November 16, 2007

MEMORANDUM TO: Richard Rasmussen, Chief
Construction Inspection & Allegation Branch
Division of Construction Inspection
& Operational Program
Office of New Reactors

FROM: Edmund Kleeh **/RA R. Laura for/**
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Office of New Reactors

PARTICIPANTS: Public, Industry, and NRC Staff

SUBJECT: October 18, 2007, Summary of Public Meeting on ITAAC Closure and Assessment and Enforcement of Construction Findings

The Division of Construction Inspection and Operational Programs (DCIP) in the office of New Reactors (NRO) had a category 3 meeting on October 18, 2007 attended by Region II, the Nuclear Energy Institute NEI, industry, and the general public. The meeting topics included the Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) closure letters and assessment and enforcement of postulated construction inspection findings.

The meeting was opened by Nuclear Regulatory Commission (NRC) staff on the topic of ITAAC closure letters. An NRC representative discussed the proposed schedule for issuance of draft regulatory guidance on ITAAC closure. NEI stated that components of their first draft of an industry guidance document on ITAAC closure would be available by the end of March 2008. The second draft would be available by June 2008 at the earliest. The industry guidance document would be utilized in the development of the final regulatory guidance on ITAAC closure to be issued by the end of August 2009.

The discussion then moved to the new language and key points of the 10 CFR 52.99 rule. The NRC emphasized that it is the licensee's burden to demonstrate compliance with the ITAAC in accordance with the rule. The notification sent by a licensee must contain sufficient information to demonstrate that the requirements of the ITAAC were performed and their acceptance criteria were met. A key point of the rule is whether a reasonable person can understand a licensees basis for compliance.

There was a discussion of what constitutes a "reasonable person". An Office of General Counsel (OGC) representative stated that a reasonable person can be assumed to have a certain level of intelligence and education in order to understand a licenses basis for closing an

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ITAAC. The reasonable person should be able to refer to industry codes and standards, i.e., the ASME code and utilize those tools as necessary to comprehend any conclusions that a licensee may have made for ITAAC closure.

Meeting participants discussed two example closure letters for actual AP1000 ITAAC and the example of the standard format of a closure letter from the industry working group. The NRC found the letters acceptable except for two items. (1) The reference to the term "NRC engineer/reviewer", in the example letter on format should have referred to the term used in the rule of a "reasonable person". (2) The term ITAAC-related findings should have been used in lieu of "ITAAC findings".

An NRC representative asked what would be contained in an ITAAC closeout package. An industry representative responded that the package would include (1) the ITAAC closeout letter, (2) references or electronic links to all of a licensees supporting basis for closure of the ITAAC, (3) checklists on what had been done to closeout the ITAAC, and
(4) evidence of how deficiencies were identified and corrected. It was further added that there would also be proof of verification and stamping when required. NRC representatives stated that they would like to see more rather than less specificity in an ITAAC closure package.

The discussion migrated to those ITAAC that contain the words "design and constructed" in the design commitment. The requirement of having data reports is for those components that are covered under the ASME code. An OGC representative stated that OGC was still investigating this matter and had not reached a conclusion. The term" exists" for data reports means completed and signed off by a Professional Engineer. An (NEI) representative stated that the NRC staff places alot of credence on those approval signatures.

If data reports are required for specific ITAAC, an NEI representative confirmed that the closure packages would have references as to where those data reports may be found, but the actual data reports will not be submitted to the NRC with the ITAAC closure letters. A member of the NRC ITAAC Working Group stated that there never was any requirement that the data reports be submitted with the ITAAC closure letters.

An NRC representative asked whether industry would submit the required reports for those ITAAC when the operative word in their acceptance criteria was not the word "exists". An NEI representative stated a license that would provide, just verification of the existence of the reports and their conclusion.

Additional slides were presented on what is scheduled to be discussed in next the meeting on ITAAC closure. The slides initiated discussions about the NRC being notified 225 days prior to fuel load for incomplete ITAAC per the 10 CFR 52.99 rule. A question was asked about how the required notification to the NRC on ITAAC closure would be different during the last 180 days prior to fuel load. There were also questions on how the operability of a plant would be affected by incomplete ITAAC both for those ITAAC that had never been closed and those that were closed and then had to be reopened due to problems. The question was deferred until the next meeting on ITAAC closure.

An NEI representative stated that for the industry guidance being developed the focus should be the 10 CFR 52.99 process and not anything to do with the 10 CFR 52.103 process.

An NEI representative asked about the acceptability of the two present examples of ITAAC closure letters for ITAAC 2.3.4 - 2.4 (Fire Protection System) and for ITAAC 2.3.6 - 4.2.b (ASME Code III Piping). It was agreed that the two examples were generally acceptable, except for the inclusion of "reasonable person" and "ITAAC-related findings". In addition, an NRC representative stated that industry needs to include lists of ITAAC-related violations in both examples.

The date for the next meeting on ITAAC closure was to be December 11, 2007. The topics of the next meeting were stated to be (1) the six additional examples of ITAAC closure letters, (2) outline of industry guidance document on ITAAC closure, and (3) incomplete ITAAC.

The NRC opened the meeting on the assessment and enforcement of construction inspection results by discussing some feedback on the concepts of those new programs presented in an August 31, 2007 public meeting. The NRC representative presented some of the feedback comments received from Mr. David Lochbaum of Union of Concerned Scientists on that program: (1) the Construction Inspection Program should borrow relevant aspects of the Reactor Oversight Process (ROP) and should serve stakeholders well, (2) the NRC should permit a license self-assessment to substitute for some NRC baseline inspection, (3) there should be a decision block for ITAAC findings that include whether there was a breakdown in the QA program or Oversight, (4) the NRC should have a self-assessment program that includes instances in which the NRC had accepted closure of an ITAAC but was later determined to be incorrect, and (5) the weighting factor of one for substantive cross-cutting issue, is too low considering the role that programmatic breakdowns have had in recent operations. Other feedback on the concepts of the assessment and enforcement programs were requested.

An NEI representative then discussed their version of the logic diagram that indicates the decisions made for deriving either a construction or ITAAC finding. The industry working group that developed this logic diagram had four main goals (1) a real need of providing definitions for ITAAC and minor findings, (2) increased emphasis placed on a robust licensees corrective actions program (CAP), (3) less emphasis placed on NRC violations, and (4) that the logic flow paths for the construction and ITAAC findings should be similar in nature.

An industry representative discussed the flow path in industry's logic diagram for a "inspection finding" which was comparable to a "construction finding" in the NRC's logic diagram.
An NRC representative asked whether the logic decision block for whether 10 CFR 50.

Appendix B applies and whether this should be more universal in nature and also apply to other regulations, (i.e., 10 CFR 21 and 50.55) (e).

A comment was made about the industry logic diagram not having both NRC-identified and self-revealing issues similar to the NRC logic diagram. Industry believed that self-revealing issues were more suitable for an operating plant rather than one under construction. The participants stated that there would be limited instances in which a finding could be "self-revealing". Industry believed that a self-revealing issue should be treated as a licensee-identified issue. An NRC representative stated that this would be a subject for a future public meeting.

The discussion began on the flow path leading to an "ITAAC finding" in industry's logic diagram. An NRC representative stated that the decision on traditional enforcement should be towards

the beginning at the flow path and should not be screened out. An NEI did not disagree with this position.

An NRC representative stated that a minor finding should be screened out early. NEI did not disagree with this position, and there was no disagreement by other participants. In regard to the decision block on an issue having material acceptance to a ITAAC closure, an industry representative said that the outcome of that block is always an ITAAC open item. An NRC representative said that there should be some feedback mechanism from ITAAC open item to the flow path for an inspection finding in industry's logic diagram

An NRC representative then led a discussion on examples of construction findings and ITAAC findings for NRC inspections on the AP-1000 class 1E DC uninterruptible power supply system (IDS) batteries. The NRC representative stated that NRC inspectors would do inspections on the IDS equipment directly related to ITAAC. The 3 associated ITAAC's were (1) ITAAC 2.6.3.1 - the as-built IDS conforms with the functional arrangement described in the IDS Design Description. (2) ITAAC 2.6.3.4d - IDS batteries have a voltage greater or equal to 105 VDC after being discharged for a period of no less than 72 hours with an equivalent load that equals or exceeds that of the battery bank design duty cycle capacity, and (3) ITAAC 2.6.3.2.iii - A report exists and concludes that the as - installed IDS equipment including anchorage is seismically bounded based on either a test or analysis.

The NRC representative stated that what determines whether a finding is a construction finding with ITAAC Impact or an ITAAC finding is based on whether the issue is directly related to an ITAAC. An issue will not become an ITAAC finding if it is only indirectly related to an ITAAC. An industry representative agreed that the concept of a finding being directly related to an ITAAC before declaring it an ITAAC Finding or Construction Finding related to an ITAAC was vital in determining what direction that the NRC should proceed with its inspection program

An NRC representative discussed the NRC project plan for the construction assessment and enforcement programs and requested feedback from stakeholders. An industry representative thought that the next meeting should include a discussion of: (1) cross-cutting issues; (2) the definitions of NRC-identified, licensee-identified, and self-revealing; and (3) criteria for CAP validation. The participants stated that a discussion on the Allegations program could be deferred to a later date on the schedule. An action item was taking to decide which topics could be discussed at the next public meeting.

Enclosure:
Attendees List

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Package: ML072990246
1. Meeting Notice: ML072770674
2. Meeting Summary: ML073050157
3. Handout for Public Meeting: ML072780007
4. Handout: ML072780011
5. Slides: ML072780019
6. Flowchart: MLML072990101
7. ITAAC Closure Letter Guidance Development: ML072990098

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DATE	11/15/07	11/15/07	11/15/07	11/16/07

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Construction Inspection Program Assessment and Enforcement,
and ITTAC Closure Letter Workshop
October 18, 2007
Location: Ramada Inn, Rockville, MD
Meeting Attendees

Name	Organization
Justin Fuller	NRC
Leonard Loflin	EPRI
Peter Kopyscianskci	Washington Group Int'l
Michael Webb	NRC
Eric Hernandez	GEH Nuclear
Chuck Ogle	NRC
Stanley Day	Uni Star
Bob Taylor	Kiewit
Glenn Tracy	NRC
Mark Giles	Entergy
Stephen Burdick	Morgan Lewis
Jason Jennings	NRC
Ron Gardner	NRC
John Murphy	Exelon
Deann Raleigh	US Scientech
Dan Magnarelli	Areva
Tony Cerne	US NRC/NRO
Nan Gilles	NRC/NRO
Julie Giles	SCEXG
Alan Torres	SCEXG
Kamal Naidu	NRC/NRO
Gordon Aren L	TVA
Robert Pascarelli	NRC/NRO
Ryuji Zwasaki	Toshiba
Raul Baron	TVA
Marion E. Smith	STP NOC
Leslie Kasi	NEI
Dennis Buschbaum	Luminant Power
Larry Wahslt	Shaw S W
Thomas Herrity	NRC
John Oddo	Shaw Stone+Webster
Bob Weisman	NRC
Ed Kleeh	NRC
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