

March 16, 2005

Mr. Mike Schoppman  
Nuclear Energy Institute  
Suite 400  
1776 I Street, NW  
Washington, DC 20006-3708

Dear Mr. Schoppman:

SUBJECT: SUMMARY OF MEETING ON FEBRUARY 17, 2005, WITH THE OPERABILITY  
DETERMINATION PROCESS TASK FORCE

The purpose of this letter is to transmit the summary of a meeting with the Operability Determination Process Task Force. The meeting was held at the U.S. Nuclear Regulatory Commission offices in Rockville, Maryland, on February 17, 2005. At the meeting the staff and the operability determination process task force either reached agreement on Nuclear Energy Institute high priority items or assigned actions with an agreement on a path forward. The next meeting is scheduled for April 19, in Rockville, Maryland to discuss the proposed resolution of the open high priority action items.

Sincerely,

**/RA/**

Carl S. Schulten, Senior Reactor Engineer  
Technical Specifications Section  
Reactor Operations Branch  
Division of Inspection Program Management  
Office of Nuclear Reactor Regulation

Enclosures: 1. Meeting Summary  
2. Attendance List  
3. Agenda  
4. Draft NEI Background Paper for the Operability Determination Process (draft RIS 2004-xx)  
5. Comment Resolution by TOC (01-17-2005).wpd (ML050490277)  
6. Resolution of Comments (draft RIS & GL 91-18) rev 01-17-05.wpd (ML050490270)  
7. Identification of Resolution Pending High Priority Action Items

cc w/encl: See attached page

March 16, 2005

Mr. Mike Schoppman  
Nuclear Energy Institute  
Suite 400  
1776 I Street, NW  
Washington, DC 20006-3708

Dear Mr. Schoppman:

SUBJECT: SUMMARY OF MEETING ON FEBRUARY 17, 2005, WITH THE OPERABILITY  
DETERMINATION PROCESS TASK FORCE

The purpose of this letter is to transmit the summary of a meeting with the Operability Determination Process Task Force. The meeting was held at the U.S. Nuclear Regulatory Commission offices in Rockville, Maryland, on February 17, 2005. At the meeting the staff and the operability determination process task force either reached agreement on Nuclear Energy Institute high priority items or assigned actions with an agreement on a path forward. The next meeting is scheduled for April 19, in Rockville, Maryland to discuss the proposed resolution of the open high priority action items.

Sincerely,

/RA/

Carl S. Schulten, Senior Reactor Engineer  
Technical Specifications Section  
Reactor Operations Branch  
Division of Inspection Program Management  
Office of Nuclear Reactor Regulation

Enclosures: 1. Meeting Summary  
2. Attendance List  
3. Agenda  
4. Draft NEI Background Paper for the Operability Determination Process (draft RIS 2004-xx)  
5. Comment Resolution by TOC (01-17-2005).wpd (ML050490277)  
6. Resolution of Comments (draft RIS & GL 91-18) rev 01-17-05.wpd (ML050490270)  
7. Identification of Resolution Pending High Priority Action Items

cc w/encl: See attached page

DISTRIBUTION: See next page

ADAMS ACCESSION NUMBER: ML050740002

OFFICE	TSS:IROB-A:DIPM	SC:TSS:IROB-A:DIPM	
NAME	CSSchulten	THBoyce	
DATE	03/15/2005	03/16/2005	

OFFICIAL RECORD COPY

DISTRIBUTION:

ADAMS

PUBLIC

IROB R/F

TSS Staff

RidsNrrDipm

RidsNrrDssa

RidsNrrDipm

RidsNrrDssaSplb

RidsNrrDipmlehb

RidsOgcRp

RidsAcrsAcnwMailCenter

SBarber (GSB)

BBurgess (BLB)

BDesai (BBD)

WBJones (WBJ)

DJNelson (DJN)

LWert (LXW1)

SAlexander (SDA)

RBlough (ARB)

SBurton (SXB3)

DGraves (DNG)

EMcKenna (EMM)

JTrapp (JMT1)

HChernoff (HKC)

LTrocine (LXT)

RMosser (RXM1)

cc via e-mail:

Mr. Mike Schoppman  
Nuclear Energy Institute

Ms. Laurie Lahti  
Nuclear Management Company

Mr. Pete LeBlond  
LeBlond Associates

Mr. Jeff Thomas  
Duke Energy

Ms. Patricia Campbell  
Morgan, Lewis & Bockius

Mr. Jim Kilpatrick  
Constellation Energy

Mr. Getachew Tesfaye  
Constellation Energy

Mr. Ron Gaston  
DTE Energy

Mr. Fred Mashburn  
TVA

Ms. Nancy Chapman  
SERCH/Bechtel

Mr. Donald Hoffman  
Technical Specifications Task Force

Ms. Deann Raleigh  
Sciencetech

Mr. Brian Mann  
Technical Specifications Task Force

## SUMMARY OF THE FEBRUARY 17, 2005, THE NUCLEAR REGULATORY COMMISSION MEETING WITH THE NUCLEAR ENERGY INSTITUTE OPERABILITY DETERMINATION PROCESS TASK FORCE

The NRC staff met with the NEI Operability Determination Process Task Force (ODPTF) on February 17, 2005, from 8:30 a.m. to 4:00 p.m. The list of meeting attendees is found in Enclosure 2. The purpose of the meeting was to discuss industry comments on Draft RIS 2004-XX. Draft RIS 2004-XX combines Inspection Manual Part 9900 on Operable/Operability with Resolution of Degraded and Nonconforming Conditions, standardizes terminology and updates guidance. The Draft RIS was issued for public comment in August 2004. The public comment period closed in October 2004. The NEI ODPTF collected industry comments and provided the staff with a listing of 16 high priority topics.

At the February 17, 2005, public meeting the staff made draft responses to all public comments available. The agenda for the meeting was to discuss disposition of the NEI high priority topics. The staff noted in its opening remarks (Enclosure 3) that it sought two objectives; understand positions on high priority items and reach consensus on high priority items. The staff remarks also set goals for further development of the draft RIS 2004-xx guidance. The stated goals are:

- guidance is for NRC inspectors
- we need a cooperative approach
- for best practices rely on the industry
- regulatory override if necessary
- goal is clarity of process for inspectors and operators
- the draft RIS should be a simple, plain language process document

Additionally, the staff remarked it seeks technical discipline to solve the typical plant/process not exceptions to typical plant/process issues.

The NEI ODPTF opening remarks included a handout (Enclosure 4) that contained the ODPTF Position on the draft RIS 2004-xx and which also included a response disposition to the draft staff positions to all public comments (Enclosures 5 and 6). The NEI ODPTF positions, as enclosed, are:

- GL 91-18 provides guidance for two important processes that are central to the effective, day-to-day operation and regulation of commercial nuclear power plants; (1) the process for making operability determinations, and (2) the process for resolving degraded or nonconforming conditions.
- The GL 91-18 process interfaces with a significant number of regulations, programs, processes, documents, and procedures; therefore, any changes to the process should take these interfaces into consideration.
- The ODPTF letter dated October 1, 2004, summarized the main concerns that the Task Force has with the draft RIS published in August 2004. The letter highlights the broad scope of the revised process, the importance of terminology and precise definitions, and the need for integrating the process with other aspects of daily operations. The letter made recommendations for reorganizing the final RIS, and it identified several follow-up items to consider in working meetings with the NRC staff.

- The ODPTF believes that further dialogue between the industry and NRC is essential to achieving a final RIS that addresses both NRC and industry objectives in updating the operability determination process.

At the meeting the staff and ODPTF either reached agreement on NEI high priority Items or assigned actions with an agreement on a path forward. Enclosure 7 identifies the items which are to become the focus of the next meeting. The next meeting is scheduled for April 19th in Rockville. The agenda is to discuss proposed resolutions of the open high priority action items. The staff and the ODPTF have also tentatively agreed to meet from May 11 and 12, 2005, to markup the draft RIS 2004-xx to incorporate revised guidance.

MEETING WITH NEI OPERABILITY DETERMINATION TASK FORCE  
ATTENDANCE LIST  
FEBRUARY 17, 2005

<u>NAME</u>	<u>AFFILIATION</u>
CARL S. SCHULTEN	NRC\NRR\TSS\IROB\DIPM
NANCY SALGADO	NRC\NRR\TSS\IROB\DIPM
LAURIE LAHTI	NUCLEAR MANAGEMENT COMPANY
PETER LEBLOND	LEBLOND & ASSOCIATES, LLC
PATRICIA CAMPBELL	MORGAN LEWIS
C. JEFF THOMAS	DUKE ENERGY - MCGUIRE
JAMES KILPATRICK	CONSTELLATION ENERGY - CALVERT CLIFFS
RON GASTON	DTE ENERGY - FERMI
FRED MASHBURN	TENNESSEE VALLEY AUTHORITY (TVA) - CORPORATE
PETE HEARN	NRC\NRR\TSS\IROB\DIPM
PATRICK HILAND	NRC\NRR\IROB\DIPM
GARY ARMSTRONG JR.	NRC\NRR\TSS\IROB\DIPM
MIKE SCHOPPMAN	NEI
BRIAN MANN	TSTF\EXCEL
DONALD R. HOFFMAN	TSTF\EXCEL
R.A. MUSSER	NRC\REGION II
THOMAS BOYCE	NRC\NRR\TSS\IROB\DIPM
S. BURTON	NRC\REGION III
GETACHEW TESFAYE	CONSTELLATION
LEIGH TROCINE	NRC\OE
NANCY CHAPMAN	SEARCH\BECHTEL
JIM TRAPP	NRC\REGION I
HAROLD CHERNOFF	NRC/DLPM

MEETING WITH NUCLEAR ENERGY INSTITUTE  
OPERABILITY DETERMINATION TASK FORCE  
FEBRUARY 17, 2005

PURPOSE - OBJECTIVES

**PRIMARY**

- UNDERSTAND POSITIONS ON HIGH PRIORITY ITEMS
- REACH CONSENSUS ON HIGH PRIORITY ITEMS

**SECONDARY**

- UNDERSTAND POSITIONS ON OTHER ISSUES
- DECIDE NEED FOR ADDITIONAL MEETINGS

**GOALS FOR GUIDANCE**

- GUIDANCE FOR INSPECTORS
- COOPERATIVE APPROACH
- RELY ON INDUSTRY BEST PRACTICES
- REGULATORY OVERRIDE IF NECESSARY
- GOAL IS CLARITY OF PROCESS FOR
  - INSPECTORS
  - OPERATORS
- SIMPLE ..... PLAIN LANGUAGE PROCESS DOCUMENT

**TECHNICAL DISCIPLINE**

- SOLVE TYPICAL PLANT/PROCESS
  - ... NOT EXCEPTIONS TO TYPICAL
  - ... DEFAULT WILL BE CONFORMANCE TO STS
- DO THE RIGHT THING.... NOT
  - ...THE REQUIREMENTS or ...COMPLIANCE THING



**NEI Background Paper  
for the Operability Determination Process (draft RIS 2004-xx)**

Draft Nuclear Energy Institute (NEI) Background Paper for the Operability Determination Process (draft RIS 2004-xx)

Background

The NRC staff issued “operability determination” guidance to licensees in Generic Letter (GL) 91-18 dated November 7, 1991. Supplemental guidance on the role of the 10 CFR 50.59 evaluation process in the resolution of degraded and nonconforming conditions was added in revision 1 to GL 91-18 dated October 8, 1997.

NRC conducted workshops on potential changes to the GL 91-18 process in August 2003, and August 2004 to obtain public feedback on major issues and concepts. NRC published a draft Regulatory Issue Summary (RIS) in the Federal Register on August 3, 2004, as the basis for the August 2004 workshop. At that point NEI formed an Operability Determination Process Task Force (ODPTF) to review the draft RIS and work with the NRC in public meetings to achieve consensus on a final RIS.

On October 1, 2004, the ODPTF sent comments to NRC on the draft RIS. On February 15, 2005, the Nuclear Regulatory Commission (NRC) provided a draft summary of the proposed resolutions to the ODPTF comments. The ODPTF will discuss the proposed resolutions with the NRC staff during a public meeting at NRC headquarters scheduled for February 17, 2005.

ODPTF Position

GL 91-18 provides guidance for two important processes that are central to the effective, day-to-day operation and regulation of commercial nuclear power plants; (1) the process for making operability determinations, and (2) the process for resolving degraded or nonconforming conditions.

The GL 91-18 process interfaces with a significant number of regulations, programs, processes, documents, and procedures; therefore, any changes to the process should take these interfaces into consideration.

The ODPTF letter dated October 1, 2004, summarized the main concerns that the Task Force has with the draft RIS published in August 2003. The letter highlights the broad scope of the revised process, the importance of terminology and precise definitions, and the need for integrating the process with other aspects of daily operations. The letter made recommendations for reorganizing the final RIS, and it identified several follow-up items to consider in working meetings with the NRC staff.

**NEI Background Paper  
for the Operability Determination Process (draft RIS 2004-xx)**

The ODPTF believes that further dialogue between the industry and NRC is essential to achieving a final RIS that addresses both NRC and industry objectives in updating the operability determination process.

Proposed Follow-up

The NRC and industry need to agree on several important basic concepts including:

1. What are the NRC and industry goals for the use of the RIS?
2. What is the scope of change to the RIS that is necessary to support these goals?
3. What additional steps should be taken to develop the final RIS?
4. What should the schedule be for a final RIS and an industry workshop on the updated ODP?

The ODPTF proposes the following process and schedule:

1. February 17, 2005 – NRC/ODPTF public meeting
  - a. NRC/industry discuss the NRC staff's proposed resolution to the ODPTF comment letter to identify remaining open items
  - b. NRC/industry develop a new list of high priority open items
  - c. NRC/industry establish the process for going forward
2. Next Steps/Schedule (to be determined)
  - a. ODPTF detailed review of NRC staff's proposed resolutions
  - b. Series of public working meetings
  - c. NRC issue a 2<sup>nd</sup> draft RIS for public comment to document changes from the 1<sup>st</sup> draft (?)
  - d. NRC issue final RIS
  - e. NEI Workshop

**NEI Background Paper  
for the Operability Determination Process (draft RIS 2004-xx)**

On October 1, 2004, NEI submitted comments on draft RIS 2004-xx. On February 15, 2005, NRC provided draft resolutions for each comment.

By e-mail to NRC on December 1, 2004, NEI summarized 16 high-priority topics contained in the NEI comment letter. The following list is a summary of the ODPTF's preliminary review of the draft NRC dispositions for the 16 high-priority topics.

The current ODPTF position (A = accept, D = disagree, and NS = not sure) on each comment related to a particular topic is listed under the heading for that topic. Additional comments are provided in some cases. Follow-up discussions should concentrate on the D and NS items.

1. Differentiation between "operability" and "functionality"

General Comment 1 – NS

General Comment 3 – NS

3.4.3 – A

3.5.3 – A

5.5.1 – A

6.2.2 – D

Ø "FUNCTIONALITY" has different quality standards and timing requirements than "OPERABILITY."

Ø The ODPTF understanding of NRC's proposed resolutions is that other detailed requirements in the draft RIS do not apply to functionality.

Ø Good Practice; hallmark of an effective corrective action program.

2. Terminology (definitions, consistent use, and regulatory basis)

General Comment 5 – A

3.0.1 – A

3.0.2 (function) – A

3.3.2 (mission time) – A

3.4.2 (functionality) – A

3.5.2 (specified function) – A

3.5.5 – A

4.4.1 – A

5.2.8 – A

5.7.3 – A

C.5.4 (manual actions) – A

C.9.1 – A

C.11.2 – A

Ø Based on NRC's proposed resolutions, the ODPTF needs to provide clarification of several comments.

**NEI Background Paper  
for the Operability Determination Process (draft RIS 2004-xx)**

3. Role of the problem identification and resolution program (“corrective action program”)

1.0.2 – A

3.4.6 – A

6.2.1.3 – A

7.2.2 – D

Ø The ODPTF believes the draft guidance exceeds Criterion XVI, and further dialogue is needed.

4. Differentiating operability issues from corrective action issues

6.2.1.1 – A

Ø Incorporate this topic into further discussions of Topic 1 on functionality

5. Checks and balances to prevent the RIS from being treated as a requirement instead of as guidance

1.0.3 – NS

7.2.3 – NS

Ø A management issue.

Ø The ODPTF interprets the draft RIS as going well beyond performance-based inspection guidance.

Ø The draft RIS reads as if it is guidance to the licensee rather than guidance to the inspector.

6. The role of non-licensed personnel in making operability determinations

1.0.5 – D

5.0.3 – D

5.2.3 – NS

Ø A RIS is not the appropriate vehicle for establishing a new regulatory position.

Ø The ODPTF requests an opportunity to describe standard industry practice to help inform the RIS.

Ø A licensed operator “declares” operability/inoperability, but other staff members contribute to the “operability determination.”

Ø The licensee is responsible for operability decisions, and a RIS should not specify which individuals within a licensee’s organization must perform these tasks in every situation.

**NEI Background Paper  
for the Operability Determination Process (draft RIS 2004-xx)**

7. Consistency of scoping statements made in different parts of the RIS

2.0.5 – A

Ø No further discussion.

8. How to decide whether an operability determination is necessary

4.1.3 – A

Ø No further discussion.

9. Timing considerations

4.3.4 – A

5.0.4 – D

5.1.1 – A

5.2.1 – A

5.3.1 – NS

5.3.4 – D

7.2.4 – A

7.2.6 – D

Ø The ODPTF does see the basis for specifying a single fixed time limit in the RIS. Other parts of the RIS permit decisions based on risk, safety, and complexity.

Ø The ODPTF views the NRC position with respect to “first available opportunity” as a new position that is not consistent with previous guidance (e.g., Criterion XVI, 10CFR50.59, and NRC-endorsed guidance on “temporary changes”). Resolution should proceed consistent with the corrective action program, commensurate with safety and risk considerations.

10. Neutrality of guidance with respect to plant-specific Tech Specs

5.7.1 – A

A.1.1 – A

Ø No further discussion.

11. Documentation requirements

5.8.3 – NS

**NEI Background Paper  
for the Operability Determination Process (draft RIS 2004-xx)**

Ø The range of documentation in practice varies from a simple check mark to considerable detail. Is a check mark sufficient?

12. The role of risk assessment

7.1.4 – NS

C.6.2 – A

C.6.3 – A

C.6.5 – A

Ø The NRC's proposed resolutions for NEI, Constellation, and Duke comments appear inconsistent.

13. Interface with regulations

7.3.3 (maintenance) – A

B.4.1 (maintenance) – D

7.4.3 (10CFR50.59) – A

C.11.5 (10CFR50.55a) – A

C.14.2 (AST) – A

Ø The ODPTF requests further dialogue on the regulatory basis for applying 10CFR50.65 to component aging.

Ø The ODPTF requests further dialogue on the use of AST for operability determinations other than those associated with control room habitability.

14. Interface with other guidance documents

B.1.1 – A

B.2.4 – A

B.2.8 – A

C.4.2 – A

Ø No further discussion.

15. Compensatory measures

7.3.4 – A

7.3.5 – A

7.3.11 – A

Ø No further discussion.

**NEI Background Paper  
for the Operability Determination Process (draft RIS 2004-xx)**

16. Methods of evaluation

7.3.12 – A

7.3.13 – A

C.4.3 – A

C.4.4 – A

C.4.7 – A

C.4.8 – A

Ø Consistent with some of the NRC proposed dispositions, the ODPTF recommends further discussion of the treatment of “methods of evaluation.”

DRAFT

**NEI Background Paper  
for the Operability Determination Process (draft RIS 2004-xx)**

Comment Resolution by TOC (01-17-2005).wpd (ML050490277)

Enclosure 5



DRAFT

**NEI Background Paper  
for the Operability Determination Process (draft RIS 2004-xx)**

Resolution of Comments (draft RIS & GL 91-18) rev 01-17-05.wpd (ML050490270)

Enclosure 6

## Identification of Resolution Pending High Priority Action Items

### Identification of Resolution Pending High Priority Action Items

The ODPTF accepted NRC's proposed resolution of Topics 4, 7, 8, 10, 14, and 15.

- Differentiating operability issues from Corrective Action Program issues
- Consistency among different sections of the RIS
- Deciding when an operability determination is necessary
- Neutrality of the RIS with respect to plant-specific Tech Specs
- Interfaces with other guidance documents
- Treatment of compensatory measures

The followup items for the remaining topics are:

- Topic 1 - Differentiating Technical Specification "Operability" from non-TS "Functionality"  
Differentiation between Operability and Functionality was a major topic of discussion. NRC agreed that the main topic of the RIS is Technical Specification Operability, and that guidance on non-Tech-Spec functionality can be merged into one section. The ODPTF will provide (1) additional recommendations on the definition of operability, and (2) a redraft of the guidance on functionality to be located in RIS Section 3.4 (Functionality).  
[Action Item – ODPTF]
- Topic 2 - Key terms and definitions  
The ODPTF will provide more detailed comments on key terms and what it believes the definitions should be. [Action Item – ODPTF]
- Topic 3 - The role of the "Corrective Action Program"  
NRC will revise RIS section 7.2 (Timing of Corrective Actions) such that "extent of condition" reviews for functionality are based on applicable regulations/guidance (e.g., Appendix B Criterion XVI, 10CFR50.65 maintenance rule, 10CFR50.55a ISI/IST programs, etc.). [Action Item – NRC]
- Topic 5 - Checks and balances to emphasize that the RIS is inspector guidance, not requirements  
NRC will edit the RIS to emphasize its role as inspector guidance. NRC intends to conduct agency-wide training on the final RIS. [Action Item – NRC]
- Topic 6 - The role of non-licensed personnel in making operability determinations  
Non-licensed staff play a help making operability determinations. This contribution is often significant. At the end of the "operability determination" process, a licensed operator makes a "declaration" of operability or inoperability. NRC agreed to revise the RIS based on this characterization. [Action Item – NRC]
- Topic 9 - Timing considerations  
Timing was a major topic of discussion. The ODPTF believes that timing considerations are adequately addressed in Generic Letter 91-18, revision 1. The ODPTF will revise the RIS sections that have words on timing considerations to describe the operability decision process. The staff concern with timing considerations is that Completion Times are moving out, thus a value

(e.g., 24 hours) was added to the inspector guidance which is a reasonable expectation to complete a prompt operability determination. The staff expectation is criteria for establishing “reasonable assurance” for SSC operability when documenting the basis for operability determinations. [Action Item – ODPTF]

Topic 11 - Documentation requirements

Documentation should provide a “recoverable basis” for each operability/functionality determination. The ODPTF will revise the RIS sections on documentation. [Action Item – ODPTF]

Topic 12 - The role of risk assessment

The ODP TF will incorporate the role of risk assessment in section 3.4 on functionality. [Action Item – ODPTF]

Topic 13 - Interfaces with regulations

NRC will revise the RIS to clarify the interface with other regulations, e.g., the maintenance rule, the 10CFR50.59 change process, and 10CFR50.67 (alternative source term). [Action Item – NRC]

Topic 16 - Treatment of “methods of evaluation”

The ODP TF will decide if further comments are needed with respect to “methods of evaluation.” [Action Item – ODPTF]