stability of the regulatory process wherein the NRC clearly communicates the basis for its regulatory actions and its expectations for licensee compliance, and establishes the management processes to effectively manage the agency's resources to that end.

A stable regulatory process, or a "reliable" process as that term is used in the Commission's recently adopted "Principles of Good Regulation," is vital to the success of the industry's self-imposed obligation to achieve excellence in its nuclear operations, and thus to the future of nuclear power in our country. A stable process is one in which requirements are applied uniformly -- in which interpretations do not vary from plant to plant and region to region, and in which regulatory changes are carefully screened for real safety benefit. A stable regulatory process is flexible, sets priorities among issues and requirements, and allows licensees time and latitude to make necessary improvements. Perhaps most importantly, a stable process is interactive and requires a professional and open relationship between the regulator and the regulated early enough to avoid the polarization that has characterized relationships with the NRC in recent years.

The NRC and the nuclear utility industry fulfill different roles and have different responsibilities in pursuing a common objective of assuring that the public health and safety is adequately protected.

Briefly stated, in both law and practice, the NRC is responsible for establishing a regulatory system that will ensure that adequate protection of public health and safety is not jeopardized by the construction and operation of commercial nuclear power plants. That system of regulation, and requirements imposed upon licensees, is embodied in Title 10 of the Code of Federal Regulations. The licensee is responsible for managing its resources and operating its facilities in conformance with those regulations. The NRC's responsibility as a regulator is to establish the parameters within which licensees must function and to establish an effective oversight capability to ensure compliance with those requirements, but the NRC must also establish the proper climate to allow licensees to meet these parameters and achieve even greater margins of safety and higher levels of performance.

The current Regulatory Impact Survey provides numerous examples that indicate that the NRC has become significantly involved in licensee management responsibilities. This increased involvement has led to fewer and fewer constraints on the regulatory process, allowing requirements to be imposed and actions required to be performed as a result of subjective opinions expressed during the thousands of interactions each licensee has annually with representatives of the NRC. We are concerned that such NRC involvement in licensee management responsibilities so dominates licensee resources that the licensees' ability to safely and effectively operate its plants may be impeded. This concern was one of the survey's principal themes.

Frequently, informal vehicles such as generic communications, SALP findings, inspector comments, etc. are used to direct licensee activities -- to, in effect, impose requirements -- thereby circumventing the formal rulemaking processes. For example, the perception and implication that generic communications have the effective force of requirements (e.g., see SECY-90-347 Enclosure 1, page 4, 2nd paragraph) causes substantial commitments of licensee resources to be made, with significant implications on licensees with regard to their ability to conduct activities of higher priority. Often, licensees acquiesce to such inappropriate requests and/or activities to avoid appearing unresponsive and out of concern for the NRC's negative reaction and potential retribution. A relationship such as this places licensees in a defensive role, which results in either acquiescence or the further development of the adversarial character of many relationships that exist today. Neither result serves the public interest well.

Inherent in the licensee's responsibility to operate its facilities in conformance with regulations, while at the same time conscientiously managing its resources, is the obligation to implement plant or procedure changes that are required for adequate protection for public health and safety and those that significantly benefit safety and, at the same time, are cost-effective. It is clearly in both the industry's and NRC's best interest, as well as public health and safety, when improvements are made that produce significant safety benefit relative to the cost incurred in implementation. However, it is the industry's experience that the NRC's assessment of the cost impact of changes being considered by the NRC frequently significantly understates the impact of a new requirement, and rarely acknowledges that the impacts vary widely among utilities. In many cases where the implications of generic communications were being assessed, considerations of cost impact apparently were not factors of interest or held minimal significance in the NRC's decision-making process. In day-to-day interactions with the NRC staff, it often appears that not only does the NRC staff, at a working level, not recognize the licensee's responsibility to prudently manage its resources, but the NRC staff has also failed to recognize the potential adverse safety impact of resources being misapplied to issues of minimum safety benefit.

The lack of an effective prioritization process to which the agency and its personnel are committed is a major reason why so many long-standing issues remain unresolved. A prioritization process is needed that evaluates an issue with respect to its overall safety benefit and ensures that the incremental safety benefit is still justifiable when the issue is considered in the context of all other outstanding issues. Many regulatory issues once determined to provide a small incremental safety benefit could be eliminated from concern if prioritized in an integrated manner based upon relative safety benefit. Attempting to address every issue as a priority so significantly dilutes resources, and management attention, that more important issues cannot get proper attention and brought to timely resolution.

Inappropriate NRC activities are infrequently challenged or brought to the attention of NRC senior management by individual utilities because doing so can prove to be counter-productive, particularly when the examples could be interpreted as criticism of the performance of individual NRC employees with whom there must be a continuing association. Even though the NRC's Office of

Inspector General has statutory responsibilities in this area, NRC senior management needs to take the primary responsibility for establishing management mechanisms to ensure that its staff is properly managed. The diminution of NRC management control leads to an erosion of the regulatory process by permitting inappropriate regulatory activities to take place to the detriment of the necessary professional relationship between licensees and the NRC.

Symptomatic of the need for improved management effectiveness is the significant effect that the rotation of key NRC personnel (e.g., a site resident inspector, branch chief) can have on programs and interpretation of regulatory requirements. This strongly denotes a lack of consistency of policy and program direction once established by NRC management.

There are many examples to indicate that direct NRC senior management involvement has provided the necessary direction to staff activities and catalyst for the effective resolution of problems. Such continued involvement would also provide feedback to management to enable evaluations to be made of conformity to NRC policy and regulations and consistency in implementation by all NRC personnel. And a key precept should be establishing accountability for completing assigned tasks: the establishment by the NRC of a set of objectives by which it can measure its own performance.

#### Managing the Cumulative Effect of the NRC's Generic Requirements and Communications (SECY-90-347 Enclosure 1)

##### Generic Communications

In SECY 90-347, the NRC identified "consideration" of the cumulative effect of the NRC's generic requirements and generic communications as a major area for improvement. Unfortunately, it appears that the root cause of the concerns first identified in SECY-90-205 has been readdressed from "consideration of" (in the body of the SECY) to "managing" the cumulative effect of the NRC's generic requirements and generic communications (the title of Enclosure 1 of SECY-90-347). The change in title of this topic is more than semantics, because the focus inappropriately shifts to managing the burden rather than questioning how the burden was created and if, in fact, it has been appropriately justified during the development and issuance of the generic requirements and communications.

The industry embodies the operating experience, detailed plant-specific knowledge, and design basis and analysis capabilities necessary to critically assess the merits and limitations of proposed regulatory initiatives. Although the industry's perspectives and responsibilities are different from those of the NRC, the NRC and the nuclear industry share the common objective of assuring that the public health and safety is adequately protected. To develop and implement the tremendous variety of generic requirements and communications without significant input from the industry is detrimental to both NRC and industry efforts. To change this situation requires direct communication between NRC staff senior management and the industry on generic issues, and clear communications to NRC technical staff of NRC senior



management's expectations. We believe that such discussions can and must take place, in full compliance with applicable law, if the NRC and the industry are to be able to carry out their respective responsibilities. Discussions with industry early in the generic communication development process rather than just prior to, or after, publication of such generic communications would result in a more focused analysis of the problem to be solved as well as a better determination of effective solutions. In the past few years, the industry and NRC staff working together have accomplished just that on a variety of issues (e.g. fraudulent materials, suspect pressure transmitters). Such examples, however, tend to be only a fraction of the potential issues currently being addressed by NRC staff.

The discipline established in 10 C.F.R. § 50.109 for NRC rules and regulations is equally applicable as a management tool for other activities in which the NRC undertakes. The management principle of ensuring that every action considered will result in a benefit that exceeds its cost should be inculcated into NRC decision-making. Any safety benefit that may be derived from an NRC action should be evaluated, albeit not necessarily in the formal construct that 10 C.F.R. § 50.109 requires, to assure that the benefit is justifiable in terms of the cost.

#### Backfitting and Cost/Benefit Analyses

At the NRC Regional Workshops on Backfitting held in the Fall of 1990, NRC staff noted its intention to substantially revise NUREG/CR-3568, "A Handbook for Value-Impact Assessment." SECY-90-347 states that this revision would include "(1) guidance on the consideration of cumulative effects of previous corrective actions during the development of new requirements, and (2) guidance on evaluating new generic regulatory initiatives with respect to the Commission's safety goals and objectives."

The industry supports this effort and believes that the NRC should use this opportunity to revise its cost/benefit evaluation methodology. Besides the two guidance issues noted above, there are other important issues that should be considered as part of that document's revision. In particular, we disagree with the current guidance contained in the NUREG/CR-3568 that recommends averted on-site costs be included as part of the NRC's cost/benefit analysis. Instead, the staff should restrict itself to weighing the real dollar costs of implementing a plant change against the benefit to the public's health and safety. Hypothesized costs incurred or avoided by a utility as the result of a postulated transient or accident at its nuclear plant is an economic risk factor of import to utility management, but it is not a proper basis for regulatory decision-making.

In a Staff Requirements Memorandum dated June 15, 1990, the Commission stated that it "supports the use of averted on-site costs as an offset against other licensee costs (and not as a benefit) in cost/benefit analyses." We believe that such a use of Averted On-Site Costs ("AOSC") is not appropriate policy and is technically incorrect. Should the Commission maintain AOSC as a key attribute for inclusion in a cost/benefit assessment, then its treatment when calculating the cost/benefit ratio for a particular plant improvement should be revised. Specifically, permitting the co-mingling of real costs

with AOSC may result in net costs being artificially small and therefore make justification easy for plant changes that provide little real incremental benefit in safety at that facility.

EPRI/NSAC Report NSAC-143 demonstrates that the NRC's current practices and techniques for analyzing nuclear safety enhancements are not justifiable (e.g., not using the present-value of health costs, using an internally inconsistent economic methodology for use in making safety enhancement decisions). If the industry and NRC are to reach appropriate decisions on nuclear safety enhancements, we must have value-impact techniques that are sound.

The recently issued NUREG-1409, "Backfitting Guidelines," provides guidance to NRC staff with respect to conducting cost/benefit analyses that we do not believe is appropriate. For example, Section 3.4 discusses the role of qualitative judgment in conducting a backfit analysis. Although we understand the desire to avoid slavish adherence to numerical values that may be subject to some uncertainty, we are concerned that the disciplined process appropriate for such an analysis may be undercut by the broad use of subjective judgment in the implementation of that practice. If qualitative judgement is allowed to remove the quantification technique as the basis for decision-making, the purpose of 10 C.F.R. § 50.109 will not be achieved.

It is in the mutual interest of the industry and the staff to reach agreement on cost/benefit economic methodologies that are internally consistent and that properly represent the nuclear safety enhancement situations that both the NRC and licensees must evaluate. The potentially large number of backfit issues that may arise as the staff reviews licensee Individual Plant Examination submittals suggests that resolution of the proper application of 10 C.F.R. § 50.109 should be a high priority now. We strongly recommend that these documents be released for public comment prior to approval of proposed revisions.

#### Regulatory Conformance with Safety Goals

In June 1990, the Commission approved 13 actions relating to the Safety Goal Policy Statement of 1986 and identified how several of these approved actions will contribute to better management of the development and implementation of new requirements. The Commission also requested that staff propose a plan on how to perform an assessment of whether the existing body of regulations and regulatory practices being imposed on licensees results in plants operating in an adequately safe manner consistent with the Commission's Safety Goal Policy Statement of 1986. Additionally, using this same framework of safety goals and subsidiary objectives, staff would identify any existing regulations or regulatory practices that are not necessary to ensure adequate safety. In this manner, the body of regulations and regulatory practices imposed by the NRC on licensees would be organized in an integrated and coherent framework. This would allow a perspective to be provided of how a given regulation or regulatory practice affects the overall safety of a plant and enable an evaluation to be made of whether a contemplated change passes the appropriate threshold.

We believe that the Commission's direction to the staff to establish a formal mechanism to ensure that future regulatory initiatives are evaluated for conformity with the Commission's safety goals is fully consistent with the Kemeny Commission recommendations and the industry's comments in both the 1981 and 1989 NRC regulatory impact surveys. We also agree with the ACRS recommendation that new regulations and/or regulatory practices be considered only in those areas where inadequacies are identified. Whatever mechanism is developed, if consistent with the precepts identified above, would significantly improve the regulatory environment as the Kemeny Commission had advocated.

The staff has stated its intent to publish its revised guidance for public comment prior to seeking Commission approval. We recommend that it would be more efficient and effective for NRC staff and industry representatives, in a public forum, to work cooperatively to promptly address those areas that need clarification, change, deletion or addition, prior to publication for public comment, so that the subsequent solicitation of comments can be more meaningfully focused.

#### Systematic Assessment of Licensee Performance Program

The Systematic Assessment of Licensee Performance ("SALP") process has a significant impact on licensee activities and is a major cause of the problems identified in the Regulatory Impact Survey. The NRC staff's assessment of industry feedback, as contained in draft NUREG-1395, identified problems in the SALP process as one of the two principle themes emerging from all of the licensees' comments. Further, the "Survey of The NRC Staff Insights On Regulatory Impact," SECY-90-250, confirmed the findings of draft NUREG-1395, stating that "...licensees are extremely sensitive to NRC activities and sometimes acquiesce to avoid confrontation that could create the perception that they are unresponsive. This makes licensees vulnerable to potential abuses of regulatory authority."

We remain concerned that the SALP process is being decoupled from the Regulatory Impact Survey without the root causes of the problems described by both the industry and the staff having been properly identified and resolved.

Further, as the industry has commented in a variety of forums, the practice of assigning numerical performance ratings as part of the SALP process, with its consequent financial and public perception results, should be reevaluated because of the potential misuse of that data and the diversion of attention from the substantive analysis incorporated in the SALP assessment to the detriment of the program. We agree with the Commission that the details in the SALP reports give a more important, and definite, message than the numerical scores, and for that reason we believe that the ratings should be abolished because they serve no beneficial regulatory purpose.

#### Integrating and Prioritizing Programs

In discussing programs to integrate regulatory requirements on a plant specific basis, the staff observed that industry did not express significant interest in the Integrated Safety Assessment Program ("ISAP"), in part because

of a lack of plant-specific probabilistic risk assessments ("PRAs") necessary for implementation of an ISAP at individual plants. The industry recognizes that PRAs continue to be an evolving technology and, as Individual Plant Examinations ("IPEs") are showing, development of Level 1/2 PRAs required to support ISAP are resource intensive and time consuming. Those utilities with experience in maintaining a PRA have experienced the need to commit substantial resources to that task on an on-going basis. Therefore, even though each plant will conduct its own IPE does not necessarily mean that all licensees will be willing or able to implement an ISAP program. We do not believe the benefits to licensees of implementing an ISAP have been identified that warrant the significant expenditures of time and resources that such a program would require.

#### Integrated Regulatory Requirements Implementation Schedule

While we agree that there is a need to assess and manage the cumulative effect of generic requirements and generic communications, we do not believe that the proposed Integrated Regulatory Requirements Implementation Schedule ("IRRIS") will achieve the desired result. The prioritization and scheduling of regulatory requirements well in advance of an outage period is already a necessity. Lead times for finalizing engineering and for material procurement, the conduct of applicable safety evaluations, and related activities required to develop a complete change package dictate that utilities generally freeze their outage plans months in advance of the scheduled outage, although rarely are those plans able to be developed with any finality one year in advance of an outage as IRRIS appears to contemplate. The need to integrate a ninety-day period for staff review into the licensee's management process will further complicate the process, and the staff's comment that the outage activities would be frozen under IRRIS will not provide the flexibility needed by a licensee to respond to changing circumstances.

Further, and perhaps indicative of the much larger concern of the industry with the current regulatory environment, the list of requirements that IRRIS would integrate will not include actions "imposed to meet adequate protection standards or to attain compliance with existing regulations." Thus, as described, IRRIS would integrate only those actions that are justified under 10 C.F.R. § 50.109 because they will substantially increase overall protection to public health and safety at a cost that can be justified to produce that benefit. This is generally a very small subset of the NRC imposed requirements that licensees must meet and integrate into their daily operation. Further, even those requirements would not be prioritized on the basis of the NRC's cost/benefit evaluations but rather on some subjective determination of relative safety implication, with schedular effects and costs as "secondary considerations." If this is not the intent of IRRIS, the final explanation of IRRIS should contain an explicit description of the actions that IRRIS will include. Further, as appropriately noted in the Commission's Staff Requirements Memorandum dated November 29, 1990, generic correspondence can not impose requirements. Thus, because IRRIS is stated to be limited to regulatory requirements, it is not clear how licensee-initiated changes to respond to an issue identified in a generic communication will enter into the prioritization process because such actions do not fall within the 10 C.F.R.

§ 50.109 purview. The NRC's fundamental responsibility for establishing safety-related requirements includes a concomitant responsibility to establish the necessary priority for implementation of those requirements, yet it appears that IRRIS will not play any role in that process.

As stated previously, we recommend that the NRC not proceed to implement IRRIS because its narrow focus does not justify the need for additional NRC staff and licensee resources necessary to implement the program. However, if the NRC decides to proceed with the development of IRRIS, we suggest that the development of guidelines should be approached cautiously through the pilot program process. One criterion that must be evaluated as part of the pilot program is whether safety enhancements are achieved in an appropriate priority, with due consideration to licensee resource and scheduler impacts. An evaluation must also be made of the generic applicability of the pilot program results to different plants with significantly different design features and licensing bases.

Upon completion of the pilot program, an evaluation should be conducted of the effect that the implementation of IRRIS will have upon those plants currently participating in the Integrated Living Schedule ("ILS") and the Integrated Safety Assessment Program ("ISAP") processes, as well as the cost versus benefit equation of the adoption of a formal IRRIS program. The most effective method to integrate requirements and allocate resources must be chosen and may well need to be different for different licensees. In fact, it may be that no formal program like IRRIS is necessary at all.

#### Scheduling and Control of Inspections, Especially Team Inspections (SECY-90-347 Enclosure 2)

The NRC identified two major themes in SECY 90-347 relating to NRC scheduling and control of inspections: the need for further development of staff policy regarding its inspection program and the implementation of that program; and the need for interaction between staff and licensees in coordinating NRC inspection activities with licensee and third-party activities. These are very important endeavors because the many NRC staff activities affecting operations generally dominate licensee resources more than those associated with physical modifications to the plant. The establishment by the NRC of guidelines to balance its regulatory oversight responsibilities with the licensee's operational requirements would be appropriate. Similarly, NRC site activities should be evaluated by the NRC in terms of relative importance so that licensees could better schedule the allocation of their resources in support of the higher priority NRC activities with those activities they believe are important.

We agree that the NRC should periodically evaluate the allocation of its inspection resources based on plant performance, and that activity should lead to the development of an integrated unit-specific inspection plan. We also agree with the staff's recommendation that it should substantiate the need for major team inspections to be conducted, announce such inspections in advance, and plan no more inspections at each plant than can be handled without interfering with the safe operation of the plant and effective allocation of

plant staff attention. Promulgation by the NRC of a schedule of planned inspections will not only significantly assist a licensee in scheduling the allocation of internal resources necessary to accommodate those inspections, but will assist in the coordination of licensee activities, many of which complement NRC regulatory activities.

As described in Enclosure 2 of SECY-90-347, the staff creates unit-specific inspection plans following each SALP review and adjusts its plans each quarter during the subsequent SALP cycle. However, it is not clear that there is any correlation between NRC inspection activity and SALP evaluations; it does not appear that the SALP process is being used effectively by the NRC to allocate its inspection resources.

Furthermore, the NRC policy of what constitutes a major team inspection, as well as the nature and scope of each of those types of activities, should be clearly delineated. Discrepancies regarding the definition of a team inspection may prove to be counterproductive to the actions being taken to effect improvement. For example, one utility has recently received a site visit by a five-member group that included an entrance and an exit meeting. This utility was told by NRC staff on three separate occasions that the group visit was, in fact, not a "team" inspection.

Proper delineation of the NRC definition would assist the licensees in effectively supporting those activities. Because the conduct of these activities has such a dramatic effect on licensee activities, particularly on smaller utilities, it would be appropriate for the NRC staff to solicit comment on its proposed policy and implementation program. The NRC's commitment to periodically publish site activity schedules that address NRC planned major team inspections, and other significant NRC site activities, will significantly aid licensees in supporting resource-significant NRC site activities according to their priorities and yet maintain the licensee management involvement the NRC has been indicating is an important ingredient in ensuring safe plant operations. SECY-90-205 clearly demonstrates the diversion of plant management attention from their primary responsibilities that is associated with supporting external inspection activities.

Although the industry has little basis upon which to evaluate the potential benefits of the NRC's Master Inspection Planning System ("MIPS"), and its supplementary Inspection Follow-up System ("IFS"), the stated purposes of the systems would seem consistent with the NRC's goals, and the industry's objectives, in ensuring that NRC inspection activities do not adversely impact plant operations and are appropriately coordinated with licensee activities to achieve that end.

#### **Training, Preparation and Management of NRC Staff (SECY-90-347 Enclosure 3)**

We believe that the staff's recommendations regarding the training, preparation and management of NRC staff are timely, useful and appropriate. From the industry perspective, a major beneficial result of the NRC's enhanced training of NRC personnel should be improved consistency among inspection team

leaders and NRC staff. The lack of consistency in inspection activities is a recurring theme identified in the comments from the industry in the Regulatory Impact Survey. The training envisioned in this recommendation also could be an effective method for NRC senior management to communicate its expectations to staff. Mechanisms should be created to provide feedback to enable evaluations to be made of how well the staff and team leaders are meeting those expectations. This would aid in achieving the desired consistency in NRC inspection activities.

The direct involvement of NRC senior management, both regional and headquarters, in the development and implementation of the training and evaluation of the performance of NRC inspectors is critical to the development of an effective inspection program. That involvement is important in the preparation of training course materials, but critical in the implementation of the NRC's inspection responsibilities under the Atomic Energy Act and in its communication of the NRC's broader responsibilities and expectations of professional conduct on the part of its inspectors. And that process should not be limited to the orientation and training of new employees but should become part of the NRC's ongoing personnel professional development activities. Similarly, the NRC should evaluate the need for subject matter training (including NRC policy implementation) as well as management skill development for NRC managers and supervisors.

The NRC should also consider the use of some form of management self-assessment to identify areas requiring increased management involvement. The result, as it has been shown through industry self-assessment evaluations, will be the identification of additional opportunities to evaluate the performance of the NRC staff in meeting management expectations. Individual licensees have also obtained significant benefits from having an independent management/organizational analysis conducted to evaluate the effectiveness of the organization in meeting its assigned responsibilities. The NRC should give serious consideration to commissioning this type of activity because of the value that an independent analysis can provide.

With respect to backfitting training, we strongly support the NRC's initiative to conduct the series of backfitting workshops that it held in 1990 and its commitment to provide further training for NRC personnel on the application of the backfitting guidelines. A proper understanding of the application of 10 C.F.R. § 50.109 is an objective not yet realized and the NRC's continued attention to that matter in its training programs would be beneficial. Similarly, as noted in the Staff Requirements Memorandum dated November 29, 1990, the NRC should ensure that its inspectors, and other NRC personnel, understand that generic communications do not have legal authority to impose requirements on licensees other than requiring licensees to advise the NRC as to what actions the licensee intends to take with respect to the subject of that generic communication. This is another area where direct NRC management involvement is appropriate to ensure that the regulatory system functions correctly.

Further, effective closure of numerous issues facing the NRC and the industry has been hampered by the lack of direct NRC management involvement in the process. For example, the industry has expended thousands of man-hours

and has spent approximately \$20 million dollars in voluntary, proactive efforts to achieve improvements in technical specifications, yet that effort has still not achieved closure, and a major factor has been the lack of NRC senior management involvement. Similarly, the industry's efforts to effectively resolve issues such as diesel generator reliability have not been successful. Further, the major issues identified by the utilities through NUREG-1395 (e.g., the increase in issuance and misuse of generic communications; the lack of NRC prioritization of NRC requirements; inconsistencies between regions; subjective imposition of requirements by inspectors) could have been averted, or at least corrected, by senior management oversight in these areas.

In sum, we agree that enhanced training is a major contributor to the communication of management expectations and goals. However, training alone ensures neither continued performance nor consistency of performance. Follow-up and monitoring by senior management is a necessary component of this process. An evaluation of the benefits of participation of NRC senior management in activities such as entrance/exit meetings, operator requalification examinations, and in enforcement conferences should be conducted because of the opportunities those activities could provide for NRC senior management to gain valuable insight into how NRC policy is being implemented.

It has been proven that when senior NRC management becomes involved, progress is made, and the process works. If we are both to achieve our desired, and complementary goals, senior management involvement is necessary from both the industry and the NRC.