

June 4, 2002

Mr. Russell Bell  
Nuclear Energy Institute (NEI)  
1776 I Street, NW, Suite 400  
Washington, DC 20006-3708

SUBJECT: COMMENTS ON DRAFT NEI WHITE PAPER REGARDING INSPECTIONS,  
TESTS, ANALYSES AND ACCEPTANCE CRITERIA (ITAAC) IMPLEMENTATION

Dear Mr. Bell:

The purpose of this letter is to transmit to you the Nuclear Regulatory Commission (NRC) staff's initial working-level comments regarding the Nuclear Energy Institute's (NEI's) draft white paper dated November 20, 2001, titled "ITAAC Implementation and Transition to Full Power Operations Under Part 52." The staff's initial working-level comments for this paper are provided in the enclosure to this letter. Some of the comments have been discussed in previous public meetings with NEI. Specifically, the staff met with NEI on June 15, and September 7, 2001, and January 10, 2002 to discuss issues related to ITAAC implementation. In the January 10, 2002, meeting the staff indicated that it would provide NEI with detailed written comments by May 2002 and that once these comments were developed, a course of action for resolution of the comments would be determined. To this end, the staff would like to meet with NEI and other interested stakeholders to discuss the attached comments and a course of action for resolution of the comments. Please contact Joseph Sebrosky, Senior Project Manager, at 301-415-1132 to make arrangements for the meeting.

Sincerely,

***/RA/ By T. Bergman for:***

James E. Lyons, Director  
New Reactor Licensing Project Office  
Office of Nuclear Reactor Regulation

Project No. 689

Enclosure: As stated

cc w/encl: See next page

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Accession #ML021550137

\*See previous concurrence

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| <b>NAME</b> | <b>JSebrosky</b> | <b>CCarpenter*</b>            | <b>JMoore*</b> | <b>TBergman</b>    | <b>JLyons-T. Bergman for:</b> |
| <b>DATE</b> | <b>6/4/02</b>    | <b>6/3/02</b>                 | <b>5/31/02</b> | <b>6/4/02</b>      | <b>6/4/02</b>                 |

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Comments On November 20, 2001, Nuclear Energy Institute (NEI) Letter Regarding  
Inspection, Tests, Analyses and Acceptance Criteria (ITAAC) Implementation

The staff has organized its comments into general areas and also in accordance with major sections of NEI's November 20, 2001, draft white paper. The general area comments affect more than one of NEI's sections. The staff has also numbered the comments for tracking purposes. The major sections of NEI's white paper are the following:

- Section 1 – Introduction
- Section 2 – Part 52 Requirements
- Section 3 – NRC Inspection During Construction
- Section 4 – NRC Engineering Design Verification
- Section 5 – ITAAC Process Implementation
- Section 6 – Preoperational Finding Process and Hearing Opportunity
- Section 7 – Assuring Operational Readiness Under Part 52
- Section 8 – Transition to Operation Under Part 52
- Section 9 – Role of ITAAC After Fuel Load

General Comments

1. NEI's draft white paper is inconsistent with the staff's recommended position regarding programmatic ITAAC. The staff recommended in SECY-02-0067, "Inspections, Tests, Analyses, and Acceptance Criteria for Operational Programs (Programmatic ITAAC)," that combined licenses (COLs) for a nuclear power plant submitted in accordance with the requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52, Subpart C contain ITAAC for operational programs required by regulations such as training and emergency planning (so-called programmatic ITAAC). The staff awaits the Commission's decision in this area and notes that it will have an affect on revising the construction inspection program.
2. The staff does not agree with NEI's interpretation of 10 CFR 52.99. Specifically, the staff does not believe that 10 CFR 52.99 requires it to make separate ITAAC findings and publish these in the *Federal Register*. The staff believes that the language of § 52.99 should be interpreted as requiring the NRC to publish notices in the *Federal Register* of the licensee's claim that certain inspections, tests, or analyses have been completed and the acceptance criteria have been met. The NRC staff will perform periodic inspections during construction of the facility and implementation of the licensee's operational programs, issue reports on these inspections, and at the conclusion of construction, the staff will make a recommendation to the Commission on its assessment of the licensee's completion of ITAAC. If the Commission determines that all of the acceptance criteria in the ITAAC for the combined license have been met, it will make the finding required under 10 CFR 52.103(g). Notwithstanding the above, the staff does believe in making interim conclusions regarding ITAAC and processes fundamental to ITAAC as discussed in comment 3 below.
3. The staff is in general agreement with some of NEI's philosophy regarding the sign-as-you-go (SAYGO) process. As part of the construction inspection program, the staff envisions a system of early assessment of licensee construction processes embodied in

Enclosure

this process. The SAYGO process is discussed in the "Draft Report on the Revised Construction Inspection Program," dated October 1996. In this report the staff notes that SAYGO is a structured method to establish that regulatory commitments have been met, to enhance the stability and predictability of the licensing process, and to identify and resolve construction problems early in the project. SAYGO would be a phased verification program in which the licensee certifies to the NRC that certain aspects of construction have been completed adequately, and the NRC staff would perform direct inspections to verify that the certification is accurate. The draft construction inspection program lists candidate areas for the SAYGO process such as structural concrete, concrete expansion anchors, safety related piping, and welding. The staff believes that the results of these direct inspections would be fundamental to the staff's later ITAAC determinations.

The staff's inspection activity would be performed in parallel with the licensee's construction activities. The staff's assessment of the construction activities would be provided publicly throughout construction. The staff is considering methods such as sharing the information in a web-based platform, but has not yet decided the best method(s) to perform this public notification. The staff believes that this approach will benefit all of its stakeholders, because the staff's assessment of the construction activities will be known throughout construction. NEI's draft white paper incorporates some of this SAYGO philosophy.

4. The staff disagrees with NEI's white paper regarding the finality of interim staff conclusions made in accordance with the SAYGO process. As discussed in the draft revision to the construction inspection program the staff is in the process of developing management tools such as SAYGO and significant inspection conclusions (the term "finding" was used in the draft construction inspection report). While not a part of the Section 52.99 process, SAYGO and significant inspection conclusions would be utilized as mechanisms for developing broad staff conclusions regarding significant construction activities or processes such as reinforced concrete, cable tray and conduit installations, etc. Such conclusions would be documented (e.g., inspection reports) after sufficient work had been completed to permit judgement of underlying processes but before the work activity had been completed. However, it must be emphasized that such conclusions made early in the inspection program would not be the NRC's final position, since the inspected activity and the NRC's inspections of the activity would continue. The issuance of a favorable significant inspection conclusion would allow the NRC to reduce inspections in the area where such a conclusion was made, but maintenance-type inspections would continue. If a problem were identified during these maintenance-type inspections it could cause the NRC to revisit the previous SAYGO significant conclusion. The NRC would be responsible for determining the appropriate actions in this case. Options include, but are not limited to, increasing NRC inspections in this area, taking enforcement action, and issuing a public notice that the previous SAYGO determination is no longer valid and a new SAYGO determination will need to be made.
5. The staff disagrees with the way NEI characterizes the finality of the staff's interim conclusions regarding ITAAC. Specifically, on page 21 of the white paper NEI states that "absent new information, the staff's §52.99 finding will be binding, and would not be reconsidered by the NRC staff." NEI implies that the staff's interim conclusions would be held to a higher standard than conclusions the staff makes routinely in its inspection

program and reports. The staff believes that the interim conclusions for ITAAC have the same standing as inspection report conclusions and SAYGO conclusions. Both of these conclusions are based on audit-type inspections. If new information is identified that casts doubt on an NRC previous interim conclusion regarding ITAAC, NRC staff would be responsible for determining the appropriate actions. Similar to problems identified in the SAYGO process, NRC options include, but are not limited to, increasing NRC inspections in this area, taking enforcement action, and issuing a public notice that the previous NRC ITAAC interim conclusion is no longer valid and a new ITAAC interim conclusion will need to be made. NRC management will be responsible for putting in place the proper controls over when ITAAC interim conclusions are made and under what circumstances they will be revisited.

### Section 1 - Introduction

6. Regarding Figure 1 contained in this section, the staff does not agree with the distinction shown between design and construction inspection activities and operations-based activities. This is not consistent with the staff's recommendation in SECY-02-0067.

### Section 2 – Part 52 Requirements

7. The staff notes that the resolution of comment 2 above will affect this section.

### Section 3 - NRC Inspection During Construction

The staff notes the following general agreements with NEI's white paper:

8. The staff agrees with NEI regarding the need for licensees to provide the NRC staff with detailed construction schedules that identify the timing of activities that are to be the subject of NRC inspections. The staff also agrees that these schedules should be provided sufficiently in advance of the activity to enable the NRC staff to properly plan and implement its inspections to facilitate timely ITAAC conclusions. Although there is no requirement to submit such schedules in advance, the staff believes that by volunteering this information licensee's will increase the efficiency and effectiveness of the construction inspection process.
9. The staff agrees with NEI that NRC inspectors are expected to perform the same types of inspections and audits of licensee construction-related activities under Part 52 as they did for plants licensed under Part 50. Application of information technology, risk insights and past construction inspection experience will be used in revising the construction inspection program. The staff notes that the development of ITAAC during the design certification reviews for the AP600, advanced boiling water reactor and System 80+ used risk insights extensively. The amount of ITAAC for these designs is proportional to the risk-significance of structures and systems. That is why, in general, there are more detailed ITAAC on risk-significant systems in these certified designs.

The staff believes the following issues need to be clarified:

10. NEI states that the construction inspection program should be ITAAC-focused. However, NEI's white paper seems to try to divorce significant conclusions made during

the SAYGO process from ITAAC. In SECY 94-294, "Construction Inspection and ITAAC Verification," the staff noted, based on the designs being reviewed at the time, that ITAACs were generally written as final verification of satisfactory plant construction, and they routinely referred to as-built configurations or conditions. On this basis the staff estimated that the majority of the ITAAC would be completed late in the construction of the plant. The staff notes that for many ITAACs it will rely on both system-specific observations and generic conclusions regarding the adequacy of construction activities throughout the plant. The staff believes that the SAYGO conclusions will be relied on to form a portion of the staff's basis for ITAAC conclusions. This philosophy is discussed above in Comment number 3. Therefore, if a problem is identified for a generic activity during the SAYGO process the staff believes the problem could affect the determination of whether an ITAAC has been successfully completed.

The staff notes the following disagreements with NEI's white paper:

11. NEI's white paper is not consistent with the staff's recommendation in SECY-02-0067 regarding operational quality assurance (QA). Specifically, the staff recommended in this paper that operational QA have its own ITAAC. However, the staff does note that NEI's white paper appears to be consistent with the Commission approved position in SECY-00-0092 regarding the treatment of QA deficiencies related to ITAAC verification. Specifically, the recommendation contained in SECY-00-0092 and approved by the Commission, that "...underlying information (such as QA/quality control deficiencies), which is relevant and material to ITAAC, must be considered in determining whether ITAAC have been successfully completed. In addition, there may also be deficiencies identified that are not relevant to ITAAC."
12. NEI makes the comment that meaningful assessment and determinations (SAYGO significant conclusions) can be made by NRC inspectors based on completion of approximately 20% of a given type of work. Based on the fact that the NRC inspection process is audit-based involving the inspection of a relatively small sample of construction activities, 20% may not be a realistic figure for all the areas covered by SAYGO.
13. Paragraph 3 on page 10 of NEI's white paper states that after a significant amount of a particular type of work has been performed and the licensee has conducted and documented its own quality assurance program inspections and evaluations, the licensee would request that the NRC perform its inspections in that area and make its assessment. The staff does not believe it should have to wait for the licensee to conduct and document its own inspections and evaluations. Depending on the activity, the staff may begin inspections as soon as the activity starts. Any problems that the staff encounters will be brought to the licensee's and other NRC stakeholder's attention as soon as possible (i.e., the staff will not wait until 20% of the work is done for an activity before staff-identified issues are made public).

During the Vogtle plant construction, "Readiness Review" program, the NRC notes that some programs to be reviewed at the 15-20% completion point, were in excess of 50% complete by the time that the licensee conducted the necessary inspections, evaluations, and provided a fully reviewed and approved report. In some cases, the

95% completion report was received within a few weeks of receiving the early (15-20%) completion report.

The staff has the following detailed comments regarding Section 3 of NEI's white paper:

14. Page 4, Second Arrowhead Paragraph - Second, fourth and fifth lines

Comment: The staff does not agree with some of the terms used by NEI to describe the staff's inspection process in this paragraph. NEI uses terms such as "approved" and "determinations of acceptable licensee construction processes," when referring to the NRC construction inspection program. NRC can and will provide assessments of the licensee's program implementation based on a sampling inspection, but this "assessment" should not be portrayed as an "approval."

15. Page 8, Section 3.4, Second Paragraph, second line and fifth line, and Third paragraph, fifth line: Page 9, Section 3.4, First line at top of page, and Final paragraph, Second line

Comment: The staff does not agree with some of the terms used by NEI to describe the staff's SAYGO inspection process in this section. The staff believes a more accurate term for its SAYGO inspection process is "assessment" in the following instances: Page 8: Second paragraph, second line, "conclusions" should be changed to "assessments" - Page 8: Second paragraph, fifth line, "judgement" should be changed to "assessment" - Page 8: Third paragraph, fifth line, change "judgements" should be changed to "assessments" - Page 9: First line at top of page, "determinations of construction process acceptability" should be changed to "assessments of the construction processes" - Page 9: Final Paragraph, Second line, "determinations of acceptable" should be changed to "assessments of."

Justification: Results of "SAYGO" inspections are NRC management assessments. The NRC inspection program is not in the approval cycle for licensee program implementation.

16. Page 10, Paragraphs 4 through 7

Comment: The staff disagrees with these paragraphs, and believes that the following better represents the NRC staff's position on SAYGO.

- "Sign as you go (SAYGO)" is seen by the NRC staff as an NRC tool for the management of inspection resources. For the functional areas, or types of work, selected for this process, implementation inspections should be heavy for the first 15 - 20% (or appropriate amount depending on the area) of the work and then the results reviewed by NRC management. The frequency of inspections would be relaxed if a determination was made that the licensee had a good program and was exercising good quality controls over the program.
- Subsequent inspections would continue to observe construction activities at a reduced frequency and rely heavily on a continuing review of the licensee's corrective action program for assurance that performance was still at an acceptable

level. (Evidence of decreasing performance would be reviewed by NRC management for possible increase in frequency of inspections in that area.)

- Results of inspections and assessments would be published appropriately. The staff is considering use of the NRC web site, in a fashion similar to the reactor oversight process (ROP), except that instead of the ROP cornerstones, the subjects of the blocks would be the functional areas, or types of work, selected for the SAYGO process. Additional possible avenues for publication of the results are *Federal Register* Notices, and placing inspection report results on the web.

Justification: Because of the sampling nature of NRC inspections, the NRC should not be placed in the role of “approving” licensee process applications. The NRC will do enough independent inspections to provide an adequate assessment of the process applications, without being placed in the approval cycle.

#### Section 4 – NRC Engineering Design Verification

The staff notes that its position regarding Engineering Design Verifications is provided in SECY-94-294. NEI’s white paper appears to be inconsistent with the staff’s stated position in several areas. The staff would like to discuss the following issues:

17. The expectation that NRC will do a detailed design verification, starting at the time of COL issuance or shortly thereafter, complete it before or shortly after the first concrete pour, and publish an acceptability determination as a significant project milestone, appears to be an over-simplification of what is involved.

To meet the aggressive construction schedules currently projected by the industry, licensees will have to issue contracts for the start of fabrication of major equipment, and facility modules, at about the same time as the COL application is submitted for NRC review and approval. The industry could also be expected to request limited work authorizations (LWA) in accordance with the provisions of 10 CFR 52.91. Therefore, to begin to meet the NEI expectation of detailed design verification, the NRC would necessarily have to begin design inspections as soon as possible. As noted in SECY-94-294, the NRC will inspect and review the adequacy of licensee design engineering early in a construction process, possibly beginning soon after receipt of a licensing application; first-of-a-kind engineering for the lead plant of each certified design will be assessed during these inspections.

The staff also disagrees with the timing for the completion of these activities. The staff ideally would expect to perform the majority of the inspections associated with engineering design verifications before a COL is issued (assuming the design information is available at that time). This is based on the concept that the staff will have to make a “reasonable assurance” finding prior to granting the COL. However, the staff does expect to continue inspections in this area after a COL is issued. As discussed in SECY-94-294, as plant construction progresses, NRC will determine if the engineering design is being implemented properly primarily through performance-based inspections to verify that plant systems and components are installed and tested to applicable standards, certified design information, and ITAACs. NRC will also assess

the effectiveness of the licensee's design change process in maintaining the fidelity of high-level certified design information that is translated into construction drawings.

The staff notes that NEI's white paper does not recognize that some of the design effort may not be completely done until late in construction. As an example, during the design certification reviews for the AP600, ABWR and System 80+ the concept of design acceptance criteria (DAC) was introduced for certain ITAAC. For areas such as the design of the control room the staff accepted high-level design information instead of more detailed design information. Consequently, the ITAAC or DAC for portions of the certified design include the design process. DAC, like ITAAC, are required to be completed prior to fuel load. However, there is no requirement for when these activities would begin and they could conclude very late in the construction process. The engineering design verification inspections for these areas could therefore conclude very late in the construction process.

The staff does not have enough specific information regarding the construction and design schedule to make a determination at this point as to when is the most appropriate time to perform engineering design verifications. The staff does believe that this activity should occur as soon as possible. The staff also does not have enough information at this point to determine how best to communicate the results of the inspection. That is, what additional steps, if any, should be taken beyond documenting the results in a publicly-available inspection report.

18. NEI states that the Engineering Design Verification is distinct from ITAAC. The staff disagrees. As discussed above, DAC is a form of ITAAC. The staff also believes that to the extent the inspections are performed after the COL is issued they could have an impact on ITAAC.

#### Section 5 – ITAAC Process Implementation

The staff notes the following general agreements with NEI's white paper:

19. The staff agrees with NEI's recognition that construction and inspection activities corresponding to ITAAC will be specially flagged on licensee construction plans and schedules, and that the NRC staff will be kept informed of these schedules.
20. The staff believes that an ITAAC determination bases (IDB) is an appropriate concept for documenting specific inspections, test or analyses results on which the licensee's ITAAC determinations will be based.

The staff believes that the following issues need to be clarified:

21. Similar to SAYGO the staff believes its independent assessment of completion of ITAAC should be communicated as soon as possible to its stakeholders (e.g., the licensee, interested members of the public, local and state government officials). The staff also believes that once an interim ITAAC conclusion is made by the staff that NRC management would be responsible for establishing a process which will define the threshold for when such a conclusion would be revisited.

The staff notes the following disagreements with NEI's white paper:

22. Regarding NEI's interpretation of §52.99 the staff does not believe that ITAAC are "closed out" with the §52.99 notification. In fact, the staff does not believe that ITAAC are closed out until the Commission makes its finding in accordance with §52.103(g). Comment number 2 also discusses this issue.
23. Although the staff believes in timely notification of its interested stakeholders regarding its interim conclusions regarding ITAAC, it does not agree with the proposed target to issue such a conclusion within 30 days of NRC receipt of an ITAAC determination letter. The staff believes that developing a target independent of knowing the detailed construction schedule is not possible. As stated earlier, based on the ABWR ITAAC review the majority of the ITAAC will be met late in the construction program. Meeting the same target date throughout construction does not recognize that the process is back-end loaded. The staff does agree with NEI that through day-to-day, on-site inspection activities, interactions with licensee personnel and observation of activities in the field, the NRC staff will be familiar with the status and adequacy of plant construction. The staff therefore, should be able to issue timely notification of its interim conclusions regarding ITAAC.
24. NEI states that if the staff identifies discrepancies in the ITAAC determination bases or in the field, such matters would be referred to the licensee's normal corrective action program. NEI further states that "unless there is a deficiency that indicates an ITAAC has not been successfully completed, the staff would be expected to make the required Section 52.99 finding of ITAAC completion, while corrective action proceeds separately under the quality assurance program." The staff believes that it will be incumbent on the licensee to demonstrate that such staff-identified deficiencies do not invalidate an ITAAC.

The staff has the following detailed comments regarding Section 5:

25. Page 15, first bullet starting with "Prior to sending..."

Comment: The staff does not agree with this paragraph.

Justification: While there is nothing wrong with continuing dialogue between licensee and NRC concerning status of completion of construction, formalizing discussions between NRC and the licensee prior to submitting a letter announcing completion of an ITAAC could result in a public perception that the NRC is in the business of reviewing licensee drafts.

26. Page 16, Second paragraph.

Comment: The following thought should be included in this discussion:

- For the purpose of resource loading and inspection planning, plant construction schedules shared with the NRC should include the schedule for issuance of contracts for pre-fabrication of structural modules and important components offsite, prior to issuance of the COL.

Justification: To meet demanding construction schedules, components and structural modules, which are the subject of ITAACs, could be pre-fabricated offsite prior to issuance of the COL. Some later fabrication steps could mask or hide the results of earlier fabrication steps, making it important that NRC be provided the opportunity to inspect these pre-fabrication activities.

27. On page 22 of the white paper NEI suggests that any person with information contrary to the licensee's ITAAC conclusion published in accordance with § 52.99 provide information to the NRC. Failure to provide information in response to a § 52.99 notice would not be a basis for excluding participation for a timely-filed request for hearing.

#### Section 6 – Preoperational Finding Process and Hearing Opportunity

The staff has the following comments regarding this section:

28. Regarding the Section 52.103(g) finding, the staff's position is that this finding will be based on earlier interim staff conclusions unless new information casts doubt on these conclusions or the Commission determines that there is an unresolved issue needing inspection or evaluation.
29. On page 26 of the white paper the staff does not agree with the claim that an ASME welder not appropriately certified would never constitute prima facie evidence that a welding ITAAC had not been met.
30. On page 28 NEI states that the 52.103(g) finding authorizes plant operation, including scheduled fuel load, power ascension testing and full power operations. The Generic Combined License contained in SECY-00-0092 and approved by the Commissions has license conditions for power operations, which is not consistent with this statement (See comment 32 below).

#### Section 7 – Assuring Operational Readiness Under Part 52

31. The staff disagrees with NEI's position in this section. This section is inconsistent with the staff's recommended position contained in SECY-02-0067.

#### Section 8 – Transition to Operation Under Part 52

32. The staff agrees with the NEI's position that after the Commission makes its 52.103(g) finding authorizing fuel load, no further authorization under Part 52 by the NRC is required to proceed to full power and commercial operation. However, as stated in SECY-00-0092 any post 52.103(g) limitation on operation will be imposed by a condition in the combined license (See conditions D.2 and D.3 of the generic combined license contained in SECY-00-0092). The September 5, 2000 staff requirements memorandum from the Commission approved the form and content of this license.

#### Section 9 – Role of ITAAC After Fuel Load

The staff has no comments on this section and agrees with NEI's stated position.

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