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September 30, 2004  
LIC-04-0110

Chief, Rules and Directives Branch  
Division of Administrative Services  
Office of Administration  
U.S. Nuclear Regulatory Commission  
Mail Stop T6-D59  
Washington, DC 20555-0001

- References:
1. Docket No. 50-285
  2. 69 FR 46599, Proposed Generic Communication; Draft Revision to NRC Inspection Manual Chapter 9900, "Technical Guidance, Operability Determinations and Resolution of Nonconformances of Structures, Systems, and Components" (Regulatory Issue Summary 2004-XX), dated August 3, 2004
  3. Letter from NEI (James W. Davis) to NRC (Chief, Rules and Directives Branch), "NEI Comments on NRC Guidance for Operability Determinations," dated September 30, 2004

**SUBJECT: Comments on 69 FR 46599, Proposed Generic Communication; Draft Revision to NRC Inspection Manual Chapter 9900, "Technical Guidance, Operability Determinations and Resolution of Nonconformances of Structures, Systems, and Components" (Regulatory Issue Summary 2004-XX), dated August 3, 2004**

In Reference 2, the NRC requested public comment on Proposed Generic Communication; Draft Revision to NRC Inspection Manual Chapter 9900, "Technical Guidance, Operability Determinations and Resolution of Nonconformances of Structures, Systems, and Components" (Regulatory Issue Summary [RIS] 2004-XX). This letter forwards the Omaha Public Power District (OPPDP) comments on this subject.

OPPDP endorses the comments made by the Nuclear Energy Institute (NEI) on this subject in their comment letter to the NRC (Reference 3). In summary, OPPDP provides the following comments on this subject:

- The consolidation into one document of "operability guidance" and "functionality guidance" has generated a number of concerns among industry reviewers. It is important that follow-up public meetings be scheduled to identify and resolve these concerns, and to establish a well-understood document scope.

- The content of the draft guidance is broader than just “operability.” It includes other important process considerations associated with the maintenance rule, reactor oversight, performance indicators, and risk-informed decision-making. The Operability Determination Process (ODP) Task Force recommends that the final RIS be organized to separate operability from functionality, especially with respect to structures, systems, and components (SSCs) that are not in Technical Specifications.
- Follow-up NRC/industry discussions are needed to perform the following tasks:
  1. Identify and define key terms, including references back to basis documents,
  2. Identify the personal and organizational attributes of individuals authorized to make operability determinations,
  3. Differentiate the concept of “operability” from the concept of “functionality,”
  4. Differentiate the concept of Technical Specification “OPERABILITY” from the concept of “corrective action,” and
  5. Determine the degree of prescription warranted in a guidance document.
- Licensees will need additional time to thoroughly review the detailed Assistance Navigator that NRC has developed as a companion to the guidance document. We recommend that explanatory guidance accompany each step of the Assistance Navigator.
- The RIS should stress that the Inspection Manual Chapter contains guidance to inspectors, not requirements that licensees can be cited against.

Additionally, OPPD recommends that NRC schedule followup public meetings with NEI to establish an action plan for addressing industry comments and publishing a final NRC guidance document.

No commitments are made to the NRC in this letter. If you have any questions or require additional information, please contact Mr. Thomas R. Byrne of my staff at 402-533-7368.

Sincerely,

Handwritten signature of Ralph L. Phelps, dated 9-30-04.

Ralph L. Phelps  
Division Manager  
Nuclear Engineering

RLP/TRB/trb