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December 1, 1999

Mr. David L. Meyer, Chief
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Mail Stop: T-6 D59
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Mr. Meyer:

**PUBLIC COMMENTS ON THE PILOT PROGRAM FOR THE NEW REGULATORY
OVERSIGHT PROGRAM**

TVA is submitting the enclosed comments on the Pilot Program for the New Regulatory Oversight Program published in the *Federal Register* on July 26, 1999 (64 Fed. Reg. 118983). TVA has previously provided comments in response to an earlier public notice in letters dated February 19, 1999 and May 3, 1999. TVA appreciates NRC's continuing efforts in developing the new Regulatory Oversight Process. In addition, TVA appreciates the opportunity afforded it to share its ideas during the various public meetings and workshops. TVA remains encouraged by the significant progress NRC has made to implement this program. TVA's specific comments on the information requested in the request for public comment are included as an enclosure. TVA also supports the industry comments provided separately by the Nuclear Energy Institute.

TVA believes that the new oversight process has the potential to achieve its goals to:

- Ensure that nuclear power plants continue to operate safely
- Improve NRC efficiency by focusing resources
- Reduce unnecessary regulatory burden on licensees
- Enhance public confidence in the safe operation of nuclear power plants

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TVA acknowledges that these goals are difficult to measure objectively; however, we encourage NRC to establish appropriate internal performance measures for each of the four goals. TVA would also encourage NRC to periodically publish a summary report on the progress made towards these goals to further enhance communication with all stakeholders.

Sincerely,


Mark J. Burzynski
Manager
Nuclear Licensing

Enclosure

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ENCLOSURE

TVA Comments On Public Comments On The Pilot Program For The New Regulatory Oversight Program

1. Does the new oversight process provide adequate assurance that plants are being operated safely?

TVA believes that the combination of performance indicators (PIs) and inspection activities appear to provide a solid safety performance overview. The performance measures are relevant based on our internal experience with performance indicators and the industry experience with the WANO/INPO performance measures. The reactor oversight process seems to properly address cornerstone objectives. The performance indicator thresholds seem appropriate based on TVA experience; however, industry experience seems to indicate that the normalization factor used in the security equipment index calculation is overly conservative. In general, TVA has found that the scope and frequencies of the baseline inspection procedures are adequate to address their intended cornerstones. Additionally, TVA's experience with the significance determination process (SDP) indicates that it provides conservative results. As a result, the combination of performance indicator thresholds and SDP evaluation thresholds provide appropriate triggers for increased regulatory involvement well ahead of risk-significant performance degradation.

TVA understands that NRC is in the process of developing a containment SDP. That SDP should be based on the risk insights contained in NUREG-1465, New Source Terms. In that NUREG, NRC identified that potential radiation releases have time dependencies and chemical forms different from those currently assumed in plant designs. The NUREG insights are better suited to define the safety significance of any potential containment finding.

2. Does the new oversight process enhance public confidence by increasing the predictability, consistency, clarity and objectivity of the NRC's oversight process?

TVA believes that the new oversight process results in NRC assessments of licensee performance and NRC actions that are more understandable, predictable, consistent, and objective. This perception is based on the results of internal communication and training efforts that indicate stakeholders find the new process is understandable, logical, and reasonable.

TVA has found that the new inspection reports follow the new process guidelines, which has a more understandable format. However, TVA noted inconsistencies in the reports with respect to use of terminology, identification and discussion of findings, and level of detail. TVA believes that the additional guidance provided to the Regions regarding treatment of minor violations, minimum thresholds for screening potential findings, and

report content (EGM 99-006) will address the inconsistencies noted during the pilot program.

The NRC web page is generally very usable. The NRC reactor oversight web page accurately reflects TVA's performance indicator data. NRC needs to clarify whether the finding or the violation(s) associated with finding is to be presented as inspection findings. This difference is important when considering non-green findings. It is likely that most, if not all, non-green findings that involve regulatory nonconformances will involve multiple violations. Consequently, the presentation of the associated violations on the web page rather than just the finding can lead to confusion with application of the action matrix. TVA would suggest that NRC establish that just the single finding be presented on the web page. A description of the underlying violation(s) can be found in the body to the associated inspection report. Similarly, NRC needs to clarify how findings should be reported when the hardware problem existed on only one unit, but programmatically it might have affected other units. TVA would suggest that NRC assign the finding to only the unit(s) that experienced the hardware problem.

NRC should address the issue of an "aging" safety system unavailability performance indicator that is driven out of the green band for an extended period of time due to a single fault exposure event. NRC should consider revising the performance indicator guidelines to allow removal of the events from the unavailability calculations once the issue has been successfully inspected and evaluated in the first assessment period. This change will ensure that the safety system unavailability performance indicators remain an effective discriminator of current plant performance. TVA believes that recent changes to the performance indicator guidelines (NEI 99-02, Revision D) may correct this problem.

NRC should recognize that there is an interesting quirk in the PIs that may be difficult for external stakeholders to understand. Some PIs (initiating event and mitigating system PIs based on a rate) can cross thresholds even when there are no additional data hits in the current quarter. The reason is that the indicator is a rate (number per 7000 critical hours) and the current quarter had relatively few critical hours compared to the quarter it replaced in the rolling count. NRC should develop a standard reporting note that utilities should use to identify when such things happen to avoid over reaction by NRC or misunderstandings by the stakeholder.

In general, the inspection procedures are clearly written to support consistent inspections. TVA found that the purpose of the Problem Identification and Resolution procedure was not clearly defined. The procedure addresses a wide and diverse spectrum of utility activities. It is not clear from the inspection procedure how the inspection results from the various elements will be integrated and evaluated. This deficiency needs to be addressed for full implementation since assessments of the utility corrective action programs will figure prominently in the annual agency review.

3. Does the new oversight process improve the efficiency and effectiveness of the regulatory process focusing agency resources on those issues with the most safety significance?

TVA has found the new regulatory oversight processes to be more efficient. However, TVA noted that approximately 33% of the region-based inspections exceeded the resource targets published in SECY 99-007. In some cases, it appeared that the inspections could have been completed in less time. Based on TVA's experience with the baseline inspection program, NRC management must continue to establish challenging targets for inspection resource requirements. And, it must provide sufficient monitoring of inspection activities to ensure that resources are used efficiently.

TVA considers that NRC resources can be further optimized through careful scheduling of exit meetings. Currently, regional based inspections schedule exit meetings the morning of the last day (generally Friday morning). Often, if there are no findings, this presence on the last day is simply a formality which results in an underutilized workday. TVA suggests that if inspectors conclude an inspection without findings, NRC should forego the exit meeting for that inspection. The results could simply be addressed at the Resident Inspector's exit. This change would eliminate an additional day of travel costs.

TVA would suggest that NRC consider the following changes to the baseline inspection program to further improve efficiency:

- The frequency of the permanent plant modification module be revised to match the plant refueling outage schedule. It is not likely that significant modifications will be made to risk-significant systems outside of refueling outages. The annual frequency may lead to inefficiencies.
- The permanent plant modification module and the 50.59 and SAR change modules can review the same design change packages. NRC should review the module scopes and the planning practices to ensure that there is no redundancy between these two inspection efforts.
- The permanent plant modification module and the safety system design and performance module can also review the same areas. NRC should review the module scopes and the planning practices to ensure that there is no redundancy between these two inspection efforts.
- The module elements for the behavioral observation program should be modified to provide the flexibility to adjust the scope and frequency when the inspected plant has a stable work force.
- The problem identification and resolution can be adjusted to a biennial basis after a satisfactory baseline inspection. Reasonable assurance of the corrective action program integrity will be provided by other inspections which, by design, test on a continuing basis the effectiveness of the corrective action program. The module should include a provision that the frequency can be readjusted to yearly if a decline in performance is observed.

- Radiation monitors are inspected in the radiological controls modules and the maintenance rule modules. The scope of these two efforts should be coordinated to avoid redundancy. In addition, the safety-risk basis for the inspection efforts in each are should be made clear.

TVA believes that the inspection planning process can be performed in an effective manner to support the assessment cycle. While inspections were rescheduled more frequently than expected due to the nature of the pilot program, it was clear that the workload is manageable. The structured approach outlined in the action matrix will help the planning process by eliminating many of the unnecessary reactive inspections that have been conducted in the past. In addition, for white findings, the action matrix sets an expected time frame for the follow-up inspections (after utility corrective action activities are well underway) that will facilitate better planing and control of inspection activities.

NRC needs to provide a better definition for what gets treated as a finding. The Occupational Radiation Safety SDP flowchart has criteria which results in an issue being dropped as a finding. Similar thresholds should be established for the other SDPs. Without a clear threshold for findings, the process can become inefficient by requiring evaluations for too many minor issues. TVA believes that the recent draft flowchart on minimum thresholds for findings may correct this problem.

While TVA had no findings in the physical protection cornerstone, it believes that the security SDP lacks sufficient guidance to result in repeatable results. This deficiency will lead to differences in finding evaluations that must be resolved, making the process less efficient. The guidance for the security SDP should be improved for full implementation. TVA supports NEI efforts to develop an alternative SDP of security issues.

4. Does the new oversight process reduce unnecessary regulatory burden on licensees?

TVA has noted that minimal resources are associated with the collection of performance indicator data. TVA has noted less internal inspection support resources are required to support the new baseline inspection program and the resulting enforcement actions. However, the lack of a clear threshold for what gets treated as a finding can increase the regulatory burden on licensees. TVA believes that the additional guidance provided to the Regions regarding treatment of minor violations and the draft flowchart for screening potential findings will help address this problem.

TVA identified problems with the process used to evaluate a potential non-green finding. The process to interact with NRC on the finding during phase 2 and phase 3 were not well understood. The basis for the NRC preliminary results were not made available in a timely manner. Similarly, the process for TVA to provide its perspective on the finding were not well understood for too long. The expectations described in the recent enforcement guidance memorandum for the pilot program appear to address the process issues. These lessons learned need to be incorporated into NRC Manual chapter 0610*.

TVA also identified problems with the process used to evaluate a potential non-green finding. The assumptions used in the NRC phase 2 and phase 3 analysis were not documented in a timely manner. The delay hampered TVA's understanding of NRC's perspective on the issue. It also made the interactions with NRC less efficient. NRC should ensure that key assumptions it makes in the preliminary evaluation are properly documented in a timely manner and shared with the utility. The process to reconcile utility and NRC comments is untimely. Better management controls are needed to ensure that issues are promptly resolved.

- 5. The new oversight process does not currently provide an overall assessment of performance of an individual safety cornerstone other than a determination that the cornerstone objectives have or have not been met. However, it does identify regulatory actions to be taken for degraded performance within the safety cornerstones. Is an overall safety cornerstone assessment warranted or appropriate?**

TVA believes that the action matrix can be properly implemented in response to indications of declining utility performance. The NRC staff will need to demonstrate the appropriate discipline to allow completion of the utility response to white findings in order for the oversight process to work as designed.

- 6. Licensee findings as well as NRC inspection findings are candidates for being evaluated by the significance determination process. Does this serve to discourage licensees from having an aggressive problem identification process?**

NRC should look hard at the treatment of external events for lessons learned. Namely, the practice of increasing the event frequency as outlined in the SDP guidance is probably inappropriate for external events since it is outside the control of the utility. Instead, the SDP evaluation should focus on the mitigation capability impacts using the event frequency fractions established in the IPE/IPEEE work.

NRC should recognize that the treatment of external events can lead to non-green findings even though the plant is in full compliance with their licensing basis. This raises an interesting dilemma for a white finding because it says that the rules are not adequate; however, the white threshold is below the level that would pass the backfit test.

- 7. In the new oversight program, positive inspection observations are not included in NRC inspection reports and the plant issues matrix (PIM) due to a lack of criteria and past inconsistencies and subjectivity in identifying such issues. Previous feedback on this issue indicated that the vast majority of commenters believed positive inspection findings should not be factored into the assessment process. Does the available public information associated with the revised reactor oversight process, including the NRC's web page which includes information on performance indicators and inspection findings, provide an appropriately balanced view of licensee performance? If not, should positive inspection findings be captured and**

incorporated into a process to reach an overall inspection indicator for each cornerstone?

TVA supports the decision to eliminate positive statements from inspection reports because they were vulnerable to inconsistency and subjectivity. However, NRC also needs to provide a better definition for what gets treated as a finding. Without a clear threshold for findings, inspectors are free to discuss any issue, even if no violation of regulatory requirements are involved. As a result, inconsistencies and subjectivity will be introduced for the discussion of perceived negative issues. NRC should severely limit the discussion of findings that do not involve a violation of regulatory requirements.

NRC may want to consider adding a short summary of the completed inspections to convey the scope of the inspection efforts (man-hours and areas inspected). This additional summary information may be considered more accessible from some stakeholders that cannot invest the time in reading the complete inspection reports. It would also provide a sense of balance by putting the inspection findings in the context of the overall scope of the inspections performed.

- 8. The staff has established several mechanisms such as public meetings held in the vicinity of the plants, this Federal Register Notice, and the NRC's website to solicit public feedback on the Pilot Program. Are there any other appropriate means by which the agency could solicit stakeholder feedback, in a structured and consistent manner, on the Pilot Program?**

TVA has no comments.

- 9. Are there any additional issues that the agency needs to address prior to full implementation of the new oversight process at all sites?**

TVA's experience is that the performance indicator data can be reported accurately; however, a few of the indicator definitions require judgment and interpretation that can lead to errors of judgment. In particular, TVA supports the ongoing effort to establish a standard set of criteria for reporting safety system unavailability between the NRC performance indicators, maintenance rule monitoring guidelines, and the WANO/INPO performance indicators. The differences between reporting rules for the three different systems can lead to unintended errors since plant personnel are burdened with the similar yet different rules. Similarly, TVA suggests that the NEI guideline for safety system functional failures be simplified to clearly state that if data is reported based on LERs reported in accordance with the (a)(2)(v) criterion (using NUREG -1022 for additional guidance), then the PI criteria has been met. The use of clarifying notes in NEI 99-02 that are different than NUREG - 1022 can lead to unintended errors since plant personnel are burdened with the similar yet different rules. Finally, NEI 99-02 guidance for the emergency preparedness drill performance indicator should be clarified to better describe the elements to be considered in determining whether event classification timeliness goal of 15 minutes was met. The current guidance focuses on making the assessment from when a parameter first crossed the EAL threshold. The guideline should allow for some

evaluation based on the behavior of the monitored parameter and the degree to which validation was considered necessary by the site emergency director prior to classification.

TVA's experiences that the performance indicator data can be collected and submitted within the current due dates. It does require an established data collection and approval process that has clear responsibilities and reasonable approval requirements. This assessment is based on consideration of the current enforcement policy for pilot plants. Additional verification steps, and associated time, would be considered necessary for full implementation if the enforcement policy treats non-willful green to white threshold errors as candidates for Level III escalated enforcement and civil penalties. The additional review measures would be taken to avoid the punitive aspects of escalated enforcement for errors of minor significance.

TVA has noted that enforcement actions have been taken in a manner consistent with the recent enforcement guidance memorandum for the pilot program. The same enforcement discretion policies should be extended to the initial year of full implementation.