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Date: Mon, Sep 15, 2003 7:24 PM
Subject: comments on ITAAC attached

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September 15, 2003

Chief
Rules and Directives Branch
Division of Administrative Services
Office of Administration
Mail Stop T6-D59
U. S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Comments on NRC Draft Proposal "Use of Fire Protection as an Example Program to Discuss Programmatic Inspections, Tests, Analyses, and Acceptance Criteria"

Reference:

1. *Federal Register* Vol. 68, No. 142, Pages 43767-43769, dated July 24, 2003; Workshop on Issues Related to the Level of Programmatic Information Needed in a Combined License Application
2. SECY 02-067 Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) for Operational Programs, dated April 15, 2002
3. *Federal Register* Vol. 68, No. 109, Page 34012, dated June 6, 2003; Workshop on Issues Related to the Construction Inspection Program for Reactors

CNRO-2003-00043

The Commission's September 11, 2002, SRM on programmatic ITAAC directed the NRC staff to seek stakeholder input and provide recommendations on the treatment of operational programs in COL applications. We appreciated the opportunity on August 25 to discuss with the NRC staff the type and level of information on operational programs to be provided in combined license (COL) applications and whether ITAAC may be necessary on one or more operational programs. Additionally the Federal Register notice for the workshop (Reference 1) requested comments; Entergy Nuclear Inc. (Entergy) is pleased to submit our comments on the above captioned draft proposal.

Entergy endorses the comments submitted by Nuclear Energy Institute (NEI) on behalf of the nuclear energy industry. Additionally, Entergy has the following comments:

We believe the nuclear industry and the NRC staff continue to have a fundamental difference of opinion concerning the purpose and scope of Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC). The nuclear industry believes that ITAAC (1) are intended

to be narrow in scope, (2) are not intended to cover the NRC's entire regulatory program, and (3) should be a subset of the Construction Inspection Program.

Part 52 regulations concerning standard design certifications make distinctions between Tier 1, Tier 2, and other design information and establishes differing rules and change mechanisms for each. Some changes require NRC pre-approval, some require rule changes, and some information is subject to a 10CFR50.59-like process. Differing types of information likewise are associated with differing opportunities for hearings. To date, it appears the NRC staff has not made similar distinctions that some level of information associated with programs, and some programs themselves, are not appropriate to be associated with ITAAC. The five categories of programs proposed by the NRC staff seem to assume that regulatory programs are either associated with ITAAC (hardware or program ITAAC) or complete implementation (including procedural details) are included in the Combined License application (the only exception is programs implemented after fuel load for which the staff intends to use a license condition). Much of the information identified in the NRC Fire Protection ITAAC example (e.g. licensee staff position titles) may need to be verified during the NRC Construction Inspection process, but should not rise to the level of significance of information needing ITAAC. The categories do not account for programs (or implementation details within programs) in which the methods of meeting NRC regulations are at the licensee's discretion, controlled under a 10CFR50.59-like process, and should not be within the scope of an ITAAC.

NEI has proposed a level of detail for the fire protection example which the industry believes would be sufficient in a combined license application for the NRC to make a reasonable assurance finding. Other details concerning the fire protection program would not be part of an ITAAC, but would be available for review by the NRC during the Construction Inspection process. Other program descriptions in the application would have a level of detail similar to those provided in operating plant final safety analysis reports (FSAR). We believe procedure level details which would be changeable under 10CFR50.59 without NRC prior review or approval should not be within the scope of an ITAAC; they would be available for inspection by the NRC at the appropriate time prior to fuel loading as appropriate.

During the August 27, 2003, workshop on the Construction Inspection Program, the staff proposed that all construction inspections should in some manner be associated with an ITAAC. In that paradigm, ITAAC associated with all non-hardware programs seem to fit in that all regulatory implementation which the NRC needs to inspect must have an associated ITAAC. We do not believe that ITAAC were intended to define the inspection program; we do not believe that ITAAC were intended to be the mechanism for verifying implementation of all regulations.

It seems very little progress has been made since the issuance of SECY-02-067 and the Commission's associated SRM. We do not believe further progress toward resolution of programmatic ITAAC will occur without a consensus on the basic purpose and scope of

ITAAC. If further clarification needs to be sought from the Commission, this should be done in a timely manner.

Thank you for the opportunity to provide these comments. If you have any questions concerning this submittal, please contact me (601-368-5381).

Sincerely,



George A. Zinke

GAZ/

cc: Mr. R. J. Bell (NEI)
Mr. W. K. Hughey (ECH)
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