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December 31, 1999

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SUBJECT: Public Comments on the Pilot Program for the New Regulatory Oversight Program (64 Fed. Reg. 60244; November 4, 1999)

Consumers Energy Company is pleased to submit the attached comments on the New Regulatory Oversight Program.

To gain experience with the new oversight process prior to industry implementation, Consumers Energy's Palisades Plant participated in a "Shadow Plant Program (SPP)" with a large number of additional plant sites. The members participating in the SPP simulated (i.e., "shadowed") participation in the NRC Pilot Plant Program to: (1) keep current on the important lessons learned from the ongoing NRC pilot plant program; (2) develop the required infrastructure for supporting the program prior to the April 1, 2000 industry implementation date; and (3) gain experience to enable individual licensees to provide constructive comments on the new regulatory approach. While many of the enclosed comments were developed in collaboration with other SPP members, they should not be viewed as joint comments of the SPP program members, but rather as the comments of Consumers Energy Company alone.

Detailed comments are provided herein as Attachment 1. Three subject areas deserve to be highlighted, however, as significant issues remaining to be resolved prior to industry implementation.

The Performance Indicator (PI) information is considered too important to both NRC and each licensee to rush the data collection and evaluation in order to meet an aggressive fourteen (14) day reporting requirement. There is no compelling benefit for either the public or NRC from a compressed reporting period of fourteen days, and a compressed data collection, review and approval period increases the potential for errors. The standard for data reporting should emphasize accuracy over timing. A standard which emphasizes rapid, conservative reporting to meet an arbitrary deadline, followed by subsequent reporting of changes to reflect error

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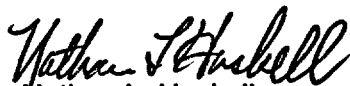
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corrections and event reevaluations, can result in a public perception that the published data can not be relied on. The public's interest is better served by providing more time to licensees up front to permit more careful collection and evaluation of data, and to allow a reasonable validation process to be implemented. A reporting time period of thirty days following the end of each quarter would be a more reasonable, prudent expectation which would reduce the potential for licensee revisions of previously submitted data.

As of the date of this letter, some Significance Determination Processes (SDP's) and Performance Indicators (PI's) are not yet refined to permit consistent, objective implementation. The Safeguards area is particularly noteworthy because the Safeguards SDP is vague and generalized, and it escalates the perceived risk significance of security findings out of proportion with the actual risk to the public. The alternative SDP proposed by NEI is clearer, more precise, and will result in less subjective interpretation. Similarly, the Protected Area Security Equipment Performance Index indicator algorithm has been a significant concern of the industry's for some time, because it requires intrusion detection equipment to have a higher availability than equipment with direct importance to reactor safety. The improvements recommended in the attached comments should be incorporated before industry implementation.

The NRC/NEI Frequently Asked Questions (FAQ's) can be a particularly valuable tool to support consistent implementation of the Oversight process elements, and should be continued indefinitely. The FAQ'S provide a mechanism to advise both licensees and NRC staff of clarifications and enhancements to the PI definitions and other program implementation details. As a planned element of Oversight Process implementation, NRC and NEI should continue to hold periodic alignment meetings, agree on refinements of interpretations and guidance, and publish the results of those agreements as responses to FAQ'S. When inspectors and licensees hold differing views on interpretations, it would be better to use a non-confrontational deliberative process to reach resolutions. Currently, an NRC position on differing licensee and inspector opinions is typically developed through either the enforcement process or the TIA process because a better formal method is not available. Neither of these approaches permit reasoned, public debate of the issues, and neither provides a good approach for precedent-setting NRC decisions. The FAQ process would be a more responsive, publicly scrutable method that could effectively resolve contentious issues in a non-adversarial setting. It would also allow NRC management involvement and oversight in the resolutions to assure that the resulting interpretations and implementation are consistent across the industry.

On behalf of the nuclear industry, the Nuclear Energy Institute will also be submitting comments on the revised oversight process. Consumers Energy Company has reviewed those comments and hereby endorses them for NRC consideration.



Nathan L. Haskell
Director, Licensing

Attachment

**Consumers Energy Company Comments
on the new
NRC Reactor Oversight Program**

Performance Indicators

Changing the Reporting Due Date Beyond 14 Days

It is acknowledged that the Pilot Plants were able to submit PI data in 14 days after each monthly reporting period during the pilot program. However, establishing the final reporting time limit should be a decision based on prudence and not the ultimate capability of licensee staffs. The reporting time should include adequate time to produce, review, and approve the transmittal of this important information, including any amplifying comments that help put reported data into perspective. It is believed that pilot plants have met the 14-day criteria by submitting data that was regarded as a "best available" product, believing that minor errors discovered after submittal could be corrected in the following report. Numerous data errors have been documented by the NRC and reported in a November 14 Public meeting. Comments from stakeholders at this meeting reflected a preference for accurate reporting rather than prompt (14 day) reporting of potentially suspect data.

Even though most of the pilot plants were able to submit data in 14 days, several now recognize the need for additional review and verification of the data before submittal, and have recommended in recent public workshops that greater emphasis should be given to PI data collection and verification. A "best effort" approach to data collection and reporting may have been acceptable for a pilot program, but could be inappropriate for actual program implementation. In addition, some data (such as official dosimetry reports at some plants, and the SR 89-90 quarterly composite samples) requires more than 14 days to process. This could result in best estimate or no data being initially reported, with additions or revisions made during or following the subsequent quarter. Changing data in such a manner could undermine public confidence in the completeness and accuracy of all published data.

It has been stated that prompt data reporting is intended, in part, to be consistent with new NRC standards for issuing inspection reports. During the pilot program, it typically took considerably longer than fourteen days from the end of an inspection until the report was issued by NRC. In general it can be expected that initial inspection reports, even if not issued until 30 days or more after an inspection period ends, are unlikely to address final decisions for potential risk significant issues which need to be evaluated using an SDP. These evaluations are likely to take weeks before the final color code for a finding is determined. It would be fully consistent and reasonable for licensees to also have time to evaluate significance and appropriate responses to degraded performance indicators before the data is submitted. Fourteen days would generally be insufficient to accomplish this. Consumers Energy recommends 30 days as a reasonable period which would permit careful collection and evaluation of data, and reasonable data validation, before submittal.

Finally, past experience from the Licensee Event Report (LER) process (10 CFR 50.73) would support the observation that short time periods are counterproductive to collect, review, and transmit important information. This conclusion is supported by the NRC's current efforts to extend the LER reporting period to 60 days.

Concerns with Action Matrix

The Action Matrix describes the expected response by the NRC based on the number and color of various performance indicators and inspection findings. It is reasonable to assume that application of NRC discretion may be appropriate in certain cases to permit the NRC to take actions differing from those specified in the Action Matrix. However, frequent deviation from the Action Matrix could result in an erosion of public confidence in the overall process through a perception that NRC will not consistently follow its own guidance. It is important, therefore, that the action matrix include sufficient detail and definition to permit consistent, predictable application across all regions and licensees.

The "Results" categories of the Action Matrix are divided into five categories, ranging from a Category I where the licensee's PI and Cornerstone Inspection Areas are all green, to Category V, where the licensee's performance includes Red indicators. The specified NRC actions appear reasonable for the cornerstones within the Reactor Safety Strategic Performance Area. However, in the areas of Emergency Preparedness, Public and Occupational Radiation Safety, and Physical Protection (Safeguards), the Performance Indicators and Inspection Finding color codes determined from the SDP flow charts may result in Action Matrix responses that are inappropriate when considering the safety significance or impact on public health and safety. It is therefore recommended that the PI and SDP thresholds be reviewed against the Action Matrix to ensure the proposed regulatory response is indeed prudent and commensurate with the actual safety significance of issues. Where differences are identified, the general response should be to revise the associated SDP.

The definition for the third column that is intended to respond to performance which indicates actual degradation of a cornerstone is excessively vague. As currently worded the column definition also includes situations where unrelated single degraded indicators exist in multiple cornerstones. The defined NRC responses in this column are reasonable for an actual degraded cornerstone, but do not appear appropriate for unrelated degraded indicators. Use of this column should be clearly redefined as applying only to situations in which multiple degraded indicators exist in a single cornerstone.

It is also recommended that the Action Matrix not use column numbers (i.e., I, II, III, IV, V). This will preclude numerical categorization of licensees in a fashion similar to that of the SALP process.

Concerns with Application of Escalated Enforcement Under 10 CFR 50.9

Public statements by several NRC staff members indicate that some intend to vigorously pursue use of escalated enforcement under 10 CFR 50.9 as a tool to force licensee care in PI data development and reporting. While use of escalated

enforcement may be appropriate in certain limited circumstances, widespread use in conjunction with PI data reporting would be excessive and would inappropriately waste licensee and NRC resources.

There are three conditions where inaccurate information could be provided to the NRC: (1) willful false statement; (2) administrative error in data preparation; and (3) differing professional opinion in that the definition of the PI as interpreted by an inspector differs from the interpretation of the licensee. Condition 1 (willfulness) is handled appropriately in the existing enforcement policy. Condition 2 (administrative) should be carefully evaluated to determine "materiality" through the consequences of the error – i.e., did the error result in a licensee changing color bands, and did NRC have the relevant information through other means, such that NRC's response would have been significantly different if it had known the actual color of the PI. It appears most appropriate to use the range of enforcement categorizations, as proposed by NEI and OE, to assign a minor violation, NCV, or Severity Level IV violation to such situations. Condition 3 (differing opinions) should be processed within the existing NRC/NEI Frequently Asked Questions (FAQ) process. FAQ's provide a mechanism which allows reasoned public debate of the issues and formal dissemination to licensees of clarifications and enhancements to the PI definitions and program implementation details. Enforcement or TIA processes are not appropriate regulatory tools for precedent-setting decisions on PI definitions and oversight process implementation. Resolution through the FAQ process can provide more consistency among licensees and NRC staff, and will ensure an open public process is maintained.

Concerns with Potential for Bypassing NRC Controls over New Requirements

The Reactor Oversight Process is a significant revision to the NRC process for overseeing the performance of commercial nuclear power plants, and includes integrating the inspection, assessment, and enforcement processes. These PI's and SDP's will not only measure and assess licensee performance, but they will – by their very nature – create a set of incentives and disincentives which will influence operational priorities and behavior. As such, the PI's and SDP's will themselves impact the safety of plant operation.

Given this impact, it is prudent that the same type of rigorous process should be used to adopt, utilize and revise these oversight tools as would be used for a new regulatory requirement. That is, care should be exercised that: (1) the metrics do not unintentionally motivate behavior which is contrary to safety (or inconsistent with regulatory requirements); (2) the NRC should be explicit concerning the bases for the metrics in existing regulations (or necessary changes to the regulations should be adopted); (3) the opportunity for public comment should be afforded for any changes to the metrics to be used; and, (4) adequate definitions should be provided to ensure that metrics are consistently used by all licensees. In the future the development of any new or revised element of the oversight process should undergo public scrutiny and comment, and a period of pilot application, before it is implemented.

Fault Exposure Hours

The NRC has stated in public meetings that the current Mitigating System metrics are to be replaced during the 2001 period, with an "unavailability index" (to be developed). The reason for this action was to address the disruption caused by the fault exposure hour factor. Delaying the implementation of this metric to allow for full public review and comment, appears a prudent NRC action.

Concerns Over Development Process for New Indicators

It is recognized that PI's will evolve as the need for additions or deletions are identified. A process for the orderly development and implementation of such additions or deletions should be established so that predictability and consistency can be maintained. Several potential future changes to the PI's for the year 2001 time frame were discussed at the October NEI Performance Indicator Workshop in Orlando Florida, some of which include the following:

- Replace Scrams with initiating events that challenge the plant. For example, loss of condenser, loss of all feedwater, or loss of offsite power.
- Add unreliability PI and eliminate Fault Exposure unavailability hours
- Add a broader set of risk significant systems and eliminate Safety Significant Functional Failures
- Add Fire Protection Indicators
- Improve Security Indicators
- Add Shutdown Indicators
- Pursue use of EPIX for data collection and calculation.

As discussed in previous comments, future new or revised PI's should go through the same process that the initial PI's went through (i.e., initial public review and comment, coordination with NEI, pilot plant testing, incorporation of lessons learned, and final public comment). Further, it is a reasonable expectation that with each addition to the current PI set, there should be a corresponding decrease in the associated baseline inspection area.

Reporting Period Contingency Planning

Experience with WANO and INPO reporting would suggest that periodic problems may occur in the generation or electronic transmittal of the PI data. Accordingly, there should be clear policy guidance provided to address contingencies and consequences for failure to meet the submittal period. While it is difficult to anticipate all the problems that could lead to the inability to submit the data, it is clear that the data collection process relies on a large number of people providing data in a short period of time, and the entire process is heavily reliant on computer systems. A process for granting relief on the submittal timing should be established and communicated.

Multiple Scoring As PI's and Inspection Findings

At public meetings, the NRC indicated verbally that if an inspection finding was covered by a PI, the NRC would carry the item only in the PI's and not duplicate the item as an SDP inspection finding. However, this position has not been formally documented. It would be helpful if the NRC issued guidance to this effect.

Security PI Issues

Currently there is no regulatory restriction to a compensatory posting of a security officer when a portion of the plant's Intrusion Detection System (IDS) equipment is out of service. (In fact, it is arguable that compensatory postings are actually superior to the IDS system.) Nevertheless, the Security equipment performance indicator is calculated by an algorithm and threshold which necessitates an annual average 99.75% equipment availability to maintain a GREEN categorization (for a ≥ 20 zone IDS). To ensure a 99.75% equipment availability (out of service less than 24 hours per year), will require at least some licensees to provide special round-the-clock availability of maintenance personnel.

In the past, licensees have been able to prioritize maintenance on security IDS equipment commensurate with the safety significance the IDS work when compared to other required maintenance activities. It appears inappropriate to have an algorithm which creates the unintended consequence of artificially elevating the priority of non-safety related IDS equipment maintenance above that, for example, of a channel of the Reactor Protective System.

Imposition of such unreasonably stringent requirements here, without any commensurate improvement in overall plant safety, appear to be ill advised and may in fact prove counterproductive by artificially diverting future plant maintenance priority to the IDS systems.

In summary, as noted at several NRC public meetings, the Protected Area Security Equipment Performance Index has several limitations including:

The algorithm results in a requirement, for licensees with ≥ 20 security intrusion detection zones, for an average zone availability of 99.75% per year. This equates to a per zone unavailability of less than 24 hours per year. This is a higher availability than the Mitigating System PI's (emergency power, safety injection, et al) are expected to have. This algorithm appears non-risk informed when it is viewed against reactor safety systems, such as the plant Reactor Protective System, where a single channel can (in full accordance with the Technical Specifications) be placed in bypass indefinitely.

The unavailability of the security intrusion detection equipment is not a regulatory requirement (i.e., there is only the regulatory requirement to provide compensatory posting of a security officer for a zone out of service). Therefore, the worst significance categorization for this PI should be limited to "WHITE".

Faced with the potential for a security zone's intrusion detection equipment to fail but with the option available to properly post a security officer in the failed zone in accordance with the regulations, it has previously been a business decision whether to have "round-the-clock" maintenance personnel available to respond to equipment outages. This metric would inappropriately impose a strong non-regulatory incentive to change licensee business practices, with no corresponding increase in plant or public safety. It is believed this is not the intent of the PI program.

NEI has repeatedly provided alternatives to this indicator. An alternative should be adopted which resolves these issues, prior to final implementation.

Incorrect Reference to 15 Minute Classification Time in EP PI

In NEI 99-02, Revision D, the definition of "*timely*" includes a 15-minute goal as the limitation for classification determination and Protective Action Recommendation (PAR) development (page 78, lines 21 - 23). The NRC base document used by the industry as guidance for classification timeliness is Emergency Preparedness Position (EPPOS) No. 2, issued August 17, 1995. In the memo and EPPOS, a 15-minute time is recommended as a guideline for the Staff to use in the evaluation of a licensee's performance of classifying an event. The EPPOS specifically states that other factors are to be used to determine if a classification was made appropriately and timely, not just a 15-minute clock. The EPPOS is clear in stating that there is no regulatory basis for a classification time limitation. Therefore, the guidance and the PI criteria appear to be in conflict.

There is no reference (in EPPOS No. 2 or other guidance) to a 15-minute or other time frame in which PAR's are to be determined. The industry practice is to base PAR's on ongoing evaluations of estimated dose calculations and field team observations to

determine the impact of offsite dose. Dose calculation updates are typically provided on a 30-minute time frame throughout the industry.

The guidance in NEI 99-02, Revision D defines a more restrictive time limit as the exclusive determinant of classification performance, and establishes a new time limit for PAR development. It appears prudent that the definition of "*timely*" should mirror the established regulatory and industry expectations. For example, the Definition of Terms section could be changed in the following manner:

"*Timely*" means:

- Emergency action levels (EAL's) are reviewed and classifications made promptly following the recognition (of personnel responsible for classification) that EAL's have been exceeded.
- Protective action recommendations (PAR's) are promptly determined when conditions are present and continually reviewed and updated, as appropriate.
- Offsite notifications are initiated (verbal contact) within 15 minutes of event classification, PAR determination, or classification or PAR change."

The Clarifying Notes section could be changed in the following manner:

(beginning on page 79, line 25)

"Classification should be made promptly following the recognition (by those responsible for classification) that conditions have reached an emergency classification threshold in accordance with the licensee's EAL scheme. "

Performance Indicator Definitions Criteria Can Unduly Penalize Licensee in Full Compliance With License and Technical Specification Conditions

Some PI definitions and associated guidance provide inappropriately restrictive limitations on use of NRC-approved alternatives when selected equipment or systems are out of service. Provisions are needed in selected PI's to exclude reporting equipment unavailability when there are NRC-approved alternatives permitted by Technical Specifications or license conditions.

One plant offered this example:

The Technical Specification LCO for RHR required, in part, two RHR shutdown cooling subsystems to be operable while in Mode 4. In addition, with one or two RHR shutdown cooling systems inoperable the Action statement required verification that an alternate method of decay heat removal is available for each

inoperable RHR shutdown cooling subsystem. In May 1999, the proposed RHR Unavailability performance indicator was 0.7%, Green. The PI had been between 0.2% and 0.7% for 1998 and 1999 to date. In June 1999, the plant entered Mode 4 for a one-time hold for approximately one month in an effort to extend the fuel to support a refueling outage scheduled for September 1999. The June outage was planned as part of the conversion to a 24-month fuel cycle. During the June fuel savings dispatch the B RHR subsystem was removed from service for maintenance and was unavailable. The NRC had approved the alternate method of decay heat removal when the B subsystem was not operable. Therefore, the plant was within Technical Specification requirements, and the alternate decay heat removal method was approved by the NRC. The plant logged 659 hours of RHR subsystem unavailability during June 1999.

The NRC approved alternate decay heat removal method used during the June 1999 outage does not meet the restrictive criteria imposed by NEI 99-02. Therefore, counting this out of service time in the proposed RHR Unavailability performance indicator results in a White color due to the 659 hours of unavailability in June 1999.

Guidance on 1/21/2000 Submittal

Regulatory Issue Summary 99-06 and NEI 99-02 (Draft Revision D) provide guidance for the 1/21/2000 submittal of historical performance indicator data. However, additional guidance appears prudent, which would include:

- definition of the computer hardware and software needed to prepare the data in the proper format for submittal;
- instructions on how verification and validation can be performed on the "delimited data stream" to be sent to the NRC;
- NRC's plans and methods for utilizing the data received;
- how to handle partial period data entries (only having one month's data for a quarterly value, or 6 months' data on an annual value; and,
- statement of NRC's policy on the applicability of 10 CFR 50.9 to this submittal.

In addition, an industry guidance document such as NEI 99-02 may not be the optimum vehicle to promulgate NRC policy information on standards for data quality and accuracy. It is recommended that NRC formally issue guidance in addition to that in RIS 99-06 for selected policy matters.

Significance Determination Processes

Security - Use of New SDP Flow Chart

Extensive dialog between NRC and the industry has identified numerous concerns with the Safeguards Significance Determination Process. For example, the SDP flowchart immediately (first box) refers to "low risk" and "some risk" - with the only definition provided being "low risk" is "...no risk or low risk..." Risk determination should be the outcome of the process not an input assumption. In the current process, it could be concluded that "Low Risk" means "no risk", while "Some Risk" means "any risk". The Safeguards SDP does not reflect actual risk to the public. The output of the Security SDP, therefore, inappropriately overstates the actual public risk significance of security conditions or events. This SDP should be revised such that its output significance categorization colors represent similar risk to public health and safety as, for example, colors output from the Reactor Safety SDP.

An alternative Security SDP proposed by NEI is clearer, more precise, and will result in less subjective interpretation. This SDP better aligns this cornerstone with common risk thresholds, and makes the outcome of security related findings more objective and predictable. This NEI-proposed SDP should be adopted before industry implementation on April 1, 2000.

Fire Protection SDP Implementation Concerns

It is recommended that additional time (beyond 12/31/99) for public review and comment, be provided for the Event and Fire Protection SDP's, (or any new SDP), which has not been involved in the pilot plant process. It is recommended that these SDP's be pilot tested and issued later in the program (e.g., consistent with the April 1, 2001 implementation date for additional NRC PI's).

Better Screening for Entering/Exiting SDP

In many instances, once an SDP process is entered to evaluate an inspector observation, the minimum significance categorization for the issue would be a green finding. There is no provision in the SDP's for concluding an issue is actually below the threshold of being classified as a finding. Inspection findings, even if green, are not positive for a plant. Observations that are not significant enough to be findings should not be documented in inspection reports, whether or not an SDP was used. It is recommended that the guidance for all SDP's acknowledge that one possible outcome of SDP use can be a conclusion that the inspector observation should not even be classified as a finding, and in such cases the issue need not be documented in the inspection report.

Occupational Exposure SDP

The NRC's Reactor Oversight Process should use the 5 year cumulative occupational dose average to measure a licensee's ALARA performance rather than 3 year average. The 5 year average is significantly better than the 3 year average in damping the effects of year-to-year variations due to refueling outage dose. While the 3 year average gives the false impression that ALARA performance is changing year to year, the 5 year average gives a better measure of radiation protection ALARA performance, consistent with NUREG-0713 "Occupational Radiation Exposure at Commercial Nuclear Power Reactors and Other Facilities" which has established a 5 year average as the NRC standard since the 1970's.

Programmatic and Cross Cutting Issues

There does not appear to be guidance on how to determine when an observation of a cross-cutting area should be documented as a formal inspection finding. The documentation and treatment of observations in cross cutting areas appears to be left up to individual inspectors and NRC management. Policy guidance should be provided in Inspection Manual Chapters to specify how a finding shall be defined and how the significance of an inspection finding in a cross-cutting issue area shall be determined.

For example, if a Problem Identification and Resolution (PIDR) inspection concludes that a root cause evaluation and corrective action was inadequate to restore quality of a component affecting mitigating system cornerstone performance, then the significance should be assessed by identifying the specific equipment deficiency, and by entering the Reactor Safety SDP to determine the risk significance of that deficiency. Similarly, if a PIDR inspection concludes that inadequate corrective action was taken for training deficiencies in the Emergency Planning Area, then the direct effect of the deficiency, if any, on actual performance of the Emergency Planning Cornerstone should be assessed through the Emergency Planning SDP. It is inappropriate that a PIDR finding that had no direct impact on cornerstone performance could be classified as white or yellow as could be the case in the current Emergency Planning SDP treatment of PIDR findings.

Until better guidance for all PIDR observations is published, the PIDR finding portion of the Emergency Preparedness SDP should be deleted.

Inspections

Timeliness of Inspection Reports

NRC inspection reports will appear on the NRC website with the PI's for a given quarter. It is appropriate that licensees and the public be provided with timely and consistent - but accurate - information from both sources. Providing a rigid schedule for completing an inspection report and categorizing the findings in accordance with the SDP process, could result in excessive haste and shortchanging of NRC-licensee dialog. Both licensees and NRC should be able to take extra time when needed to evaluate an issue so that the real significance can be communicated to the public one time in a comprehensive manner. This is particularly applicable to documentation in an inspection report of preliminary information on an issue having potential risk significance. Rapid reporting of preliminary or incomplete information in an NRC inspection Report does not increase public confidence if that preliminary information must later be revised.

Enforcement

IM Chapter 0610 Review and Comment

Section 05.04 of Manual Chapter 0610* provides guidance for documenting noncompliance. In subsection a.2, steps to be taken during an inspection for significant enforcement issues are described. As written it appears that the guidance in this section requires an assumption to be made about significance, when it is actually describing the steps necessary to determine significance.

Significance should be determined only through application of the relevant SDP, including a Phase 3 significance determination, if needed. There should be no presumption of significance in the process prior to that time. While Phase 1 and 2 of the SDP may indicate potential significance, a Phase 3 determination will usually be needed to conclude significance.

Section 05.04, subsection a.3 provides guidance on timeliness for determining significance of an enforcement issue. It states that the actions in the prior section should be completed during the inspection period; and, if not completed, should be documented as an apparent violation. The term "apparent violation" has been primarily used in the past to identify potential escalated enforcement issues. Whether intentional or not, this approach actually communicates an initial NRC judgement about significance even though significance has not yet been determined. Pre-decisional information should not be used as the basis for documenting an issue as a potential violation or a potentially risk significant issue as it may result in inappropriate criticism of a licensee or cause undue concern by readers of the report, prior to the actual determination of significance.

If a significance determination or potential enforcement implications can not be resolved during the inspection period, an Unresolved Item (URI) should be identified in the inspection report. The facts should be identified, and required information identified for resolution. Significance should only be discussed in the inspection report after the completion of the SDP.