

**NUCLEAR UTILITY GROUP
ON EQUIPMENT QUALIFICATION**

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October 4, 2004

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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

**RE: Comments on Proposed Generic Communication and Draft Revision to NRC
Inspection Guidance on Operability Determinations and Resolution of
Nonconformances of Structures, Systems, and Components (69 Fed. Reg. 46,599)**

Ladies and Gentlemen,

The U.S. Nuclear Regulatory Commission ("NRC") published a Notice of Opportunity for Public Comment on its proposed generic communication and draft revision to NRC Inspection Manual guidance regarding operability of equipment and resolution of nonconforming conditions.¹ According to the NRC, its current inspection guidance (first issued in 1991 and revised, in part, in 1997) does not reflect a number of related regulatory actions that have occurred in the intervening period.

The NRC proposes to update its Staff guidance to reflect such regulatory actions as: (1) amendments to the process for making changes to a facility (10 C.F.R. § 50.59), and (2) promulgation of regulations establishing requirements for monitoring the effectiveness of maintenance at nuclear power plants (10 C.F.R. § 50.65). These rulemaking activities, and other Staff actions revising related NRC guidance, have been incorporated into the proposed revised inspection manual guidance. In addition, the NRC Staff consolidated two related inspection manual guidance documents into a single document.

¹ Notice of Opportunity for Public Comment and Notice of Public Meeting; 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") (MC2262), 69 Fed. Reg. 46,599 (Aug. 3, 2004).

Template = ADM-013

*E-RFD = ADM-03
Area = K. Kavanaugh (Kak)
A. Petrone (ADP)*

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The Nuclear Utility Group on Equipment Qualification (“NUGEQ” or the “Group”)² appreciates the opportunity to participate in the public meeting conducted on August 25, 2004, and to comment on the draft revisions. As an industry group representing a majority of the nuclear power plant licensees in matters related to equipment qualification and the regulatory requirements in 10 C.F.R. § 50.49, we believe that the NRC Staff’s efforts to update its guidance are worthwhile for achieving a better understanding on the part of NRC inspectors and licensees as to the NRC’s expectations regarding a licensee’s process for managing operability and functionality of equipment and resolving degraded and nonconforming conditions.

We provide suggestions for modifications and clarifications to the draft inspection guidance to make it more consistent with current industry practice and more up-to-date regarding environmental qualification program requirements. Several comments reflect NUGEQ’s position that the guidance should be modified to procedurally treat an equipment qualification nonconformance the same as any other degraded or nonconforming condition. These and other comments are intended to clarify the guidance, establish consistency within the guidance and with other related guidance, and reflect current accepted practices.

COMMENTS

NUGEQ provided informal comments in a workshop conducted by the NRC Staff on August 14, 2003, regarding a preliminary draft revision of the inspection manual guidance for resolution of degraded and nonconforming conditions. The NRC Staff has since modified and consolidated its guidance, addressing many of the informal comments received from NUGEQ and other stakeholders during the 2003 workshop. Our comments herein are focused on the concerns of the Group and are primarily focused on elements of the guidance related to environmental qualification of electrical equipment. We believe that our suggested clarifications would improve the guidance and better ensure consistency with other regulatory guidance. On this basis, we request that the NRC consider these comments in completing and issuing its final revised guidance. We also note that NUGEQ coordinated with the Nuclear Energy Institute (“NEI”) in preparing comments and endorses those comments related to environmental qualification of equipment.³

² The NUGEQ is a group of utilities that operate over 80% of the U.S. nuclear power plants and 100% of the Canadian nuclear power plants. NUGEQ was established in the early 1980s to address NRC requirements for environmental qualification in 10 C.F.R. § 50.49, and has continued to follow related NRC regulatory actions to the present.

³ See J. Davis (NEI) to NRC, “NEI Comments on NRC Guidance for Operability Determinations” (Sept. 30, 2004).

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A. General Comments:

1. Status as Guidance

In the Regulatory Issue Summary ("RIS") that would transmit the revised guidance to licensees, the Staff should clarify that the inspection manual provides guidance that may be useful in reviewing a licensee's program for addressing operability and degraded or nonconforming conditions, but does not constitute regulatory requirements. NUGEQ suggests that the RIS also clarify, as the inspection manual explains in Section 1.0, "INTENT," that the guidance "may not be directly applicable at specific plants." By providing this clarification, the NRC would make it clear that licensees are not required to revise current programs that manage equipment operability and resolution of degraded or nonconforming conditions. This clarification also would be consistent with the RIS statements that it "requires no action or written response on the part of an addressee," and that it does not impose a backfit (10 C.F.R. § 50.109).

2. Operability versus Functionality

We suggest that the proposed guidance include a section that addresses TS OPERABILITY and a separate section that addresses SSC functionality so that the Staff's expectations for both TS and non-TS SSCs are clear. The Staff proposes to combine the two inspection manuals that currently address (1) operability, and (2) resolution of degraded and nonconforming conditions. While NUGEQ believes that this would be an improvement over the current guidance format, the proposed guidance is now somewhat unclear in differentiating between those structures, systems, and components ("SSCs") that must remain OPERABLE to be in compliance with a plant's technical specifications ("TS") versus those SSCs that are not covered directly or indirectly by TS and must, therefore, be demonstrated functional (rather than OPERABLE). We believe this would be a beneficial clarification to the guidance generally, and specifically for EQ equipment in that some electrical equipment within the scope of 10 C.F.R. § 50.49 is covered in TS and some is not.

B. Section 2.0, "Scope/Applicability"

We recommend that this section use a more general definition of "safety-related structures, systems, and components" ("SSCs") to identify the scope of the guidance. Paragraph (i) of Section 2 refers to 10 C.F.R. § 50.49(b)(1) for defining "safety-related SSCs." This definition has been carried forward from the prior operability guidance inspection manual and is not consistent with the current definition in Section 50.49. Previously, Section 50.49, which sets forth requirements specific to certain electrical equipment, was the only Part 50 regulation that defined "safety-related SSCs." In the intervening period since the initial operability guidance was issued, the NRC issued a direct final rule to make consistent the various regulations that

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defined "safety-related SSCs" and to include a definition in Section 50.2.⁴ Accordingly, the definition in Section 50.49 is now consistent with the definition in (1) 10 C.F.R. Part 100, Appendix A; (2) 10 C.F.R. § 50.2; and (3) 10 C.F.R. § 50.65.⁵ The proposed inspection manual reference should be clarified to reflect that the definition of "safety-related SSCs" is included in these other regulations and is broader than the Section 50.49 scope of electrical equipment.

Suggested text changes for Section 2.0:

NUGEQ suggests that Section 2.0, paragraphs (i) and (ii), be modified as follows:

2.0 SCOPE/APPLICABILITY

Licensees that hold an operating license, including those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel, and all holders of operating licenses for nonpower reactors, including those whose licenses no longer authorize operation, should have a process to make determinations of operability and functionality when degraded or nonconforming conditions affecting its SSCs are identified.

This guidance is applicable to any of the following SSCs, which includes SSCs in plant TS and support SSCs (~~specifically, the~~ those that perform related functions that support the SSCs in plant TS). In addition, as part of an effective program for problem identification and corrective action, licensees should also assess any degraded or nonconforming conditions to determine the functionality of SSCs that are not in plant TS, consistent with the safety significance of the SSC.

(i) Safety-related structures, systems and components:* those SSCs that are relied upon to remain functional during and following design basis events to assure:

(1) The integrity of the reactor coolant pressure boundary

⁴ Final Rule and Proposed Rule: Definition of Safety-Related Structures, Systems, and Components; Technical Amendments, 62 Fed. Reg. 47,268 (Sept. 8, 1997).

⁵ We note, however, that only 10 C.F.R. § 50.49 includes a definition of the term "design basis events." It is not clear that this definition applies outside the context of Section 50.49.

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(2) The capability to shut down the reactor and maintain it in a safe shutdown condition; or

(3) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to the applicable guideline exposures set forth in § 50.34(a)(1) or § 100.11 of Title 10, Chapter I, as applicable.

[Footnote]* See 10 C.F.R. § 50.2, 10 C.F.R. § 50.49, 10 C.F.R. § 50.65, and 10 C.F.R. Part 100, Appendix A.

(ii) All SSCs whose failure could prevent satisfactory accomplishment of any of the required functions identified in (i), ~~(A) through (C)~~ (1) through (3), above.

C. Section 6.2, "Operable But Degraded or Nonconforming"

We recommend certain changes in this section to assure consistency with terminology used in the context of environmental qualification. This section includes an example of an SSC which may be operable, but which does not meet all of its environmental qualification ("EQ") requirements. Specifically, an example of an operable but degraded or nonconforming SSC is given as follows:

For example, an SSC may be operable and not meet all of its qualification requirements (e.g., a safety related SSC with a 30 day post-accident EQ requirement, but an actual EQ life of only 7 days, may be found to be operable if it meets its 24 hour time requirement specified in its design basis accident analysis. Operation at this level ensures that adequate safety margins are maintained.

NUGEQ agrees with the intent of this example in Section 6.2 regarding operability and the design basis accident analysis. NUGEQ is concerned, however, that the example is inconsistent with common EQ terminology.

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Suggested text changes for Section 6.2:

NUGEQ suggests the example be modified as follows:

[Replace current example with suggested text.] For example, an SSC may be operable even though it may be in nonconformance with its environmental qualification requirements (e.g., an EQ SSC with a 30-day post-accident EQ operating time requirement, but demonstrated capable of performing its safety function(s) for only 7 days post-accident, is operable since it will perform its specified safety function within its 24-hour mission time requirement specified in its design basis accident analysis.) Operation at this level ensures that adequate safety margins are maintained.

D. Section 6.3, “Enforcement Discretion/Justification for Continued Operations”

We recommend changes to this section to reflect current practice and to delete reference to generic communications that related to certain equipment qualification program implementation issues which licensees have now completed. This section of the proposed guidance discusses circumstances wherein the Staff may authorize a licensee’s actions that would result in noncompliance with plant operating license conditions or technical specifications. The proposed guidance explains that the NRC and the industry, at one time, referred to a licensee’s technical basis for requesting NRC approval to operate in a manner prohibited by the license or technical specifications as Justifications for Continued Operation (“JCOs”). The Staff now issues its approval for such situations in the form of a Notice of Enforcement Discretion (“NOED”), and the term “JCO” is no longer used in this context.

This section apparently is included in the proposed inspection guidance to update information in Section 4.5 of Inspection Manual 9900: Degraded Conditions (Attachment 1 to GL 91-18, Revision 1). Unlike the current guidance, the proposed updated text now appears, however, to imply that licensees should use other generic guidance in lieu of the proposed inspection manual for evaluating functionality and resolving degraded and nonconforming conditions. This was not the implication of the earlier guidance in its reference (footnote 1 of Attachment 1 to GL 91-18, Rev. 1).

Proposed Section 6.3 states that “with the exception of the provisions in 10 CFR 50.49 for equipment qualification and certain generic communications described below, the NRC no longer uses the phrase JCO.” This statement implies that the Staff continues to use the term “JCO” in the context of 10 C.F.R. § 50.49 and the referenced generic communications (*i.e.*, Generic Letter (“GL”) 88-07, “Modified Enforcement Policy Relating to 10 CFR 50.49, ‘Environmental Qualification of Electrical Equipment Important to Safety for Nuclear Power Plants,’ and GL 87-02, “Verification of Seismic Adequacy of Mechanical and Electrical Equipment In Operating Reactors (USI A-46)”). NUGEQ suggests that the reference to these generic communications is no longer necessary for the reasons discussed herein.

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Contrary to the statement in Section 6.3, 10 C.F.R. § 50.49 does not use the term "JCO." The term "JCO" is, however, referred to in the Statements of Considerations for 10 C.F.R. § 50.49 when discussing the analysis provisions in Section 50.49(i).⁶ The provisions in 10 C.F.R. § 50.49(i) required certain licensees to perform an analysis to demonstrate that the plant could be safely operated, pending completion of equipment qualification requirements imposed by Section 50.49. Specifically, the rule required applicants for operating licenses granted after February 22, 1983, but prior to November 30, 1985, to perform an analysis to ensure that the plant could be safely operated pending completion of equipment qualification programs and to submit that analysis to the NRC for consideration prior to the granting of an operating license. Since it is unlikely that any operating plant continues to rely on the Section 50.49(i) analysis, this use of the term "JCO" is no longer applicable to licensees.

By way of background, GL 88-07 explained the application of the then-current NRC Enforcement Policy to those instances where a licensee was in noncompliance with requirements for environmental qualification of electrical equipment beyond the November 30, 1985, deadline stated in the rule.⁷ The guidance in GL 88-07 regarding actions a licensee should take upon discovery of a discrepancy included performing a prompt operability determination, establishing a plan for correcting the deficiency, and developing a written justification for continued operation, which would be available for NRC review. As more fully described in our comment below regarding the proposed inspection manual, Appendix C, Section C.7, "Environmental Qualification," the NUGEQ maintains that the guidance in GL 88-07 regarding the development of a JCO is fully consistent with the intent of, and should be superceded by, the

⁶ See Proposed Rule, Environmental Qualification of Electric Equipment for Nuclear Power Plants, 47 Fed. Reg. 2,876 (Jan. 20, 1982); Final Rule, Environmental Qualification of Electric Equipment Important to Safety for Nuclear Power Plants, 48 Fed. Reg. 2,729 (Jan. 21, 1983); and Final Rule, Environmental Qualification of Electric Equipment; Removal of June 30, 1982 Deadline, 49 Fed. Reg. 45,571 (Nov. 19, 1984).

⁷ The primary purpose of NRC GL 88-07 was to establish guidance regarding possible civil penalties applicable to licensees who were not in compliance with the requirements in 10 C.F.R. § 50.49 as of the November 30, 1985, deadline. As stated in the Enclosure to GL 88-07, the guidance in GL 88-07 related only to those violations of the EQ rule identified after November 30, 1985, and which related back to action or lack of action before this deadline. Violations that occurred after November 30, 1985 (either as a result of plant modifications or because the plant was licensed after November 30, 1985), were to be considered under the normal enforcement policy in effect at the time of identification.

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guidance in the proposed inspection manual. Consequently, use of the phrase JCO within the context of GL 88-07 need no longer apply to EQ nonconformances.⁸

Suggested text changes for Section 6.3:

For the reasons explained above (and in footnote 8), NUGEQ recommends that Section 6.3 be revised to clarify that the NRC no longer uses the term “JCO” in any regulatory context. NUGEQ suggests that the Staff revise Section 6.3 to state the following:

6.3 Enforcement Discretion/Justification for Continued Operations

Under certain limited circumstances, the a licensee may find that strict compliance with the TS or a license condition would cause an unnecessary plant action that is not in the best interest of public health and safety. NRC review and approval is required before the a licensee takes actions that are not in compliance with the a plant's license conditions or TS, except in certain emergency situations when 10 CFR 50.54(x) and (y) are applied. In the past, a licensee's analysis and evaluation of the impact of such circumstances was referred to as a “Justification for Continued Operations” (“JCO”) and was submitted to the NRC for review and approval. The phrase “JCO” is no longer used in this context. Currently, guidance regarding these limited circumstances is discussed in NRC Inspection Manual Part 9900: Technical Guidance, “Operations – Notices of Enforcement Discretion.” This review can be in the form of a Notice of Enforcement Discretion (NOED), which is discussed in more detail in Inspection Manual Chapter Part 9900.

⁸ Draft Section 6.3 also references GL 87-02, “Verification of Seismic Adequacy of Mechanical and Electrical Equipment In Operating Reactors (USI A-46),” as providing guidance for preparing JCOs (the term “JCO” is used in the Enclosure to GL 87-02). GL 87-02 related to the resolution of Unresolved Safety Issue (“USI”) A-46, “Seismic Qualification of Equipment in Operating Plants,” and requested a schedule for completion of a seismic verification program at each affected plant. The NRC has closed this unresolved safety issue. On December 12, 2000, the Staff issued a memorandum closing USI A-46 because all plant-specific licensing activities associated with A-46 had been closed. See SECY-00-0239, “Weekly Information Report – Week Ending December 22, 2000. It is on this basis that NUGEQ suggests that the reference to GL 87-02 need no longer be included in the inspection manual guidance, consistent with NEI comments on this section.

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The phrase “JCO” ~~Justification for Continued Operation (“JCO”)~~ ~~also was has been used by NRC in past guidance and by some licensees to refer to a licensee’s technical basis for requesting authorization from the NRC to operate in a manner that is prohibited (e.g., by TS or the operating license). However, with the exception of the provisions in 10 CFR 50.49 for equipment qualification and certain generic communications described below, the NRC no longer uses the phrase JCO.~~ in certain NRC generic communications to refer to a licensee’s basis for continued operation for specific issues in circumstances that did not require submittal to the NRC for review and approval.* Since the operability and reportability guidance in these generic communications is consistent with the intent of this Inspection Manual, and because licensee actions associated with these generic communications have been completed, the NRC no longer uses the phrase “JCO.”

[Delete last paragraph and replace with the following suggested footnote.]

[Footnote]* The phrase “JCO” was used in Generic Letter 87-02, “Verification of Seismic Adequacy of Mechanical and Electrical Equipment In Operating Reactors (USI A-46),” and Generic Letter 88-07, “Modified Enforcement Policy Relating to 10 CFR 50.49, ‘Environmental Qualification of Electrical Equipment Important to Safety for Nuclear Power Plants.’” These generic letters were intended to address a temporary period of time while licensees were implementing programs to resolve certain NRC generic safety concerns – specifically, seismic adequacy of equipment and environmental qualification of equipment – and to provide guidance on (1) performing an analysis of the impact of a nonconformance and (2) establishing compensatory measures to minimize that impact. Licensees may refer to these generic letters as historical references of methods that the NRC found acceptable regarding the preparation and use of continued operation determinations for these specific issues.

E. Appendix B, Section B.1, “Assessment and Management of Risk During Maintenance”

We recommend clarification of the discussion related to the Regulatory Issue Summary regarding control of hazard barriers to assure consistency with NRC perspectives on this RIS set out in recent correspondence with NUGEQ. This section discusses management of

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risk (1) in assessing the time frame for restoring degraded or nonconforming SSCs or taking other actions; (2) by monitoring SSC performance and performing preventive maintenance; (3) by removing SSCs from service to perform maintenance; and (4) when using temporary procedures or alternations to allow maintenance. This section includes a discussion of temporary procedures and facility alterations in support of maintenance, and, as part of the 10 C.F.R. § 50.65(a)(4) risk assessment, the need to maintain compliance with the plant license (including TS) and applicable regulations. The proposed guidance appropriately refers to NRC Regulatory Issue Summary (“RIS”) 2001-09, “Control of Hazard Barriers,” as providing additional guidance regarding temporary procedures or facility alterations.⁹ NUGEQ has followed the NRC’s actions related to hazard barriers and offers the following clarification to the proposed guidance based on our previous interactions with the NRC Staff.¹⁰

Suggested text changes for Section B.1:

NUGEQ suggests the following changes to the last paragraph in Section B.1:

The conduct of maintenance may also involve other temporary procedure or facility alterations to allow the maintenance to be performed or to reduce risk. Such alterations include but are not limited to jumpering terminals, lifting leads, and using temporary blocks, bypasses, or scaffolding. [Move sentence on RIS 2001-09.] These temporary alterations associated with maintenance are to be assessed as part of the 10 CFR 50.65(a)(4) risk assessment and, consistent with NRC regulatory guidance, a separate 10 CFR 50.59 review of the measures is not required unless (1) during power operations, the temporary alteration will remain in effect for

⁹ NUGEQ notes that NRC generic guidance regarding temporary alternations to allow maintenance is provided in Regulatory Guide 1.182, “Assessing and Managing Risk Before Maintenance Activities at Nuclear Power Plants,” which endorses Section 11 of NUMARC 93-07 as an acceptable means of implementing 10 C.F.R. § 50.65(a)(4). Section 11 discusses temporary alterations to the facility or procedures and suggests that the risk assessment should include consideration of the impact of these alterations on plant safety functions. To the extent that an alteration may impact operability or functionality of an SSC, the guidance in the proposed inspection manual may be useful in determining continued operability or functionality. The Staff may consider whether a statement to this effect should be added to Section B.1.

¹⁰ See NUGEQ to NRC, Letter, “Clarifications of NRC Guidance in Regulatory Issue Summary 2001-09, ‘Control of Hazard Barriers’” (May 16, 2003); and NRC to NUGEQ, Letter responding to NUGEQ’s Letter (June 23, 2003).

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more than 90 days, or (2) the temporary alteration is not removed and the plant is fully restored upon completion of the maintenance (see Regulatory Guide 1.187).

The planned removal of hazard barriers for maintenance is considered a temporary alteration. Additional guidance on hazard barriers is provided in Regulatory Issue Summary (RIS) 2001-09, "Control of Hazard Barriers," dated April, 2, 2001. Licensees must continue to comply with the plant technical specifications, particularly operability provisions applicable to the protected equipment. RIS 2001-09 indicates that the operability guidance in the NRC Inspection Manual can be used to evaluate the operability of such protected equipment.

F. Appendix C, Section C.7, "Environmental Qualification"

We recommend changes to this section so that it will be consistent with guidance in other sections regarding the treatment of degraded or nonconforming conditions related to environmental qualification ("EQ") of equipment. By providing detailed guidance regarding EQ of electrical equipment, this section unnecessarily suggests that a licensee's actions when EQ deficiencies are identified should be different from those taken for other degraded or nonconforming conditions. The NUGEQ disagrees that EQ deficiencies should be treated differently and maintains that there are no technical or regulatory reasons to treat EQ equipment nonconformances, operability/functionality determinations, or reportability differently from other SSCs. The guidance in this section, which is generally a restatement of language in GL 88-07 (*see above*), suggests that upon discovery of an EQ deficiency, the licensee is expected to: (1) make a prompt operability determination; (2) establish a plan for correcting the deficiency; (3) develop a written justification for continued operation; and (4) evaluate reportability under TS, applicable regulations, and pertinent reporting requirements. The proposed inspection manual provides appropriate and consistent guidance regarding each one of these actions without differentiating EQ nonconformances from other nonconformances.

With regard to EQ operability/functionality determinations, the proposed guidance in Section 5.0, "OPERABILITY DETERMINATIONS," provides appropriate guidance for performing operability determinations. Further clarification to that guidance is unnecessary and could create confusion. Specifically, the guidance in Section C.7 could be misleading since it uses a term "prompt determination" in a way that is likely inconsistent with the terms "immediate determination" and "prompt determination" discussed in Section 5. Section C.7 guidance could create further confusion in that it discusses operability but not functionality, whereas many EQ SSCs may not be directly or indirectly related to TS operability and, thus, a nonconformance would result in an assessment of functionality rather than an operability determination.

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With regard to plans for corrective action, the proposed guidance in Section 7.0, "CORRECTIVE ACTION," provides appropriate guidance and further clarification in Section C.7 is unnecessary. The Section C.7 guidance could be misleading because a licensee could construe the term "immediate steps" to imply something different than the guidance in Section 7.0. NUGEQ does not believe that the NRC Staff had an expectation that it be construed in a manner different than the guidance in Section 7.

With regard to the reference in Section C.7 to a "JCO," the proposed guidance in Section 5.8, Documentation, provides appropriate guidance on documenting the operability determination and further clarification in Section C.7 is unnecessary. The Section C.7 guidance could be misleading in that it states that the EQ JCO "includes an operability determination," but it does not provide guidance as to the contents of such a JCO. Reference to GL 88-07 does not clarify this potential confusion. The GL is unclear regarding the contents of the EQ JCO and might be interpreted to imply that an EQ JCO should include a corrective action plan. The Section C.7 language also could be interpreted to suggest that the EQ JCO include the reportability findings. The phrase "EQ JCO" is confusing since licensees might conclude that the JCO should include justification for continued plant operation (although neither GL 88-07 nor Section C.7 contain such guidance). In this regard, the guidance in Section 6.0, "OPERATIONS BASED ON OPERABILITY DETERMINATIONS," is more appropriate and should be used for EQ nonconformances as similar to other nonconformances.

Concerning reportability determinations, the proposed inspection manual guidance – in particular, Section 7.1, "The Current Licensing Basis and 10 CFR 50, Appendix B" – provides appropriate guidance regarding reportability determinations; thus, further clarification in Section C.7 is unnecessary. The Section C.7 guidance could be misleading since a licensee could construe its discussion of reportability to imply that NRC expectations are different for EQ nonconformances.

Although the operability/functionality and reportability guidance in GL 88-07 predates the generic guidance in the inspection manual, the NUGEQ believes that it is conceptually consistent with the proposed guidance regarding operability/functionality considerations and other licensee actions when nonconformances are identified. NUGEQ maintains that there is nothing unique about licensee actions in response to EQ equipment nonconformances and believes that our view is consistent with current NRC expectations.

As discussed above, GL 88-07 was issued primarily to clarify EQ-unique NRC enforcement guidance, which is now obsolete. This GL 88-07 guidance was applicable during a period when licensees were initially establishing EQ Programs. NUGEQ believes that the enforcement guidance in GL 88-07 is no longer applicable by its own terms, given that licensees have completed implementation of EQ programs that assure compliance with the requirements in 10 C.F.R. § 50.49. Discrepancies that may be identified in the future should be evaluated in accordance with a licensee's program for nonconforming conditions, similar to other

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nonconformances with regulatory requirements. Similarly, enforcement actions would be considered in accordance with the Reactor Oversight Process.

Suggested text changes for Section C.7:

NUGEQ provides the following suggested text to replace the draft language in Section C.7:

When the NRC or a licensee identifies a potential deficiency in the nonconforming condition affecting the environmental qualification of electrical equipment (i.e., a licensee does not have an adequate basis to establish qualification), (see 10 C.F.R. § 50.49), the licensee is expected to [delete remainder of paragraph] apply the general operability/functionality determination, reporting, and nonconformance resolution/corrective action guidance contained in this Inspection Manual. When a licensee does not have an adequate basis to establish full qualification for electrical equipment within the scope of 10 C.F.R. § 50.49, licensee actions should include performing and appropriately documenting operability determinations (or assessing functionality if the electrical equipment is not explicitly subject to a TS requirement),* establishing compensatory actions (as necessary), initiating corrective actions necessary to restore full qualification (including establishing a schedule for completing the corrective actions), and determining reportability in accordance with TS and other NRC reporting requirements (as applicable).

[Replace NOTE with the following suggested footnote.]

[Footnote]* The licensee may be able to make a finding of operability/functionality using analysis and partial test data to provide reasonable assurance that the equipment will perform its specified safety function(s) in its accident environment when called upon to do so.

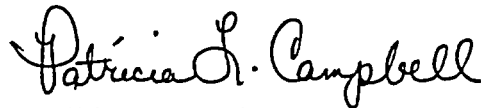
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CONCLUSION

We appreciate the opportunity to comment on this important inspection guidance. We believe that our comments are consistent with the NRC Staff's intent to update the guidance. If you have any questions regarding NUGEQ's comments, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "Patricia L. Campbell". The signature is written in black ink and is positioned above the typed name and title.

William A. Horin
Patricia L. Campbell
Counsel to NUGEQ