

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
EMERGENCY PREPAREDNESS ITAAC WORKSHOP

TUESDAY,
APRIL 27, 2004

The workshop came to order at 10:30 in the Auditorium of 2
White Flint, Rockville, Maryland. Chip Cameron, Facilitator, presiding.

PRESENT:

Daniel Barss	Nuclear Regulatory Commission
James Lyons	Nuclear Regulatory Commission
Nader Mamish	Nuclear Regulatory Commission
Bruce Musico	Nuclear Regulatory Commission
Joseph Sebrosky	Nuclear Regulatory Commission
Kenneth Wierman	Federal Emergency Management Agency
Kathy Allen	Illinois Emergency Management Agency
Russell Bell	Nuclear Energy Institute
Steve Frantz	Morgan Lewis & Bockius
Ben George	Southern Co.
Eddie Grant	Exelon
Joe Hegner	Dominion
Adrian Heymer	Nuclear Energy Institute
George Urquhart	Virginia Department of Emergency Planning
George Zinke	Entergy

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P R O C E E D I N G S

(10:31:34 a.m.)

1
2
3 FACILITATOR CAMERON: Good morning, everyone. We're
4 going to start off with some words of welcome from Jim Lyons who most of you
5 know, who's a program director of the new, research and test reactor. It's the
6 program at the Nuclear Regulatory Commission, and also we're going to hear
7 from Nader Mamish, who is the director of the new Emergency Preparedness
8 Project Office, and no comma after new on that one. And then I'm going to be
9 back to talk a little bit about format and ground rules for the meeting today.
10 Jim.

11 MR. LYONS: Thanks, Chip. I'm glad you didn't say you were
12 going to hear words of wisdom, just words of welcome. As Chip said, I'm Jim
13 Lyons. I'd like to welcome all of you to this workshop, and thank you for
14 participating to discuss the Emergency Planning, inspections, test, analyses,
15 and acceptance criteria or ITAAC as we will all talk about today.

16 The purpose of the workshop is to solicit comments on the
17 draft proposed emergency for planning, ITAAC that have been developed by
18 the NRC staff in consultation with the Federal Emergency Management
19 Agency, FEMA. The draft emergency planning ITAAC are included in your
20 handouts along with the agenda for the meeting, and the slides that the staffers
21 will be using.

22 The New Research and Test Reactors Program Office is
23 responsible for the overall coordination of this effort, while the Emergency
24 Preparedness and Project Office under Nader is responsible for developing the
25 EP ITAAC themselves. And with that, let me turn it over to Nader to give you
26 a few words of welcome from him.

27 MR. MAMISH: Thanks, Jim. As Chip pointed out, my name

1 is Nader Mamish. I'm the Director of NRR's Emergency Preparedness Project
2 Office. I, too, would like to welcome you to today's workshop. The subject of
3 the workshop is, of course, emergency planning, and specifically how
4 implementation of the Energy Policy Act of 1992 will be reflected in what is
5 referred to as EP ITAACs.

6 My staff, along with representatives from the Federal
7 Emergency Management Agency, which is now a part of the Department of
8 Homeland Security, developed the proposed EP ITAACs. They're here today
9 to explain how the EP ITAACs were developed, get your comments on the
10 proposed ITAACs, and to discuss how they will be used to ensure that there is
11 reasonable assurance that adequate protective measures can and will be taken
12 in the event of a radiological emergency for future reactors.

13 The fundamental intent of the Energy Policy Act, which is
14 reflected in the proposed EP ITAAC is to balance, one, the regulatory certainty
15 that is afforded by establishing a comprehensive set of objective criteria; that
16 is, EP ITAAC before any new reactor is built with, two, affording timely and
17 meaningful participation by the public in the licensing process. That is, the
18 public will have an opportunity to view and comment on EP planning for the
19 new reactor before a plant is built.

20 Thanks again for participating in today's workshop and we
21 look forward to an open and productive discussion concerning emergency
22 planning. Jim.

23 MR. LYONS: Thanks, Nader. The staff hopes to use this
24 workshop to help answer several questions that were raised during the
25 development of the Emergency Planning ITAAC. My staff is also using this
26 workshop because it believes stakeholder participation is critical to making this
27 effort a success. I, therefore, encourage you - those at the roundtable and

1 those in the audience - to participate during the meeting.

2 The meeting is being transcribed to ensure that we capture
3 all of your comments, and I'd like to point out also, that if you choose to provide
4 written comments, we are still accepting those in response to the "Federal
5 Register" notice that is included in your packet. The "Federal Register" notice
6 comment period ends May 27th, so you still have a couple of weeks left to put
7 together those comments.

8 I look forward to hearing your comments and the discussions
9 of the staff's proposal during this meeting. And with that, I'd like to turn it over
10 back to Chip, who's going to facilitate the meeting for us.

11 FACILITATOR CAMERON: Okay. Thank you, Jim. Thank
12 you, Nader. And it is my pleasure to serve as your Facilitator for today's
13 meeting. I just wanted to go over a couple of things about the meeting process
14 we got into the substance of today's discussion. And I wanted to talk about the
15 format for the meeting, some fairly simple ground rules, give you an agenda
16 overview, and then have everyone introduce themselves, and do an agenda
17 check to make sure that we have everything covered.

18 In terms of format, we're using what we call a roundtable
19 format today, so that we can have those of you who have may be affected by
20 this particular issue, give you an opportunity to discuss the relevant issues with
21 each other and with the NRC staff.

22 The focus of the discussion today will be here at the table, but
23 we're also going to go out to those of you in the audience periodically
24 throughout the day to see if you have any comments or questions on the
25 discussion.

26 In terms of ground rules, everybody has a name tent in front
27 of them, and what I would ask you to do is if you want to speak, if you turn that

1 name tent on its end, and that will allow me to know who wants to speak. It will
2 relieve you of the duty to keep raising your hands. I may not take the cards in
3 the order that you turn them up so that we can follow a particular discussion
4 thread that's going on.

5 We are, as Jim pointed out, transcribing the meeting. Eric is
6 assisting us in the back of the room with that. For those of you at the table, he
7 does know who will be speaking so you don't need to give us your name, but
8 when we go out to the audience, I would just ask you to give your name and
9 affiliation, if appropriate, so that we know who's talking.

10 I would also ask that as much as possible we only have one
11 person speaking at a time, not only so that Eric can get a clean transcript, but
12 also so that we can give our full attention to whomever has the floor at the
13 moment.

14 In terms of agenda, we've heard from Jim and Nader in terms
15 of a welcome and the concept that we're trying to achieve through this
16 workshop. After I'm done, we're going to give you some background about the
17 combined construction permit, operating license, ITAAC and emergency
18 planning. And we have some speakers from the NRC staff who are going to
19 do that for us. Joe Sebrosky, who is right there, and also Bruce Musico, and
20 Dan Barss, right there. And you'll be hearing from the rest of the people
21 around the table in a minute.

22 After that presentation, we're going to go to you around the
23 table for any clarifying questions that you might have about what the NRC is
24 proposing to do. After we're done with that, we know that the industry has a
25 fundamental conceptual approach, at least, to the ITAAC issue, one of risk-
26 informed. And because that is fundamental to the industry's approach, Russ
27 Bell from Nuclear Energy Institute, NEI, is going to do a presentation on the

1 industry approach. We'll then go for discussion/questions to Russ on that. And
2 we'll address one issue, which is what's the criterion for being risk-informed.
3 And I think we need to do that before we go to lunch.

4 In the afternoon, there are a number of specific topics that
5 are on the agenda; for example, what EP issues should be resolved before the
6 COL. I think that if I understand the industry approach, that risk-informed
7 concept could come into play on each of those particular issues or some of
8 them, so that we'll be hearing from people about that. But we will try to get to
9 some discussion of the risk-informed approach after Russ Bell's presentation.

10 What I'd like to do now is I'd like to thank all of you for being
11 here for the NRC, for this discussion. You don't need an escort to go up to the
12 first floor for lunch. There's a cafeteria. If you want to do anything more
13 ambitious, and perhaps from a better culinary point of view, you can go out, but
14 I think that we'll have to have a sign-in again, but we can figure that out. But
15 you don't need an escort to take the elevator up to the first floor.

16 I'm going to ask you to introduce yourselves, and maybe just
17 give us a sentence or two of what your interest or concerns with this EP ITAAC
18 issue are. If there are agenda items that you want to ask about to make sure
19 that a particular issue is covered somewhere, let me know that. I'm going to
20 keep track throughout the day of issues that we need to make sure that we
21 address at some point during the day in the parking lot, and I'm going to ask
22 George Urquhart from the State of Virginia or Commonwealth, such as it is,
23 George, to start us off with introduction, and then let's go around this way.
24 George.

25 MR. URQUHART: Thanks, Chip. George Urquhart. I'm
26 associated with the Virginia Department of Emergency Management,
27 Commonwealth of Virginia. I'm honored to be representing the

1 Commonwealth, along with all of our local governments that are situated within
2 the vicinity of North Anna and the Surry Nuclear Facility. I've been associated
3 with Emergency Management in Virginia for about 25 years, and it's been a
4 wonderful journey, and we're continuing in it. We're continuing to learn and to
5 improve our preparedness track record.

6 The issues that I bring to this table today I can hold them for
7 the moment. We have colleagues from the Homeland Security, as well as
8 Dominion, and we have shared our times together many times, and so today
9 is another one of those opportunities we have, I think, to ensure that we meet
10 some objective and certainty that I heard Nader speak to, and with objective
11 criteria. So having said that, I leave that to further discussion later on as we
12 dialogue here today. Thank you, Chip.

13 FACILITATOR CAMERON: Thank you, George. Kathy.

14 MS. ALLEN: I'm Kathy Allen. I'm a Health Physicist with the
15 Illinois Emergency Management Agency. We have quite a few nuclear reactors
16 in Illinois, and I'm here with an open mind for some discussion. That's it.

17 MR. HEYMER: Adrian Heymer. I'm a Director at NEI. This
18 is my second day in this activity. About 13 years ago I was in the same place,
19 more or less - well, this building wasn't here then - but talking about ITAAC and
20 what did ITAAC really mean, so what goes around, comes around. I'm here to
21 work with Russ and the utilities, the consortia, and the agency to get a
22 resolution of this activity, with is EP ITAAC, which will be practical and
23 beneficial as we move forward in developing and building new plants.

24 FACILITATOR CAMERON: Thank you, Adrian.

25 MR. FRANTZ: My name is Steve Frantz. I'm with the law
26 firm of Morgan, Lewis and Bockius. I first became involved with ITAAC 13
27 years ago, when I was counsel for General Electric in the design certification

1 of the ABWR. I helped develop the first set of ITAAC ever accepted by the
2 NRC.

3 One of my goals today is to ensure that the same principles
4 we used back 13 years ago are applied to EP ITAAC; namely, that the ITAAC
5 are objective and specific, and focus on the high level safety and performance
6 criteria.

7 FACILITATOR CAMERON: Thank you.

8 MR. BELL: Good morning. I'm Russell Bell with NEI. I'm a
9 Project Manager in the New Plant deployment area. I am chairing the
10 Combined License Task Force, and it's this Combined License Task Force
11 members that are here with me today and have helped assess the staff's
12 proposal, and prepare some materials for consumption just a bit later.

13 MR. WIERMAN: Good morning. I'm Ken Wierman from the
14 Federal Emergency Management Agency, Office of Emergency Preparedness
15 Branch. I'm here, along with the NRC, to present the proposed ITAAC for EP,
16 and to entertain any questions or comments that you have.

17 I took over this project from Mr. Bill McNutt, who actually
18 started the development of the ITAAC with the NRC. And since he retired, they
19 gave the project to me. Again, I'm here just to listen to your comments and
20 questions, and hopefully we'll get some resolution out of this. Thank you.

21 MR. BARSS: Dan Barss with the Emergency Preparedness
22 Project Office. I'm a Senior Emergency Preparedness Specialist. Thirteen,
23 fourteen years ago I was here when they started talking about ITAACs. I
24 wasn't directly involved at that point in the discussions. I worked with those that
25 were. As far as the project goes, I'm the senior technical person on the project.

26 MR. MUSICO: My name is Bruce Musico. I'm an Emergency
27 Planning Specialist with the NRC. I, along with some other staff members with

1 the NRC and FEMA are the principal authors of the NRC's proposed EP
2 ITAAC. I've been with the NRC for about two years, and ITAAC has been
3 pretty much a major part of my life here since I started. I wasn't here ten,
4 thirteen years ago when it was initially looked at, but hopefully what we've done
5 is we've picked up where the ITAAC left off some time ago, some ten years
6 ago. And we believe that we've carried on with the intent of the development
7 of the ITAAC pursuant to the Energy Policy Act of '92 and the Atomic Energy
8 Act. And just to emphasize, as the State of Illinois did, that we, too, have an
9 open mind with respect to what ITAAC are going to be.

10 It's interesting in that the ITAAC – this is the first time that the
11 public and industry has had a chance to see what ITAAC actually look like. Up
12 until around this point, ITAAC has just been a concept that's been discussed
13 with respect to the role that it plays in the 10 CFR Part 52 licensing process.
14 But nobody really knows what this ITAAC animal looks like, and that's one of
15 the purposes of today's meeting, to begin the process, to get the public's input
16 with respect to determining the form and content, and the application and
17 practice of EP ITAAC. Joe.

18 MR. SEBROSKY: My name is Joe Sebrosky. I'm a Project
19 Manager in the New Reactor section. I work for Jim Lyons, and the projects
20 that I'm responsible for are ITAAC, in general, and also combined license
21 issues.

22 MR. LYONS: Jim Lyons.

23 MR. MAMISH: Nader Mamish.

24 MR. ZINKE: George Zinke with Entergy. My interest in EP
25 ITAAC is to ensure that the EP ITAAC issues are resolved in a way that would
26 not inhibit the potential construction and operation of a new plant.

27 MR. GRANT: Good morning. I'm Eddie Grant. I'm

1 representing Exelon. I notice, Chip, that you asked about the criteria that we
2 used for risk-informed selection. I guess my interest today would be in hearing
3 the criteria that the staff used in their selection of the various planning
4 standards and evaluation criteria.

5 FACILITATOR CAMERON: Great. Thank you. Joe.

6 MR. HEGNER: Good morning. I'm Joe Hegner from
7 Dominion. Dominion is interested in keeping the nuclear option open. Like
8 Entergy and Exelon, we're engaged with the NRC in demonstrating the early
9 site permitting process, which includes a small element of emergency
10 preparedness.

11 We may have the opportunity going forward to demonstrate
12 the combined license process. If we do go forward, we would like as much
13 clarity and certainty, and stability about that process, including exactly what EP
14 ITAAC is before we would make that decision, and that's why I'm here today.

15 MR. GEORGE: Thank you. My name is Ben George. I'm
16 Manager of Nuclear Licensing for Southern Nuclear Operating Company, that
17 involves all licensing activity associated with the Farley, Hatch, and Vogtle
18 Nuclear Power Plants. I've been involved in the Part 52 effort with NEI over the
19 past 10 years on various working groups through the design certification,
20 ITAAC, as well. And now we're approaching the combined operating license
21 issues.

22 From the utilities' perspective, this is really where the rubber
23 meets the road. This is where you divide the Part 50 from the Part 52 licensing
24 process. In assessing business decisions that we will make in a couple of
25 years, it is imperative that we clearly understand what the regulatory certainty
26 and uncertainty is relative to ITAAC for the 103-G findings, so that's what this
27 is all about.

1 FACILITATOR CAMERON: Okay. Thank you very much,
2 Ben. And after we're done with the slides, we will move this machine out of the
3 way so we can see each other across the table. Okay. And we heard a
4 number of goals today. We heard consistency, objective criteria, specific
5 efficient clarity, stability, certainty. We heard some expressions of keeping an
6 open mind from the regulators, and I think that's important for everybody here.
7 And as Eddie point out what were the NRC criteria, interest in what was the
8 NRC criteria behind the draft ITAAC.

9 And with that, we're going to go to Joe, and Bruce, and Dan
10 who have some clarifying questions from the participants, see if anybody has
11 a question in the audience. And then we'll go to Russ Bell. So, Joe, turn it
12 over to you.

13 MR. SEBROSKY: Thanks, Chip. I guess for this portion of
14 the presentation, I'm going to do about half of it on the 10 CFR Part 52 and
15 ITAAC basic principles, and then Bruce is going to talk specifically about the
16 draft proposed Emergency Planning ITAAC, and hopefully address some of Mr.
17 Grant's questions. Next slide, please.

18 Under the 10 CFR Part 50 licensing process, there were
19 some issues associated, and some difficulties associated with using that
20 process that led us to creating the Part 52 process. Among those were lack of
21 finality at the construction permit stage, and if you go to the last bullet, the
22 public participation was difficult. Next slide, please.

23 For the Part 52 licensing process, there were several goals
24 associated with it. And if you look, timely and meaningful public participation
25 was one of them. And also, the resolve inspection requirements and
26 acceptance criteria prior to authorization to load fuel. Go to the next slide,
27 please.

1 This slide is just a high level slide. It's also to your right over
2 here blown-up on a poster. And all it's intended to do is to show the different
3 Part 52 licensing processes. You have early site permit which Mr. Hegner
4 alluded to in his opening remarks. That process is underway and being tried.
5 Standard design certifications, we've certified three designs, and we also had
6 the AP1000 that's in for review right now.

7 Then there's a combined license process. We have not
8 received an application for that yet, but there has been news that consortium
9 have been developed to trial run this process. And essentially, this just shows
10 how the different processes work together. With this combined license, you
11 can reference an early site permit, a standard design, both, or neither.

12 Once we give the combined license, which is a combined
13 construction permit and conditional operating license, one of the conditions is
14 that all the ITAAC are met. And that's where you see reactor construction, and
15 then the verification of the inspections test analyses and acceptance criteria or
16 ITAAC, and then reactor operation. So essentially what we're trying to do is
17 determine ahead of time, prior to issuing the COL, what the ITAAC will look like
18 in the emergency preparedness area. Next slide, please.

19 This just goes over what a combined license is. It's a
20 combined construction permit and operating license with conditions. One of the
21 conditions, as I said, is ITAAC, and it's a fundamental licensing process for Part
22 52. Go to the next slide, please.

23 These words are paraphrased out of both the Energy Policy
24 Act and our regulations, but ITAAC verify that the facility has been constructed
25 and will be operated in conformity with the license, the provisions of the act,
26 and the Commission's rules and regulation. They're met prior to fuel load, and
27 a hearing opportunity after the plant is built on whether ITAAC are met. Next

1 slide, please.

2 This slide is blown-up in your package, but there is a couple
3 of things I wanted to show here. These areas, the star-shaped areas are
4 opportunity for public involvement. If you look, prior to issuing a combined
5 license, there's a mandatory hearing.

6 Once the combined license is issued, or if it's issued, the
7 ITAAC would be set at this stage. The chance to litigate the ITAAC on the form
8 and content of the ITAAC would be at this mandatory hearing. The idea is
9 once the construction permit and conditional operating license is issued, the
10 ITAAC after that are difficult to change. They can be changed, but it's a
11 rigorous process to do that. And it's intentionally made that way with the idea
12 of bringing in certainty, and also meaningful public participation before the plant
13 is built. If the public has concerns about the ITAAC, this is their chance to raise
14 those concerns in a legal proceeding.

15 They also have opportunities during different stages here to
16 voice their concerns about issues associated with the combined license and the
17 ITAAC.

18 The NRC makes a decision here on whether or not to issue
19 the combined license. If we decide to issue the combined license, see
20 "Reactor Construction and Verification in the ITAAC", and then there's a
21 hearing, if granted. The hearing at this point is intended to basically address
22 the question, was the plant built in accordance with the design. And the
23 hearing opportunity is limited to whether or not the acceptance criteria that
24 were set back here have been met. So 10 CFR 52.103 has in it again a
25 rigorous process for this optional hearing. It is not a mandatory hearing. This
26 one is mandatory, this one is optional, and the contentions are limited to
27 whether or not the acceptance criteria have been met.

1 So, for example, for emergency preparedness, if an
2 intervenor wanted to raise questions about the adequacy of the emergency
3 preparedness, and they think it's lacking in certain areas, if they wanted to raise
4 that issue in a legal proceeding here, they have to tie it to the acceptance
5 criteria.

6 And then this is where we issue the finding on ITAAC. The
7 Commission makes one finding on whether or not the acceptance criteria have
8 been met, and that's what allows fuel load. So this slide was just meant to put
9 into context how ITAAC in general were supposed to work. And we have done
10 ITAAC for the certified designs. There's three certified designs that as part of
11 that process, we've determined what the ITAAC are associated with those. So
12 we have ITAAC, for lack of a better word, for hardware-related issues. We
13 have not developed ITAAC yet for a program, like emergency preparedness.
14 Go to the next slide.

15 This slide just for additional information and background, we
16 have a new reg on the new power plant licensing process. It provides an
17 overview of the Part 50 and Part 52 licensing processes. It's available on our
18 website, and this slide gives our web address, if you want some more
19 information. Go to the next slide, please.

20 This just gives you some background on why we're here
21 today. We've developed proposed emergency planning ITAAC, and we sent
22 it in a letter to NEI dated January 29th. Again, as Jim said, it's in your package.
23 There's a little blue sheet that's in the middle of your package that separates
24 the letter from the rest of the material. The letter appears right after that, and
25 it contains the draft proposed EP ITAAC that Bruce, Dan, and Ken were
26 involved in developing.

27 We also, right just before that blue separator, is the "Federal

1 Register” notice that Jim discussed earlier, and it gives you details of how to
2 provide written comments to us. And the important date of that is May 27th.
3 That's when the written comment period ends. So with that, I'd like to turn it
4 over to Bruce.

5 MR. MUSICO: Thank you, Joe. What I'd like to do is first
6 provide some introductory remarks before I get to the slides, and then after that
7 I'm going to go to the proposed ITAAC itself, and go through a few of the
8 criteria that we've laid out to explain how they were developed to a certain
9 extent. And as I go through the slides, Dan Barss and Ken Wierman, I've
10 invited them to feel free just to jump in to add anything they might feel is
11 appropriate, at the appropriate time.

12 As Joe said, a combined license, we've referred to it as a
13 COL, is a combined construction permit and conditional operating license. The
14 ITAAC are the conditions. The ITAAC are established before the plant is built,
15 and provide objective criteria that must be met before the reactor can load fuel
16 and start up. This is one of the advantages over the old Part 50 licensing
17 process, which is still in existence.

18 ITAAC are a fundamental and necessary component in the
19 new Part 52 licensing process. ITAAC serve to enhance public participation
20 early-on in the licensing process, at a time when the public's participation is
21 most meaningful. This gets us to the basic intent and structure of the Part 52
22 licensing process.

23 Part 52 creates a balance. And what the balance is, is that
24 it affords a certain amount of regulatory certainty to the license holder, and that,
25 in fact, is balanced against the timely and meaningful participation of the public
26 before the plant is built. The public has an opportunity before the plant is built
27 to be materially involved in the licensing process, including acquiring an

1 understanding of all aspects of the proposed new reactor. And this includes
2 exactly what the new EP ITAAC tool will look like, and what it will do in practice.
3 And this gets us to the EP ITAAC.

4 We're here today to get the public's input to the NRC
5 proposed EP ITAAC, and to provide you with the rationale that we used in
6 developing it in the first place. And finally, as Joe said, the comment period
7 remains open until May 27th, 2004.

8 Now if we can go to the first slide. Okay. Hopefully, I'll
9 parallel the slides. The first slide provides just some of the basic NRC
10 requirements that exist. The heart of the EP requirements are contained in 10
11 CFR Part 50.47, Subpart B, which provides the basic 16 emergency planning
12 standards. These standards are reflected in a guidance document that we use.
13 It's NUREG 0654, FEMA-REP-1, Rev.1, which we used as guidance to
14 determine whether or not these 16 standards are met. In addition to 50.47(b),
15 we have Appendix E to 10 CFR Part 50, and that provides the minimum EP
16 requirements.

17 The final two bullets shows that we have two existing
18 licensing paths that applicants can come in with currently. They can come in
19 with a Part 50 licensing process. However, the Part 50 process, various EP
20 issues are resolved late in the licensing process. We now have the new Part
21 52 process, which allows for meaningful public involvement and resolution of
22 EP issues at the beginning of a licensing process. Next slide.

23 To get into the background, a good starting point, not going
24 back to 1989 or 1990, is 1995, where they had a SECY document, SECY 95-
25 090, which came out April 11th, 1995. This was, in essence, the first
26 comprehensive take on EP ITAAC and ITAAC, in general, on the part of the
27 Commission. And what it did was it indicated that the principal combined

1 license EP issues consisted of the form and role of the ITAAC, and the
2 treatment of pre-operational emergency preparedness exercises. And also,
3 ITAAC are to be necessary and sufficient to demonstrate compliance with the
4 16 standards of 10 CFR 50.47. Next slide.

5 SECY 95-090 also indicated that Appendix E requires that a
6 full participation emergency preparedness exercise be conducted within two
7 years before the first reactor unit at the site is authorized to operate above 5
8 percent of rated power. And Dan will be discussing the exercise requirements
9 later on in the presentation.

10 The applicability of ITAAC from an on-site standpoint is
11 looked at by the NRC. The NRC will ensure that the acceptance criteria for the
12 on-site ITAAC are satisfied, and FEMA will look at the off-site criteria to
13 determine whether or not our proposed ITAAC for off-site are also satisfied if,
14 in fact, there are off-site EP ITAAC. Next slide.

15 Now this first bullet is rather important. I'll read it, "ITAAC
16 allow for the making of a predictive regulatory finding of reasonable assurance
17 that adequate protective measures can and will be taken in the event of a
18 radiological emergency before plant features required for emergency response
19 are completed," or making as a predictive regulatory finding of reasonable
20 assurance.

21 The acceptance criteria will be based on, or are proposed to
22 be based on an evaluation of criteria from NUREG-0654. When we get into the
23 actual proposed ITAAC, you'll see that it pretty much parallels NUREG-0654
24 and the evaluation criteria in NUREG-0654.

25 And finally, we're here today seeking stakeholder input into
26 the process for developing the criteria to evaluate EP ITAAC. Next slide.

27 This next slide just summarizes some of the Part 52

1 requirements, and identifies 10 CFR 52.79, which indicates what the contents
2 at the applications are, the technical information associated with an ESP
3 application - I'm sorry - with a COL application. 52.79(c) says, "The application
4 for a combined license must include the proposed ITAAC, including those
5 applicable to emergency planning." And finally, 52.79(d), "The application must
6 contain emergency plans which provide reasonable assurance that adequate
7 protective measures can and will be taken in the event of a radiological
8 emergency at the site." Next slide.

9 In developing the ITAAC, we looked at prior Commission
10 direction, as well as current Commission direction, to get an idea of what is
11 necessary and sufficient at this time to be consistent with the work that was
12 done in the past. And we talked about SECY 95-090. There was a subsequent
13 SECY, 02-0067, which specifically addressed ITAAC, and that came out April
14 15th, 2002.

15 That's the latest, most comprehensive evaluation by the NRC
16 staff, except for I believe there's a more current SECY that came out that deals
17 with ITAAC, 03 —

18 MR. SEBROSKY: 04-0032, and that's before the
19 Commission for a decision.

20 MR. MUSICO: Okay. Thank you. But currently, SECY 02-
21 0067, inspections, tests, analyses, and acceptance criteria for operational
22 programs or programmatic ITAAC came out on April 15th of 2002.

23 We looked at that closely, and we looked particularly at the
24 staff requirements memorandum, the SRM. And you may have heard a lot
25 about the SRM. Now the SRM was the Commission's response to SECY 02-
26 0067, providing specific direction to the staff on the path forward to
27 development of ITAAC.

1 In that SRM, the Commission said that, “ITAAC should
2 encompass only those matters that by their nature cannot be resolved prior to
3 construction.” And this gets to the foundation of the rationale behind the EP
4 ITAAC that the NRC is proposing.

5 We looked at those matters that by their nature could not be
6 resolved prior to construction, and we tried to determine how that can best be
7 reflected in ITAAC.

8 And then finally, NRC staff should interact with stakeholders
9 to identify those issues that are material to the Commission making a
10 reasonable assurance finding at the COL stage, and that is before the plant is
11 built. It’s a predictive regulatory finding of both — and we approach it from the
12 standpoint of both on-site and off-site emergency planning and preparedness.
13 And we look at the integrated capability of the plant.

14 Just as a footnote, the starting point that we used in
15 developing the current form and structure of the ITAAC was taken from SECY
16 95-090. 95-090 had an attachment at the end where it gave two examples,
17 essentially two major features from NUREG-0654 that listed as an example a
18 staff suggested form and content of what ITAAC might look like, might
19 specifically look like.

20 What those two examples provided was essentially a
21 verbatim reflection of what is in the corresponding evaluation criteria in
22 NUREG-0654. And those two examples were again included as an attachment
23 to SECY 02-0067, so what the Commission had before it was the staff’s
24 proposal, which consisted of taking a guidance document, NUREG-0654, which
25 provides a comprehensive guidance document for the assessment of overall
26 integrated emergency plans, and using that as a template for the development
27 of EP ITAAC. That was the staff proposal.

1 The Commission directed the staff in the SRM to work with
2 industry and stakeholders to determine what the actual form and content of the
3 ITAAC would be. And again, that's why we're here today. This is the starting
4 point. The staff has come up with a proposed series of EP ITAAC, again which
5 reflect NUREG-0654, and we're anticipating a presentation by industry with a
6 somewhat different approach to the ITAAC. We're looking forward to that. And
7 hopefully, as part of our interaction with stakeholders, we'll come up with
8 something that's workable, will provide reasonable assurance that the
9 emergency plans will be in place, will work, and will include timely and
10 meaningful participation by the public before the plant is built. Next slide. I'm
11 sorry. Go back one slide, Raj. Yes, thank you.

12 The first bullet here paraphrases part of the Energy Policy Act
13 of 1992 which was, in essence, the genesis of the Part 52 licensing process.
14 But what I'd like to do is read the actual sentence from the Energy Policy Act
15 of '92 in its entirety for the record.

16 It states that, "The Commission shall identify within the
17 combined license the inspections, tests, and analyses, including those
18 applicable to emergency planning that the licensee shall perform, and the
19 acceptance criteria that, if met, are necessary and sufficient to provide
20 reasonable assurance that the facility has been constructed and will be
21 operated in conformity with the license, the provisions of this Act, and the
22 Commission's rules and regulations." That's the heart of the genesis for the
23 development of the EP ITAAC.

24 What this did in the Energy Policy Act of 1992, was to amend
25 the Atomic Energy Act, and from that, and from further Congressional direction,
26 the NRC developed Part 52 licensing process. And again listed on this slide,
27 we have something from SECY 95-090, as well as 10 CFR 52.79(d), relating

1 to a predictive regulatory finding. And we also have the SRM to SECY 02-
2 0067, which again gets to the basic fundamental starting point, the
3 development of the staff's proposed EP ITAAC, that ITAAC should encompass
4 only those matters that by their nature cannot be resolved prior to construction.
5

6 Now the final bullet is the heart of the basis. This is not out
7 of the SECY. This is the basic starting point that the NRC, together with FEMA,
8 used to develop the EP ITAAC. We look at the ITAAC as we propose as a
9 comprehensive set of EP ITAAC. In general, the proposed EP ITAAC comprise
10 those aspects of emergency planning that would reasonably not, not be
11 available prior to construction of a so-called "greenfield" site. And we give as
12 an example, a siren system.

13 Now if you come in with a combined license application, a
14 COL, and let's say you're looking at a greenfield site. In other words, there's
15 nothing there. It's just a plain site. You're asking for a construction permit.
16 You're asking for a conditional operating license. When you come in with that
17 application, we would reasonably not expect that site to have the sirens in place
18 already. Hence, we have a placeholder, an ITAAC to address that, for the
19 existence of notification systems in place for the off-site. So that is the heart
20 of the basis for the EP ITAAC. And the 116 acceptance criteria in the EP
21 ITAAC comprise those areas in the judgment of the NRC and FEMA staff that
22 we feel could reasonably not be available to an applicant when they come in
23 with that application for a greenfield site.

24 Now for an existing site, it's much easier for the applicant.
25 In fact, the ITAAC actually provide an advantage, as we propose, provide an
26 advantage to a prospective applicant, in that of the 116 acceptance criteria that
27 currently exist on the NRC proposed ITAAC, a lot of those can just be checked-

1 off.

2 Now the EP ITAAC, those aren't our ITAAC. The EP ITAAC
3 are proposed by the applicant. The purpose of the EP ITAAC that we're
4 proposing jointly with stakeholder input is two-fold. The purpose is to provide
5 guidance to industry on the form and content for EP ITAAC that we would
6 expect in an application. And secondly, to provide guidance to the staff, FEMA,
7 and NRC staff on how to evaluate the application. And in doing that, we have
8 clear and objective acceptance criteria that if met, provides reasonable
9 assurance or the regulatory certainty that the industry is looking at, that if they
10 meet these acceptance criteria they can load fuel and start the reactor, start up.
11 But that specific acceptance criteria was determined in an open public forum
12 with full timely and meaningful participation by the public up front, before the
13 COL was issued. All right. Next slide.

14 And then we get into the staff proposed EP ITAAC that we
15 provided to industry on January 29th. In that, we've taken 15 of the 16 basic
16 emergency planning standards from 50.47(b) and NUREG-0654. We felt that
17 recovery and re-entry planning, and post accident operations were not
18 appropriate for a COL application, and we chose not to include it in EP ITAAC.

19
20 The EP ITAAC form is broken down into three columns, and
21 we'll get to that in a minute. The middle column deals with inspections, tests,
22 and analyses, which are the general verification methods that would be specific
23 to proposed reactor design. Now if you look at the January 29th, 2004 EP
24 ITAAC that we proposed, it's a rather busy document. But on page 1 of it,
25 you'll see a structure that has three columns. What I'm referring to here is the
26 middle column where we basically have placeholders.

27 The specific test mechanisms that the industry would propose

1 to satisfy program requirements and associated acceptance criteria, that would
2 be specific to the actual reactor design that would be proposed in the
3 application. So what we've done here in this middle column, it's basically a
4 placeholder. Let's see.

5 Moving on, the final column are the acceptance criteria. The
6 intent is for them to be self-evident and objective variations of NUREG-0654
7 evaluation criteria, so you can compare acceptance criteria here with the
8 evaluation criteria in 0654. And just a footnote, the Alpha Numerical
9 designation in the proposed EP ITAAC is consistent with NUREG-0654. I think
10 Dan wants to add something on the ITAAC.

11 MR. BARSS: Well, the last three sub-bullets there, I just
12 wanted to clarify because I think there was some misunderstanding, on
13 industry's part anyway - we proposed 116 items that we felt were ripe for being
14 addressed as ITAACs. There are 282 evaluation criteria in NUREG-0654.
15 That's counting those that apply to both the state and the locals, as well as the
16 applicant. And it was our intention when we drafted the ITAAC, to choose the
17 maximum number of items that we felt you could apply the ITAAC principle to.
18 It's not a requirement on our part. Certainly, it's a guidance. It's not a required
19 document anyway, but we're not expecting that you would have to address all
20 116 of those. We're just saying those are the 116 we think could utilize the
21 ITAAC process.

22 It would be up to the applicant themselves to determine how
23 many of those they wanted to address fully and completely in the plans that are
24 submitted, and how many of them they felt they could not fully and completely
25 address at the application stage, and in the plans that are submitted, and will
26 choose to have ITAACs for them. We tried to give the maximum flexibility there
27 to the applicant to determine how much they wanted to put into the ITAAC

1 column, and how much they wanted to put up front into the plans and the
2 development they're doing.

3 I hope that's clear at least now to everyone, that we're not
4 expecting all 116 of those have to be addressed as ITAACs, only we're giving
5 the flexibility to the applicants to choose that many of them, if they'd like.
6 We've already said the ITAACs were determined by the licensees themselves.
7 Of course, if not fully resolved, it has to be an ITAAC.

8 MR. MUSICO: Thank you, Dan. Next slide, Raj.

9 Now the development of the proposed EP ITAAC had certain
10 assumptions, one of which was we assumed that there would be state and local
11 government participation. One of the issues that we'll be discussing this
12 afternoon was what if we have a problem or situation where state or local
13 entities choose not to participate? That would have a distinct impact on the off-
14 site ITAAC that we're proposing. We can discuss to what extent do we need
15 to have additional EP ITAAC to address that situation, or not address it at this
16 time, because it may be unlikely for an existing site, or just not appropriate at
17 this time.

18 If, in fact, we were to get into that situation, we'd fall into the
19 NRC's so-called "Realism Rule", and then Supplement 1 to NUREG-0654,
20 FEMA-Rep-1 would come into play, which deals specifically with utility
21 emergency plans, offsite emergency plans.

22 Another issue we may be dealing with this afternoon is
23 concurrent completion of the EP ITAAC. That's basically we're looking at the
24 sequence in which the EP ITAAC would be addressed. Currently, the staff
25 doesn't see a necessary order in the ITAAC being addressed, except
26 whichever is supportive of the design and construction of the plant itself, so
27 there's no specific order that we're looking at that the ITAAC would have to be

1 completed. They could be completed simultaneously. And again, for an
2 existing site, a lot of them wouldn't apply.

3 Then finally, we have NRC and FEMA verification of the
4 findings and determinations, and then I'm not sure — Ken Wierman from
5 FEMA may want to add something with respect to the process by which FEMA
6 would get involved in evaluating the off-site emergency plans, and providing
7 NRC with its findings and determinations. Do you want to add anything, Ken?

8 MR. WIERMAN: Right. Along with that, and I'll add on to
9 what Mr. Barss mentioned. Again, the 116 ITAACs, if you're building a plant
10 on an existing site, again a lot of those would not be applicable. You would
11 already have the sirens in place and everything. But basically what we would
12 do, our regions and headquarters would do a plan review. And again, we'd
13 again have you do a full scale exercise, and then we'd provide our findings to
14 the NRC.

15 MR. MUSICO: Okay. And finally, in regard to EP exercises,
16 Dan would like to add something along that line with respect to the next slide.

17 MR. BARSS: As we know, the regulations require that within
18 two years of the first reactor at a site, that the exercise — that the greenfield
19 site get exercised. For an existing site, this proposes a little different twist for
20 us to understand what there is, or how we would handle the exercise. Certainly
21 from the regulations, we know that if there's been an initial exercise, then we
22 expect biennial exercises after that of both the on-site and the off-site portion
23 of the plan. And again, the regulations tell us the purpose of the EP exercises.
24 They are as stated on the slide here, to test the adequacy and timing of the
25 content of the implementing procedures and the methods, test emergency
26 planning, or emergency equipment, communication networks, and public
27 notification systems. And third, to ensure that emergency response personnel

1 are familiar with their duties. And a recurring basis of that is to make sure that
2 that continues through the life of the license and the site, that the personnel
3 stay up to speed as to what they should do.

4 When you get to an existing site that is now proposing to
5 build a new reactor, and you have a COL there, since you've already had the
6 qualifying exercise or the one within the first two years on the first site, it's my
7 view anyway as a senior staff member, that you wouldn't need to have another
8 qualifying exercise. You could simply include a demonstration or a test of the
9 new portion of the emergency plan that addresses the COL reactor, as part of
10 the biennial exercise, or one of the biennial exercises that are conducted at that
11 site. And that's kind of like or similar to what we do now with a site that has two
12 or more reactors. Kind of expect that you rotate between the two control
13 rooms, two different plants, and vary so that the different teams get to play and
14 everybody gets exercised. Just expect that the new guy on the block would get
15 his turn before the actual loading of the fuel, and that would satisfy the ITAAC
16 requirement there.

17 MR. MUSICO: Finally, I just want to turn quickly to the actual
18 EP ITAAC, the first page. This is the page where about half of the page has
19 footnotes, and we felt this was a convenient place to provide some clarification
20 on the basic structure. In essence, we have three columns. The first column
21 reflects verbatim the 10 CFR 50.47(b) planning standards. The middle column
22 provides boilerplate placeholders for what could conceivably be inspections,
23 tests, and analyses for the corresponding program requirements. But the heart
24 of this is the third column where we provide the acceptance criteria, which
25 again is the NRC and FEMA staff's attempt to provide a sufficient level of detail,
26 objective detail, with respect to acceptance criteria that addresses all of the
27 NUREG-0654 and 10 CFR 50.47(b) planning standard criteria for those

1 aspects of emergency planning that would reasonably not be available at the
2 time a COL application comes in for a greenfield site. And I think my time is
3 just about up, so I'll leave it at that. Thank you.

4 FACILITATOR CAMERON: Okay. Thank you, Joe and
5 Bruce, Dan, Ken Wierman. Let's go over clarifying questions now. And I know
6 there's going to be some discussion points that come out of the questions, and
7 I'll note that over here. And, Joe, you had a question. I know you had your
8 card up before. Do you still have your question, and then we'll go to Ben.

9 MR. HEGNER: Let me just confirm my understanding. You
10 had during your presentation checked-off for the EP ITAAC criteria for an
11 existing site, but I think you clarified it; that is, if an applicant came in for a
12 combined license at an existing site, we could resolve a great number of these
13 issues as part of that process before the combined license was issued. And
14 only those that are not resolved at that point would be carried forward as
15 ITAAC.

16 MR. MUSICO: Yes, that's true.

17 MR. HEGNER: Okay.

18 MR. MUSICO: What I checked-off was probably too brief a
19 characterization of ITAAC.

20 MR. HEGNER: It threw me.

21 MR. MUSICO: In essence, what we mean is that if certain
22 aspects of emergency planning already exist, are in place, and are functional,
23 you as an applicant would most likely choose not to address them with an
24 ITAAC because they're already in place. But the application would need to fully
25 address that aspect of emergency planning that already exists.

26 Now let me make one point that I didn't make earlier, that
27 whatever you come in with as ITAAC, we'll look at that very closely, because

1 those are the conditions for your conditional license. Everything else that is not
2 specifically addressed as ITAAC, we would expect to see fully addressed in the
3 application itself, everything else associated with emergency preparedness and
4 planning would need to be fully addressed in the application itself.

5 FACILITATOR CAMERON: Okay. Joe, does that answer
6 your question?

7 MR. HEGNER: Can I ask a follow-up?

8 FACILITATOR CAMERON: Yes, go ahead.

9 MR. HEGNER: Has the staff made any initial assessment of
10 that list of 116 criteria, of those which you would view as being independent of
11 whether it is an existing or a greenfield site?

12 MR. MUSICO: No, we have not.

13 MR. HEGNER: Okay.

14 FACILITATOR CAMERON: And is that something that would
15 be a discussion point in terms of a recommendation later, Joe, that it might be
16 useful for the staff to do that? Or are you just asking a question at this point?

17 MR. HEGNER: Yes. I guess I would like to know the staff's
18 perspective taking those 116 criteria as to which ones it views would be
19 expected of an applicant for a combined license on an existing site. What we
20 have is a comprehensive list for a greenfield site. Further assessment that
21 might help us better define which apply to an existing site would be helpful.

22 FACILITATOR CAMERON: Okay. We noted that for later
23 discussion. Do you want to add something, Dan?

24 MR. BARSS: Well, I was going to say - do you want to try to
25 answer it now or wait until later?

26 FACILITATOR CAMERON: If it's not an open point, if there
27 is an answer, please give it to us.

1 MR. BARSS: I think the answer lies in what the applicant
2 chooses to do. If you're choosing to use existing programs, existing facilities,
3 existing procedures, existing personnel and things like that, and you reflect that
4 in your application, then there is no need for us to have an ITAAC for it
5 because we can see it. It's there. We've already evaluated it. We evaluate it
6 every two years. We understand the program. We've already found
7 reasonable assurance for it. It's a closed case. There is no need to include
8 that. It's only the things that would change with the new reactor that we would
9 need to test.

10 For example, if you're using the same EOF for the new
11 reactor as you are for the existing site, or an EOC, the only thing that might be
12 different when you add the new reactor is a new set of EALs, a new set of
13 parameters that have to be monitored, or how you communicate that
14 information, so you would need to show those linkages had been set up on that
15 minor change. But the EOF is not going to change the personnel, and the EOF
16 is not going to change, so those things are well-established and understood,
17 and would be part of your plan as you submitted it.

18 FACILITATOR CAMERON: Bruce, do you want to add
19 something onto what Dan said?

20 MR. MUSICO: Yes. Let me just follow-up on that. That
21 question was asked, I believe by Mr. Simard on January 29th when we first
22 provided the EP ITAAC to industry. And hopefully, I'll give the same answer
23 that I gave back then, was that the proposed EP ITAAC is set up to encompass
24 the entire universe of potential applications. We don't know what the
25 application is going to look like. We don't know that one utility coming in with
26 an application for its site will be the same as a second utility coming in for a
27 different site. So for us to try to whittle down the proposed EP ITAAC to

1 address non-greenfield sites or existing sites, I don't think we can effectively do
2 that because every site — all sites are not the same. And that's the answer I
3 gave on January 29th, and I think that's as far as we can go.

4 I think the onus is on the applicant to determine to what
5 extent do those 116 EP ITAAC apply to his existing site. Does that answer
6 your question?

7 FACILITATOR CAMERON: Okay. And if this is going to be
8 a continued discussion issue, we'll get to it later on. Let's go to Ben, and then
9 we'll go over to Adrian and Steve. Ben.

10 MR. GEORGE: Bruce, thanks for your overview of the NRC's
11 logic in putting together the EP ITAAC. One item you mentioned is that you
12 made a special effort to make the acceptance criteria objective. In looking
13 through the acceptance criteria, I guess I'm concerned with terminology that I
14 see in a number of these along the lines of capable, capability, ability,
15 adequate, those sort of things which are subjective criteria.

16 My recommendation to the staff would be they need to
17 sharpen their pencil there and focus on specifically what the acceptance criteria
18 is, because terms like adequate are subjective, and capability is subjective, and
19 are subject to interpretation not only by the licensee but by the NRC and the
20 public.

21 MR. BARSS: Can I try to answer that one quickly?

22 FACILITATOR CAMERON: Yes. Why don't you give us your
23 perspective, and it sounds to me like this may be an issue that we're going to
24 be discussing later on. Go ahead, Dan.

25 MR. BARSS: The acceptance criteria in the guidance
26 document need to be generic, because we don't know what you, the applicant,
27 are going to tell us. It is your job when you submit the application to write the

1 ITAAC. We only provide guidance to tell you what we're expecting to see, and
2 guidance to our staff what we expect to evaluate. You would tell us the
3 specifics of how and what you're going to do. That would have to be in the
4 application, so we can't put those specifics in here, because we don't know
5 what you're going to do. That is where you put the specifics in and give it to us,
6 and then we know, and you've established for yourself what those criteria are
7 going to be.

8 FACILITATOR CAMERON: And, Ben, maybe what would be
9 useful for the NRC staff is, if you can give us some examples later on of how
10 you would sharpen the pencil in terms of adequate, capable, whatever. Do you
11 have some —

12 MR. GEORGE: I can give one right now if you'd like.

13 FACILITATOR CAMERON: All right.

14 MR. GEORGE: Turn to the NRC's letter of January the 29th,
15 over to the items on notification. Let's see what page that is.

16 MR. MUSICO: Okay. This is in the chart for those of you
17 who are

18 FACILITATOR CAMERON:

19 MR. GEORGE: I'm sorry. It's on page 4, acceptance criteria,
20 Echo 2, View 2. You articulate, "The licensee has established procedures for
21 alerting, notifying, mobilizing emergency response and has the capability to
22 notify the state and local agencies within 15 minutes after declaring an
23 emergency."

24 A similar proposal that will be discussed later by Russ Bell,
25 we word that this way. "Responsible state and local government agencies
26 receive notification within 15 minutes after declaring an emergency." That is
27 the specific objective criteria. It doesn't have the word "capability" in there. It

1 says you shall notify this within this time frame.

2 FACILITATOR CAMERON: Okay. That's a great example,
3 and we're going to move on to discuss that later on. Let's clear away any other
4 questions now. And let's go to Steve, you had your card up for a question. If
5 you want to add something, go ahead.

6 MR. FRANTZ: Yes. My question is very similar to Ben's. If
7 I understand you correctly, not only are the ITAACs in the center column
8 placeholders, but the acceptance criteria in the last column are also
9 placeholders. The licensee will come in with very specific criteria from his
10 particular EP plan and put those in the last column.

11 MR. MUSICO: That is correct.

12 MR. FRANTZ: Okay. Thank you.

13 FACILITATOR CAMERON: Okay. Great. Good. And,
14 Adrian.

15 MR. HEYMER: Yes. I've got two points.

16 FACILITATOR CAMERON: Go ahead.

17 MR. HEYMER: And really, I think, Bruce, you were a little
18 hard on yourselves when you described the Part 52 process, in that in my
19 experience, even going back to early days, I thought the intent was to provide
20 a lot more information earlier to the public and to the agency so that we could
21 resolve issues earlier. And so there is a lot more information on the table
22 earlier in the process. And, in fact, from the time you get the COL issued, the
23 public has the same right, in addition to the ITAAC, as it has under normal
24 licensing activities.

25 Listening to this discussion here today, it reminds me of what
26 happened numerous years ago, in that we spent a good deal of time trying to
27 talk in the generic terms. And it wasn't until we actually sat down and focused

1 down on a specific design and specific systems, and in this case focus on a
2 specific EP plan, if there's one out there. We can say if this is what the plan
3 would look like, what would an applicant submit if it was greenfield, or what
4 would an applicant submit if it was on an actual site? And we have some
5 examples now with the consortia being formed of that, that we could actually
6 come up with examples and acceptance criteria that are objective, and that we
7 can have a better appreciation on both sides of the regulatory divide of what is
8 expected. And I think this sort of is a great kick-off activity, but I really think
9 until we actually get down and start looking at a specific EP plan, and then say
10 what would the ITAAC that would go with that, and how much of this plan would
11 we submit if it was a site that's already in existence, and have a specific EP
12 plan, that we're not going to get a real common understanding between
13 ourselves. And if there isn't a common understanding, there isn't that certainty,
14 and people are going to feel a little bit uncomfortable going forward in two to
15 three years from now in making a business decision. So that was just a —

16 FACILITATOR CAMERON: Your point and suggestion is that
17 that might be a useful thing to do.

18 MR. HEYMER: I think this is a very useful exercise, and it
19 helps explain and understand where you came from. And I think you did a very
20 good job of that, but I really think we've got to get down to the nuts and bolts.
21 And you can only get down to the nuts and bolts if you're looking at a specific
22 plan.

23 FACILITATOR CAMERON: Okay. Thanks, Adrian. And
24 we're going to go to George, the two Georges so to speak, and I think then we
25 need to get on to Russ Bell. Dan, do you have something that you need to say
26 right now?

27 MR. BARSS: Probably later.

1 FACILITATOR CAMERON: All right. George.

2 MR. URQUHART: Thank you. I have five points, but I only
3 want to raise two at this point.

4 FACILITATOR CAMERON: Go ahead.

5 MR. URQUHART: The first has to do with the ITAACs and
6 the relationship to the 0654 in terms of the question has to do with. Will the
7 ITAAC require any modifications, or update, or changes to the 0654 FEMA
8 guidance document, NRC guidance document? I would almost say no in
9 answering to that, since we're talking about 282 planning criteria within 0654
10 already, and we're looking at 116, and we would assume then the 116 certainly
11 can be accomplished within the 282.

12 MR. MUSICO: Yes. That's not our intent. Our intent is not
13 to change NUREG-0654 guidance criteria. In addition, our intent was not to
14 expand on it, and we were very careful not to do that. We didn't want to have
15 one set of emergency planning guidance criteria for combined license
16 applications, and something less or a little different for Part 50 licensing
17 applications, so we did look at it from that perspective to ensure we didn't have
18 any conflicts, or expand on 0654.

19 MR. WIERMAN: That was FEMA's understanding also.

20 FACILITATOR CAMERON: Okay.

21 MR. URQUHART: May I make this one - of course, it has to
22 do with the publicness, or the Freedom of Information Act protections of plans.
23 I was a little concerned about the numbers of opportunities that we have for
24 hearings and public meetings and things like that. But as we submit these
25 documents to the availability of the public for review, to what extent are state
26 and local plans then subject to this openness.

27 In particular, we have gone to great measures in Virginia to

1 preclude the openness of state and local radiological plans, and other
2 terrorism-type plans and stuff from view. So how will we make these
3 documents available to the public along with ITAAC documents that we submit
4 for review?

5 FACILITATOR CAMERON: Can we go to our general
6 counsel. And this is Bob Weisman, NRC, general counsel. Bob.

7 MR. WEISMAN: Any hearing process for licensing will issue
8 a protective order, so it allows for certain members of the public to participate
9 at the hearing. But actually to look at plans that are relevant, potentially, to the
10 license were it not disclosed publicly. That's essential. I have not been
11 involved with security safeguard issues, but it's a similar process.

12 MR. URQUHART: That's all for now.

13 FACILITATOR CAMERON: Thank you. And, George, is that
14 enough for you for right now?

15 MR. URQUHART: That's good for now.

16 FACILITATOR CAMERON: Okay. Let's go to George Zinke,
17 and let me check in with the audience. And then go to Russ Bell.

18 MR. ZINKE: I have a clarifying question on your chart where
19 you — the three-column chart in the middle on the ITAACs, you used the term
20 in most of the places as-built, in-place systems, equipment, and capability. And
21 then the corresponding acceptance criteria deal with — many or most deal with
22 some specific hardware. For example, like phone systems and capability to
23 communicate, and effluent monitors.

24 If I build on a site that already has a nuclear plant, it has that
25 hardware in the existing plant, but none of that hardware is yet installed in the
26 to be built. The way these are worded right now, it looks like most, if not all of
27 these could not be resolved at a COL application stage because of that term.

1 Is that your intent?

2 MR. MUSICO: The extent to which you would address the
3 ITAAC in the application for an existing plant would be to address the extent to
4 which those in-place aspects of emergency planning would apply to the
5 additional new reactor. You can describe many aspects of emergency planning
6 that are already in place, which in essence would satisfy a lot of our proposed
7 ITAAC. But you're right in interpreting some, that there — for some of the
8 ITAAC, for some of the criteria, there is an aspect that deals with the existing
9 plant, and an aspect that deals with the future plant that's not there yet. So in
10 your application, you could describe what currently exists and the extent to
11 which it works for the new plant, that could be an ITAAC.

12 MR. BARSS: For example, if you've got a containment
13 monitor under existing plant, and you have a ring of off-site monitoring stations
14 telemetered that would give you a direct reading of any releases you have
15 going on, obviously the containment monitor is not going to function on the new
16 containment you build, but the off-site ring will function for the new containment
17 you're building, and the new reactor you're building. So the one system would
18 be perfectly acceptable. We would not need to review it a second time, or as
19 part of the process. But the containment monitor on the new one would need
20 to be included as part of the ITAAC because it's not there yet. Does that clarify
21 it?

22 MR. MUSICO: And to expand on that, if you look at the
23 exercise, the extent to which those facets of an emergency planning exercise
24 would apply to the existing site or off-site responses, that could already have
25 been satisfied, and we would look at the delta that would be associated with the
26 specific plant, for example, in an exercise.

27 FACILITATOR CAMERON: Is that something, George, that

1 you think would be useful to be clarified in writing in a document? It seems that
2 Dan and Bruce have given a fairly straight answer there, but is there a need for
3 further clarification?

4 MR. ZINKE: I think I understand that. Basically, in
5 summarizing, any of these that are dependent on any hardware, for example,
6 a telephone, can't be closed at COL. It becomes an ITAAC, because the
7 telephone obviously is not in a control room that's not installed yet.

8 MR. MUSICO: That the ITAAC would address the delta
9 associated with —

10 MR. ZINKE: So we need to address that telephone.

11 MR. MUSICO: Yes.

12 FACILITATOR CAMERON: Okay. Ken, let's hear from Ken,
13 and then we're going to

14 FACILITATOR CAMERON:

15 MR. WIERMAN: But to clarify that a little bit more, if you're
16 going to use an existing EOF at your site that's already there, you won't have
17 that as part of your ITAAC for that phone system from the EOF out to the state
18 and locals. You understand that? It would be just from that new control room,
19 or TSC.

20 FACILITATOR CAMERON: Okay. Thank you. Before we
21 go to Russ Bell, anybody out here have a question about the NRC staff
22 presentation? Okay. Great. Russ, can we go to you for your presentation on
23 the industry approach?

24 MR. BELL: Sure. And there's the first slide. Thank you.

25 Now I'll tell you, the staff's presentation and the comments
26 have caused a hundred ideas to now be floating around in my head. I'm going
27 to set all that aside and stick to an overview of an alternative, another approach

1 to this. Bruce described the 116 like a maximum number of ITAAC. Our
2 approach was to apply some of the principles of ITAAC that we've become
3 familiar with over the years to determine a set of appropriate ITAAC focused
4 on the significant aspects of emergency planning. And I'll take you through
5 that, and then we'll have, I'm sure, some questions, and then discuss it for the
6 balance of the day, the two approaches and their implications.

7 When we got the staff's proposal on the 29th, we could only
8 react at the time, and indeed, that was our mode for a little while before we
9 could really get our arms around it, and thinks perhaps in other ways. Among
10 the reactions was certainly that it was comprehensive, extremely
11 comprehensive. In fact, it seemed to repeat a number of the — the bulk of the
12 guidance contained already in 0654, and now elevate those elements and
13 criteria to this thing called ITAAC, which Joe explained the significance of those
14 earlier.

15 In doing so, another reaction was well, there seemed to be
16 little or no recognition that some of these elements or line items might be more
17 significant than others. To us, that's always been an important part of ITAAC,
18 that they pertain to the most significant aspects of whatever it is you're talking
19 about, be it a fluid system or an emergency plan.

20 It appeared that many of the inspections that were being
21 called for were inspections that would be performed by either the NRC or
22 FEMA for off-site things. Again, that's contrary to the notions we've had about
23 ITAAC being performed by the licensee, verified by the NRC.

24 Still on reactions, there were a number of criteria assigned
25 to FEMA verification. Obviously, that was new. We hadn't had to deal with that
26 before. And it was contrary to the principle that I just said, that the ITAAC are
27 between the — are performed by the licensee and verified by the NRC. So

1 that was just a reaction.

2 And then a simple reaction was the sheer numbers of the
3 ITAAC, and Bruce has explained some of that. But there were 116 criteria
4 there. It ran 25 pages, and fairly small font, and we looked back at the AP600
5 ITAAC and for a very significant system, like passive core cooling, or passive
6 containment cooling, or HRH, or something, a few pages and about a dozen
7 or 20 or so ITAACs, so a factor of 4 to 5, just difference in weight. And you've
8 explained that there's somewhat of a cafeteria mode in there. Not all those
9 may carry forward to be ITAAC. Anyway, these were the reactions that led us
10 to try to look for another way forward.

11 In any case, very simply, we tried to start from a different
12 place to start with what we know about ITAAC. And we actually know quite a
13 lot from having done so on three design certifications. Okay. The basic three-
14 column format that Bruce already walked us through came from there, and a
15 number of other principles.

16 In addition, the staff a few years ago undertook an effort to
17 identify the most significant — the risk-significant planning standards from
18 among the 16 as part of the Reactor Oversight Program, significance
19 determination process. And so our basic approach is to marry the principles
20 that we know about ITAAC with the significance determination process as
21 applied to EP to come up with a set of emergency planning ITAAC that focus
22 on the more significant aspects. The next slide, please.

23 And there are a number of principles, and I tried to capture
24 some of the most important ones. First of all, absolutely as has been stated,
25 we're required — COL applicants are required to include ITAAC and
26 emergency planning in their applications for NRC review and approval subject
27 to mandatory hearing and verification later, as Joe has aptly described. But it

1 doesn't say what those need to be, so I think that's for the folks in this room
2 and others to determine what the appropriate set of ITAAC is. I think that's
3 what this is all about.

4 All the ITAAC that we've dealt with, a major principle has
5 been that they focus on the top level requirements, for instance, significant
6 design or performance standards or criteria, or elements. And again, you can
7 apply that principle to whether it's a design area or a program area like this.
8 We think that the requirements or criteria can be parsed for significance, and
9 we think in this case that may have been done a few years ago.

10 As I mentioned, it's important to — we think it's important to
11 remember that ITAAC are to be performed by the licensee, and verified by the
12 NRC. And very important to remember that ITAAC supplement all the NRC
13 and FEMA regulations. They don't replace them, they're in addition to, so all
14 the other Part 50 requirements, including emergency planning requirements,
15 Appendix E, 50.47. And what the slide doesn't say, including FEMA
16 requirements, certainly still apply.

17 And remembering that last principle as important, if we are
18 to focus ITAAC on anything less than everything. Okay. If we want to focus
19 ITAAC on the more significant things, as has always been the case, it's
20 important to remember that last principle, that FEMA and NRC will inspect and
21 evaluate all 16 planning standards, all aspects as they always have. The next
22 slide, please.

23 The Reactor Oversight Program evolved in a significant way
24 in the 90s, and towards a risk-informed approach, and a significant
25 determination process was applied to a number of areas. And in the
26 emergency planning area, that was done and it was this inspection manual
27 chapter 0609, Appendix B, that identified the four of the 16 planning standards

1 as being risk-significant planning standards.

2 This was accomplished with a lot of effort on NRC's part, and
3 they involved, to their credit, stakeholders, including industry. There was a
4 workshop, I believe, in '88. And subject matter experts were called upon to
5 make the determination as to significance. So it's a broad-based effort, and it
6 sounded like a good place to start to marry that with our concept of ITAAC, so
7 we certainly wanted to use that as a starting point.

8 The next slide has four of the 16 planning standards that
9 were determined to be of greater risk-significance; the emergency classification
10 system, the public alert and notification, accident assessment, and protective
11 response. Next slide, please.

12 So we're coming from a different approach, and it leads to
13 key differences in the result. First of all, coming at it the way we did, your
14 ITAAC will correspond to those risk-significant planning standards because
15 they were determined to be the more significant ones. We can do that
16 because everyone should be aware and confident that all 16 planning
17 standards will be fulfilled by the licensee. The responsibilities of NRC and
18 FEMA carried out, as they always have been, because they are required to be
19 by regulation, not by ITAAC, but by regulation. So a significant difference
20 would be, in our approach, there wouldn't be ITAAC corresponding to planning
21 standards that were not determined to be risk-significant. Didn't need to be
22 because those other planning standards would be dealt with in those other
23 ways.

24 Further, that ITAAC would focus on the on-site emergency
25 response plans and the off-site interfaces. In fact, Ben took us to a place
26 where we each have an ITAAC in our proposed set on the 15 minute
27 notification, that appears both places. The interfaces that that contact be

1 successfully made within 15 minutes to the off-site organizations, but what
2 happens next is the responsibility of state and locals, and for FEMA to verify,
3 and so we don't have — whereas, in the NRC's set of ITAAC, there are a
4 number of ITAAC about the off-site response. Our set of ITAAC doesn't
5 include those, because they're in the off-site.

6 Certainly those offsite activities would be evaluated, verified,
7 as they always have been by -- that's the area of FEMA's responsibility. And
8 certainly the state and locals to carry those actions out.

9 And that's what's in -- let's see -- okay, I think that's fine to go
10 on. Good. This slide attempts to capture the -- just the overall approach. And
11 I think it underscores a couple of points that I've been trying to make because
12 across this top row is kind of what's new here about -- under Part 52. And it's
13 this whole ITAAC concept. That's what's new. That's what's additional.

14 Okay, everything down here -- every box says same as Part
15 50 because the state and local governments, FEMA, NRC will do as they
16 always have under Part 50 as it relates to all 16 planning standards. It's just
17 in a few areas where there would be ITAAC. That's an additional step the NRC
18 and the licensee need to go through.

19 The other points that have been brought out, there is an
20 application that's put together by the -- imagine that, the applicant, and
21 presumably that would reference plans developed for the offsite response by
22 the state and local government. And be the subject of a mandatory public
23 hearing prior to any -- prior to issuance by the NRC if hopefully they choose to
24 issue the COL.

25 After that, now the plant is turned into a construction mode.
26 You're now implementing the terms of the license. And there's, again, this two-
27 track path. The ITAAC implementation path up here. And everything that's not

1 ITAAC goes on down here as it always has.

2 It's important to note there's an arrow because some of the
3 things that are going on and have always gone on and always will, NRC or
4 FEMA inspections of drills, exercises, et cetera may feed into, okay, the NRC
5 verification of one or more of the ITAAC.

6 Okay, so this is the way that the exercise or the preliminary
7 or mini exercises or drills that might precede it would be -- are included in our
8 vision of ITAAC as well.

9 The NRC concludes that the ITAAC are met. And there is an
10 opportunity to request a hearing on whether, indeed, that is the case or if there
11 are questions about ITAAC noncompliance. And that's prior to the NRC
12 authorization to load fuel.

13 Bruce already emphasized that the COLs intended to resolve
14 all the issues that it can. And that would exclude only those issues that can't,
15 by their nature, be resolved until later. Construction is the best example of one
16 of those. But certainly a demonstration, perhaps, of some of the emergency
17 planning response is something that can't take place until later and so, of
18 course, you may have ITAAC on those.

19 I'll wrap up with one final slide. Our approach is nice for an
20 important reason that we think it's consistent with key principles that underlie
21 all the ITAAC regardless of their nature. And those principles have been
22 established for some time.

23 In particular that they're focused on the significant EP
24 elements, in this case emergency planning elements. The approach absolutely
25 preserves the roles and responsibilities of the state and local governments and
26 of FEMA with no change because of the presence of ITAAC in Part 52.

27 In fact, we don't envision additional roles for the state, locals,

1 and FEMA as a result of ITAAC. ITAAC is an additional process that Part 52
2 licencees must meet.

3 I guess in closing, ours, like your, I think, are a starting point
4 for discussion but we started from a different place. They're presumably not
5 perfect. There may be ITAAC and a careful examination of the staff's ITAAC
6 might identify that others are significant, on par with the ones we've identified.

7 But also don't fail some of the other principles. In other
8 words, relate to what the licensee needs to perform and that relate to the onsite
9 EP or the offsite interfaces. And if, to the extent that's the case, we would
10 propose to modify our set of ITAAC to include additional ones that are
11 significant and meet the principles.

12 In terms of our set of ITAAC, which is in your handout as well,
13 right Joe?

14 MR. SEBROSKY: That's correct.

15 MR. BELL: I might like Bruce to just look at the first page.
16 And speaking of reactions, there's four columns here not three. The first
17 column is simply a recitation of the planning standard. And in this case, there's
18 four of them, A, B, C, D corresponding to the four of the sixteen that were
19 determined to be risk-significant planning standards.

20 The second column is that portion of the planning standard
21 that meets those other principles I talked about. In other words, pertain to the
22 -- something the licensee would perform and the NRC would verify as opposed
23 to say something that FEMA would verify having taken place offsite.

24 And then we've tried to fashion that requirement in terms of
25 a test as opposed to an inspection or an analysis. If you flip through, you'll see
26 all of our inspections, tests, and analyses, our tests, we think those are the
27 most objective things and lend themselves to the most objective set of criteria,

1 again as a starting point for discussion.

2 So that's an overview of another approach.

3 MR. CAMERON: That's great. Thank you. Thank you very
4 much, Russ.

5 What I'm going to suggest is that we are getting towards the
6 cusp of lunch here. But a lot of the specific examples in the industry proposal
7 in a chart that we're going to visit this afternoon and maybe what we should do
8 in our remaining time this morning is first of all to answer any questions asked.
9 To go around the table and answer any questions.

10 But there are some overarching issues here that perhaps it
11 would be useful to try to get out of the way this morning. And I think Russ has
12 been very clear about the industry built on some work that was done with the
13 Reactor Oversight Process to identify risk significant before the 16.

14 Why don't we try to address some overarching issues now
15 and get into some of the specific later on this afternoon. Unless there is
16 something that is specific to the industry chart or the NRC's that you want to
17 use for an example -- and Joe you had your card up. Do you want to start us
18 off and then --

19 MR. SEBROSKY: Yes, I guess I just had a question as --
20 going through NEI's proposal. And the question to industry is do you think the
21 proposal to use risk as a way of removing things from consideration for ITAAC
22 is consistent with what we did with the certified designs?

23 And by that I mean this approach seems to me to be novel
24 in that if you looked at the questions that are asked and it appears in our draft
25 SRP guidance and also in the draft SRP 14.3 on design certification ITAAC.
26 And also in the 14.3 sections of the design control document, there's a list of
27 questions that are asked to determine if a system structure component will get

1 an ITAAC.

2 And risk is not used to remove things. It's used to add things.

3 So, for example, if a system, structure, or component is relied on to, as part of
4 a design basis analysis, the philosophy is that that would get an ITAAC. How
5 much ITAAC that particular system, and structure, and component would get
6 would be tied to its risk significance. But there would be an ITAAC for it.

7 I mean you'd look at station blackout or ATWS. If you relied
8 on it for that, it got an ITAAC. If it was not -- if ATWS or station blackout wasn't
9 particularly risk significant, you may have a more limited set of ITAAC. But you
10 would have an ITAAC.

11 I -- it seems to me that this is a novel approach. Do you see
12 it that way? Or do you see it -- and it seems to me that it's different that what
13 we did for --

14 PARTICIPANT: Let's follow this discussion thread after Russ
15 is done. In other words, the issue of consistency with the way ITAAC has been
16 used in other areas in terms of risk. And if it's not consistent, is there any
17 reason why it needs to be consistent, I guess.

18 Russ?

19 MR. BELL: Well, as you mentioned, certainly risk was a
20 factor in determining the ITAAC on the certification. So in that respect it's not
21 completely novel.

22 But I guess I would say it is new in the sense that we didn't
23 use -- we didn't have -- I think the reason is we didn't -- couldn't approach it this
24 was in the early 90s is because we hadn't gone through the effort of
25 determining what was risk significant about all the various systems. And that --
26 having given that information in this area, though to make best use of it.

27 I see cards flying up so --

1 MR. CAMERON: Yes, and we're going to go to -- we're going
2 to keep following this same issue. But just so that we understand what Russ
3 has just said is the implication of what you're saying is that if we did have as
4 much information now in reference to some of the things that Joe has talked
5 about, perhaps there would be a different approach? Is that what you're
6 saying?

7 MR. BELL: I guess I'd rather be remembered to say is that
8 given the parsing that was accomplished in this area on EP, it seemed like an
9 excellent starting point to get at what we're trying to get at in ITAAC in general.
10 And that is to identify what the more significant elements are.

11 MR. CAMERON: Okay. All right. Let's go to Steve, and
12 Adrian, and then go to the NRC and back over. Steve?

13 MR. FRANTZ: Thank you. I think our approach is fully
14 consistent with the approach taken on design certification. If you look at design
15 certification, there was an SRP or the Standard Review Plan that listed
16 numerous criteria for many systems.

17 We did not and the staff did not require us to have ITAAC on
18 every single element of the SRP. Instead what was done was taking the most
19 important, the high-level performance criteria, and those were transformed in
20 ITAAC using basically a risk-significant approach.

21 We had no intent ever to have every element of the NRC staff
22 guidance document as an ITAAC. If you look at the EP ITAAC, we're taking
23 the same approach. We're not taking every element from the NUREG
24 document. We're taking the literature of the most significant, the most
25 important.

26 MR. MUSICO: Yes, let me just address that. The
27 comparison between the design certification ITAAC with the COL ITAAC is

1 inappropriate. In essence, it's apples and oranges.

2 The design certification EP ITAAC, which I've worked on a
3 number, that deals with, in emergency planning land with specific criteria of
4 emergency planning that is applicable to the physical systems and facilities
5 associated with a certified design. It's very limited.

6 With respect to the combined license application, we're
7 looking at a comprehensive, integrated emergency plan that provides
8 conditions, placeholders, for you to start the plant up. There's an overlap to a
9 certain extent.

10 I'll give you an example, for example the functions, some of
11 the functions of the technical support center, certain square footage
12 specifically, there's certain square footage that's required that can be clearly
13 stated in the certified design which is, for the AP1000 is a placeholder that
14 reflects NUREG-0696, which deals with facilities.

15 That's a clear equipment facility ITAAC. And it's appropriate
16 to be in the certified design. Again, the certified design is just of the plant itself.

17 For the COL application, we're looking at everything. We're
18 looking at offsite emergency planning, onsite emergency planning, exercises,
19 the actual procedures, the staff, all of the aspects associated with emergency
20 planning.

21 You'll see in them an overlap of design certification but if --
22 but looking at the numbers game, that -- say we only had five ITAAC for EP
23 certified design and now you've got 116 for a certified or for a combined license
24 application, that is a miscomparison. It's not appropriate to compare those two.

25 MR. CAMERON: And we're going to go to Adrian. Then
26 we're going to hear from Ken. And, by the way, Ken is not going to be able to
27 be with us this afternoon. So I want to make sure that anything he has to offer

1 on this or other issues, we'll want to hear from him on.

2 We'll go to the rest of the NRC. Then we'll go over here.
3 Bruce, if you can quickly answer, is your -- what you just said, does that mean
4 that you're not as concerned with the consistency issue that Joe raised? As he
5 might possibly be?

6 MR. MUSICO: Now Joe was talking about the risk-significant
7 planning standards. I was getting into the design certification. I think --

8 MR. SEBROSKY: Well, and the thing, I guess just getting
9 back to what Steve said, my concern to put it succinctly, is that it seems to be
10 that the proposal from industry is that we'll use risk to narrow the set of ITAAC
11 --

12 MR. CAMERON: Instead of broaden.

13 MR. SEBROSKY: -- instead of broaden. That, to me, seems
14 to be fundamentally 180 out of what we did for design certification.

15 MR. CAMERON: Okay. And let's continue to discuss this.
16 Adrian, we're on this point about the broadening/narrowing issue.

17 MR. HEYMER: Yes. I mean the way we looked at it is
18 ITAAC is an ITAAC, okay? Now it's true in one part of Part 52 design
19 certification, you're required to have ITAAC which then the COL applicant takes
20 and incorporates into his license.

21 And in addition to that, you have ITAAC at the time of COL.
22 So an ITAAC is an ITAAC. And where at least I believe we came at it from was
23 the fact that if you talk about ITAAC, and as went through in design
24 certification, we said to ourselves well, okay, what is this thing called ITAAC?

25 And what we said was is well, okay, it's not all the design and
26 all the inspection criteria that FEMA and NRC and everybody else has. What
27 is it?

1 And so we went round the houses and we came down and
2 said it's really those important, those significant, those salient elements of the
3 design. And what we said is when we approached it from the COL perspective,
4 is okay what are the real important, significant, and salient elements of EP?

5 And we said well, as an indicator of that, is what has been
6 done in the terms of the oversight process and in identifying those aspects that
7 are really important which are the risk-significant planning standards.

8 So we said okay, let's focus down on those. And I see it not
9 as much as broadening or reducing or cutting or chopping or doing whatever.
10 But it's really focusing the ITAAC on the correct set of elements that were
11 envisioned back in the early 90s.

12 And so I think -- and when we say about station blackout,
13 well, you know, the risk profile is something that's led to support station
14 blackout. It probably comes down in the risk bucket and so you would include
15 it. So it was an easy way for us to say let's focus down on the really important
16 elements that are associated with that, recognizing that you've still got the
17 normal standard inspections that are taking place under Part 50, which feed
18 into the recommendation to carry on, move forward, and load fuel.

19 So it's like a parallel process. So that's how we came upon --
20 that's how I saw us using risk.

21 MR. CAMERON: Okay. Thank you, Adrian. And just so we
22 can get all of the industry comments on this issue on before we go to Ken and
23 down the line, why don't we hear from Ben. And it is on this issue that Joe
24 raised, right?

25 MR. GEORGE: Yes, it is.

26 MR. CAMERON: All right.

27 MR. GEORGE: I guess I've got several comments to offer.

1 First of all, as I understand the Commission's policy on risk informed regulation
2 and risk insights is to put an emphasis on where the safety focus should be.
3 Clearly the industry and the NRC have worked pretty hard the last few years
4 in that regard.

5 I'll also note that it is a requirement on these new plants to
6 have a PRA. It is not on existing plants to the extent that it was a required part
7 of the licensing basis. And we are using the risk insights in not only the design
8 area but in the programmatic areas as well. And we'll do so in development
9 ultimately of our procedures.

10 I think as Adrian articulated here, what we're trying to do is
11 put a safety focus on ITAAC and what ITAAC should be in this particular area
12 like we have in the design certification areas, that we are looking at the high
13 level or safety-significant areas of ITAAC.

14 We have -- we are participating in an EP ITAAC and plan to
15 have one here. So I guess my point is I'm puzzled by the Commission's -- or
16 the NRC's push back on trying to risk inform an ITAAC here because that's --
17 to me that's almost contrary to the Commission's policy.

18 Secondly, I'm concerned about the NRC's discounting of their
19 own regulations and enforcement thereof. We clearly understand that we have
20 to comply with all regulations relative to licensing a nuclear power plant. And
21 that will be considered at the time of the 103g Hearing separate from the
22 specific ITAAC themselves.

23 The public will fully participate during the COL licensing
24 stage. We will have established ITAAC, which will be subject to litigation. The
25 regulatory requirements that the NRC will inspect the licensee to.

26 If the public has a particular objection, they can come in
27 through the 2.206 process if it's not part of an ITAAC. So I think -- I don't

1 understand why we're saying that you've got to have an ITAAC in order to
2 make sure the licensee is going to comply.

3 The licensee has to comply. The NRC is going to ensure that
4 we comply prior to that 103g finding.

5 MR. CAMERON: Okay, thanks Ben. And we're going to go
6 to Ken and then to Nader and then to Dan. And I would just ask the NRC to
7 think about the point that Ben made that why are we worried about this if the
8 NRC regs take care of all of these things. It may go to the nature or the
9 purpose of ITAAC but if you could give some thought to that, too.

10 Let's go to Ken, Ken Wierman?

11 MR. WIERMAN: Well, I just had a question. Your proposal,
12 was it ever brought up to state and locals?

13 MR. BELL: Today.

14 MR. WIERMAN: Just today?

15 MR. BELL: Yes, right.

16 MR. WIERMAN: Well, the reason I ask that is because in the
17 period of time I worked in Shoreham, and you just get the impression -- and we
18 can have state and local people, you know, chime in here, you get the
19 impression though that you're not tying them in the process by just using the
20 risk assessment. That's my only concern with it.

21 You're not having the state and local -- at least your not -- it
22 doesn't appear that you're having state and locals in that process the whole
23 way through. Whereas if you cover all the planning standards, they're tied into
24 that whole process.

25 MR. BELL: And to try to ensure that the state and locals --
26 and in conversations today and before today if they did occur and after today
27 are mantra is that you'll need to perform your same roles and responsibilities

1 that you always have.

2 And that what we at NRC determine to be the right amount
3 of ITAAC really doesn't effect that. So I think that's our --

4 MR. CAMERON: And this is an important issue. I hesitate
5 to go on with it right now because it does seem that we have a specific topic on
6 that this afternoon. And it, you know, it does -- what you said about the slide
7 about this preserved state and local goal, I think that that raised some issues
8 vis-a-vis a comparison to the NRC role.

9 And Ken, you got this on the table. And unless you have
10 more to say about it now because we know that you're leaving, what I'd prefer
11 to do is try to get some of these overarching issues out of the way and start off
12 with that state and local issue, which is our second topic this afternoon.

13 MR. WIERMAN: I'll be back. This conference call is at one.
14 So I should be done by two.

15 MR. CAMERON: Okay, great.

16 MR. WIERMAN: So I should be here this afternoon.

17 MR. CAMERON: Well what we'll do is we'll make sure that
18 we don't start the state and local issue until we have Ken back. Is that okay?
19 All right, good.

20 Let's go to Nader. And then we'll go to Dan. And hear from
21 anybody else from the NRC. Nader?

22 MR. LYONS: I very much appreciate that you're trying to
23 attach some risk significance in the ITAACs. Help me understand. How do you
24 draw the line? How do you come up with four standards, four ITAACs versus
25 eight. Why start with four? Why not two? How do you draw that line?

26 MR. HEYMER: When you say four, do you mean the
27 planning standards?

1 MR. MAMISH: Yes.

2 MR. HEYMER: Well, of course, we were handed that as the
3 result of the expert, you know, panel that did its work in the late 90s and
4 resulted in the Inspection Manual Chapter 0609. So we kind of took that at
5 face value.

6 Now some of the folks that might have been involved in that
7 could speak to why those four were chosen. But one item from that paper was
8 that a loss of function of a risk-significant planning standard has a greater
9 safety significance that would a loss of function of the other planning standards.

10 So that was a test that elevated these four about the other
11 twelve.

12 MR. CAMERON: And I guess the question for the group and
13 for the industry and NRC generally is were those four -- the reason that those
14 were identified for act or oversight process is the logic. The reason they were
15 identified is that consistent with identifying risk-significant purpose of ITAAC.

16 And I don't know if the NRC staff can shed any light on why
17 those four were selected for ROP and whether that's a good guideline for
18 selecting those four for ITAAC.

19 But Dan do you -- I don't know if you want to talk to that?

20 MR. BARSS: I can.

21 MR. BELL: Can I just clarify one thing?

22 MR. CAMERON: Go ahead.

23 MR. BELL: Your premise to me was that we took a risk
24 informed approach to ITAAC. And I just want to -- it might be a nuance. What
25 we wanted to do was having ITAAC in the EP area like all others focus on the
26 more significant or top level design standards and performance criteria,
27 whatever the phrase is.

1 So we didn't start out with risk. But we saw this on the table,
2 this tool that lead us to the four. And it was indeed a risk informed approach.

3 So I think it's a nuance but I would stress that we were trying
4 to find the more significant standards. Risk is certainly an excellent tool and
5 one that's blossomed in the last, you know, ten years with all the agency and
6 industry focus on it.

7 MR. CAMERON: And I guess there's that clarification I would
8 ask you on that that goes to what Nader said is that, you know, your basic
9 concern and objective is to make sure that the most risk significant are
10 addressed. And you saw as a starting point these four from the reactor
11 oversight process.

12 You wouldn't necessarily be ultimately wedded to those four
13 if these might be able to be -- these being the 16 -- might be able to be pared
14 down to the called-outs in some way.

15 MR. BELL: I think there may be others that through some
16 detailed discussion, perhaps using real emergency plan information for it, you
17 know.

18 MR. CAMERON: I think that answers your question, Nader.

19 All right. Let's go to Dan. And then let me ask whether we
20 have any information on two points that have been brought up. Dan?

21 MR. BARSS: I've got several things on my mind. One I think
22 was Ben George mention where we're not adverse to or opposed to risk
23 informing the ITAAC. We look forward to your presentation and working with
24 you on doing that.

25 When we talk about risk informed things in the EP area and
26 Bob Kahler is in the audience, he can correct me if I'm wrong, but my
27 understanding of the risk significant planning standards, as we identified the

1 four, it was more a prioritization of the existing ones in the reactor oversight
2 program, which is looking at an established program that's already there.

3 It's already met the licensing criteria. It's now focusing on
4 those items that in our inspection process we wanted to shed the spotlight on
5 and there gauge how the program is doing. And use that as kind of a
6 monitoring point.

7 And when we see problems, then we go out and look at the
8 rest of it. What we're doing and what we're talking about today is licensing a
9 new plant. So it's all on the table. It all needs to be looked at and satisfied.

10 We can't just focus on a few of them. However, I understand
11 the principle that you're saying is let's make sure that we put the most energy
12 in the things that are most important to the public. And that's why we need the
13 public's input, too, to make sure we understand what that focus needs to be on.

14 So we do think there is some room to, I guess, focus and
15 narrow, if we can. And we look forward to going through this process and
16 doing that.

17 One of the questions that comes to my mind, though, when
18 I look at the industry presentation is how would a licensee or an applicant, I
19 should say, how would an applicant who in their application process, in the
20 COL, and putting together decides they don't want to put the resources into the
21 front end of the emergency plan of fully developing the things that would be
22 needed to satisfy all of the criteria.

23 If they -- if we limit it to just those risk-significant things, then
24 there is an awful lot of things that they need to address more fully in that
25 application process whereas if you left it broader, as we have left the door open
26 to, the applicant then can more freely choose how fully they want to develop
27 something and how they can defer things to a later stage if they want as long

1 as the criteria are there as to what they're going to do to meet it.

2 There is less, I guess, development in the front end. A plan
3 can be submitted that can satisfy as long as we see the placeholders with the
4 ITAAC that are going to be the proof later that they've met these things.

5 That, I guess, my concern is the industry approach if we
6 narrow it that much you're limiting the applicant's ability and the room they
7 have, the wiggle room, I guess, they have in their application process.

8 MR. CAMERON: Okay, let's -- let me go to Russ or others
9 on that last point that you raised. But I wanted to see if Bob Kahler from the
10 NRC who is our expert on risk has anything to share with us, including anything
11 you might want to say about why those, the relevance of those four that they
12 chose.

13 MR. KAHLER: Hi, I'm Bob Kahler. I'm an Emergency
14 Preparedness Specialist out of the Emergency Preparedness Project Office.
15 And the lead with the EP Cornerstone Oversight Process. And -- is that better?
16 Okay.

17 And as such, I have the -- I watch over the 0609 Appendix B
18 document that you referred to which just went through a revision last year
19 which did another round of evaluation on the risk significance of the 16
20 planning standards.

21 And I think what I can shed light on is the fact that the reason
22 why the risk informed process was used on the 16 planning standards was to
23 be able to bubble up those elements out of 0654 in which we wanted to shed
24 the spotlight on as Dan had said in order to see where we would be able to
25 create performance indicators which were objective such that the plant could
26 then take those performance indicators and provide that to us on a quarterly
27 basis.

1 As a result of that, it came down to the classification,
2 notification, dose assessment, and PARs. And if you look at the four
3 performance indicators -- there are three performance indicators actually that
4 are out there, those dwell in those areas. So that's why we created those
5 performance indicators based upon that risk informing.

6 Then what we did was say now that we have these 16
7 planning standards with these four that bubbled up, how can we then risk
8 inform all of those in order to shed light on the activities of the NRC whenever
9 we find problem areas during our inspection process?

10 And we stated that the four risk significant planning standards
11 that we identified as 4, 5, 9, and 10 is when there should be additional
12 oversight by the NRC if there's problems that are identified in there such that
13 it enters the matrix in the document so that if there is a white finding or a yellow
14 finding, it's elevated in significance.

15 What I think is lacking here though, what I've heard in
16 discussion is the fact that the remaining 12 planning standards are not non-risk
17 significant. They are risk significant. It is in the level of the significance we've
18 placed upon them.

19 Within the program elements of those remaining 12 such that
20 I can still receive a white finding out of those other 12 elements, the other 12
21 planning standards and receive the same amount of oversight from one of
22 those other 12 as I could if I receive a finding in one of the four risk significant
23 planning standards.

24 It depends upon the level of the finding and the amount of
25 significance we placed upon those other 12. So we didn't exclude them from
26 the inspection process. There was just a prioritization, a hierarchy of those
27 other 12 versus the four.

1 And I think what happened was in Dan's, Bruce's, and Ken's
2 philosophy in looking at 0654, they used the same philosophy we looked at.
3 What out of all those 280 some odd program elements are the ones that
4 bubble up to the 116 that form the ITAAC.

5 And to hear that it's a risk informed process that we used for
6 the four planning standards versus the risk informed, if that's what you want to
7 call it or what is the -- those program elements out of 0654 that require ITAACs
8 is essentially the same process we used in identifying the significance of the
9 findings within those 16 planning standards.

10 MR. CAMERON: Okay, thank you. Thank you very much,
11 Bob. And to summarize a little bit here is that I think we've heard Russ that the
12 concern is narrowing the 16 for ITAAC based on risk significant, which we, you
13 know, need to work on defining.

14 We heard from Dan at least, and I think that that reflects the
15 attitude of the rest of the NRC staff that we're open to discussion of some type
16 about that.

17 What Bob said, I think, answered the question about the four
18 factors that were selected from the reactor oversight process that's not
19 necessary a good model to use in identifying these risk significant factors here.

20 MR. KAHLER: It's not the only model.

21 MR. CAMERON: It's not the only model, okay. And I think
22 we've got about five minutes in here. And then let's take a break for lunch.

23 And want to go to Dan, and Ben, and then find out whether
24 anybody else in the audience has anything to offer on what they heard this
25 morning.

26 Let's go to Dan and then we'll go to Ben.

27 MR. BARSS: Well, a continuation of my earlier thoughts or

1 ramblings. We hear mention of regulatory certainty and making business
2 decisions. And we understand that's a key point in the industry's mind is how
3 are they going to make these business decisions.

4 And the one wildcard in all that is the state and locals in
5 making your business decisions. And we're well aware of that, too.

6 There are certain things you as an Applicant have control
7 over. Your people, your plant, your design, your construction. But you don't
8 have control over state and locals. They are a participative part of this process.
9 And a very important part of that process.

10 And I guess my concern is how do we include them in it if we
11 go the route that I hear NEI presenting, it seems to drop the state and locals
12 and FEMA below the ITAAC bar and leave them out of that.

13 And I want to know, you know, how do you do that. I mean
14 they need that inclusion in there. Particularly if it's a Greenfield site, I see that
15 as a more important thing.

16 If you have an established and existing program, state and
17 locals are very well established. And they'll continue to do or they'll participate
18 in what's there.

19 Well, I'll let them speak to that. But if it was a Greenfield site,
20 then there is a new development that has to go on there. And how would you
21 address them in your proposal.

22 MR. CAMERON: Okay. And that's, I think, a parking lot
23 issue for the afternoon as well as the issues you raised earlier about doesn't
24 having a more broader list of elements give the licensee maximum or flexibility.
25 We need to focus in on both of those.

26 Let's hear from Ben and then let me see if there is anybody
27 in the audience.

1 MR. GEORGE: I guess I just want to respond to the Dan's,
2 some of Dan's comments and the gentleman from the EP area.

3 We fully understand that you have to verify all 16 standards.
4 That's not the question here. And comply with a lot of other regulations
5 besides just those 16 planning standards.

6 Risk insight is a way of risk ranking. It's a ranking. It doesn't
7 mean something is not important. It just means something rises to a higher
8 level than something else does. But compliance is compliance. We have to
9 comply with all 16 standards.

10 We will submit emergency plans to you as part of the COL
11 application which will involve participations of the public, including the state and
12 locals. We take very seriously our relationships with the state and locals. We
13 go to a great extent to make sure they're a part of our EP plans, our EP drills,
14 and this sort of thing.

15 We recognize the importance of their participation as well as
16 FEMA's in their exercises. So there's no intent here to diminish their
17 participation at all. In fact as part of the ITAAC that we have on the table here,
18 their participation will be vital. That we can interact with them in the times
19 required and this sort of thing.

20 What we're talking about here is we have to comply with the
21 regulations. And that's part of an input to the operating license. What we're
22 talking about here is focus -- putting a safety focus on those four fundamental
23 areas that rise to a higher level for ITAAC purposes.

24 We have to comply with all 16 and we're not diminishing that
25 compliance. We're talking ITAAC. So I guess in a nutshell, the ITAAC is the
26 element of the new Part 52 process that we -- when you talk about a regulatory
27 uncertainty, that we want to make sure is fully understood and is objective to

1 get us out of you might say the pitfalls of the Part 50 process that we fell into
2 in the 70s and 80s where we designed licenses as we went. And that's just not
3 going to happen anymore.

4 So there are some competing -- there's not really competing
5 interests here. We fully intend to have the public involved. And the public can
6 stay involved all the way up to the end. It's just a matter of what's in ITAAC and
7 what's not. And we think that the safety focus ought to be on these particular
8 four areas.

9 MR. CAMERON: Okay. Thank you, Ben. Anybody in the
10 audience that wants to say anything at this point?

11 Yes, sir. And please tell us who you are.

12 MR. COSTELLO: Thank you. Good morning. My name is
13 John Costello. I'm with Dominion Emergency Preparedness. Ben is exactly
14 right. I think of this as having three things. First of all, you have a COL
15 emergency plan that's submitted which will directly address all 16 standards
16 and the NRC will review that. Once they're evaluated, they'll notify us of any
17 that are not satisfactory.

18 MR. CAMERON: Does it have something to do with how
19 close they get to the mic? All right. Let's -- we'll all need to remember that. Go
20 ahead.

21 MR. COSTELLO: All right. We'll try this again. My
22 statement was -- did you get my name? All right. Very good.

23 The statement was that the COL emergency plan that's
24 submitted will address all 16 standards. And the NRC will review that. And if
25 it falls short on any of those 16 standards or there is anything missing, they'll
26 certainly tell us. And we won't go forward absent that. So that's the 16
27 standards.

1 As far as the offsite elements are concerned, FEMA's
2 standing is as it always has been. And that is that absent a reasonable assure,
3 finding, or determination from FEMA, there shall be no plant operating or there
4 will be as there is today a 120-day letter for continued operations.

5 So in no way would FEMA's activities or offsite activities be
6 diminished. And then the last item has to do with trying to put a risk
7 significance on these four planning standards.

8 Yes, as Bob Kahler points out, these are the things that shed
9 spotlights. So we started with the performance indicators. And then we
10 stratified the 16 planning standards to provide that application of NRC
11 resources.

12 In these risk significant planning standing and reactor
13 oversight program, we can go to yellow on a finding, which is a higher level of
14 NRC engagement with the licensee, if there is a problem in that area. But even
15 in these risk significant planning standard areas, we can get a white finding as
16 we could in the other 12.

17 And have that other level of NRC engagement. And we can get green
18 findings in all 16 as well, which is in that licensee controlled area. Thank you
19 very much.

20 MR. CAMERON: Good, thank you. Thank you very much.
21 Why don't we come back from lunch at quarter to two, 1:45. And I guess I
22 have to thank Adrian for the -- what's sure to become the new big song hit,
23 What is This Thing Called ITAAC? It's very good. But at any rate, quarter to
24 two. Thank you.

25 (Whereupon, the foregoing workshop went
26 off the record at 12:47 p.m. to be reconvened
27 in the afternoon.)

A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

(1:51 p.m.)

MR. CAMERON: Well, welcome back from lunch. I thought I'd just do a little bit of a summary of this morning, so that we can pay attention to some issues as we go through this afternoon's discussion.

I think one main point that came out is that both the NRC and the industry were open to discussing the identification of risk-significant, industry not necessarily being wedded to the four factors, but that was the starting point, and the NRC not necessarily not willing to consider identifying some risk-significant ITAAC.

Then you get to the questions. What are they going to be? What criteria do you use to select them?

We had some points made about, what are the implications for state and local government from a risk-significant approach? I don't think that we know what those implications are, but that's something that has to be considered, and the point that Dan Barss made -- does using a risk-significant approach somehow deprive the license applicant of flexibility?

One other issue that we heard this morning from Ben is that whatever ITAAC are in there, should we be more -- can we be, the NRC, be more specific in the description? Instead of using subjective terms -- adequacy and capability -- can we add more specificity to it? And I think that Ben used the example E2 on page 4.

So what I'm going to suggest is that we proceed to go through the four discussion topics. And when we get into implications for any of these issues that we're talking about, let's note that. Or when we see areas where there's more specificity, let's get into that. And, of course, Russ has provided an attachment to the slides, too, that may contain food for thought for

1 these particular issues.

2 But with that, I think we're ready for the first issue about what
3 EP issues should be resolved before the COL. I'm going to ask Bruce to just
4 key that up for us and just explain what that is.

5 But let me ask you, is there anything that anybody wants to
6 say before we begin? Is this an okay way to proceed? Okay.

7 Bruce, do you want to just give a sort of brief description of
8 what the issue there is in that first discussion area?

9 MR. MUSICO: I'm going to let Dan Barss take that one.

10 MR. CAMERON: Or Dan, okay, good.

11 MR. BARSS: Well, issues should be resolved before COL.
12 I think that goes to maybe more of what the industry wants to put into this. Of
13 course, at the COL stage, hopefully we've got the infrastructure laid or the
14 groundwork laid out so that we can understand -- that we have an
15 understanding of what it is you're going to present to us. That's the question.
16 That's why I guess we're meeting today is to figure out how much we're going
17 to lay out ahead of time.

18 The one comment made from this morning about in the
19 ITAACs that we've -- the criteria we've laid out we've left them broad and, you
20 know, capabilities and all that. I made the point this morning -- and I'll make it
21 again -- we expect that the applicant when they come in are going to fill in that
22 broadness. We've left it broad in the guidance, like in the guidance or the
23 criteria to NUREG-0654.

24 NUREG-0654 is a very broad evaluation criteria that we use
25 to evaluate the individual plans. We've got 60-some different sites, and each
26 site has a different emergency plan that's existing. Each of them have to
27 interact with a different state, different county, different methods and ways of

1 doing things.

2 So to write a guidance document and put all of the specifics
3 in there of all those different parameters, it's near impossible and not
4 something I think that we want to try to do.

5 But you, as an individual applicant, know your state and
6 locals that you're dealing with. You know the specifics that you will have to
7 address or that you want to address in there. That's why we want to leave that
8 part for you. We want to leave the guidance document -- the broadness in it
9 to fill in the blanks kind of as you go.

10 MR. CAMERON: I guess you're sort of switching gears I
11 guess. You want to put in a point about this -- the specificity issue rather than
12 only keying up the issue about what should be resolved beforehand.

13 So hold Dan's thought, and I guess what you need to ask
14 yourself: is the concern from industry that, well, yes, they're going to come in
15 with the specifics, but if the ITAAC reads adequate, or whatever, is there some
16 concern that the industry is not going to know whether that's going to meet the
17 requirement? But I think you need to go back to that issue.

18 But does everybody understand what this first issue is, what
19 needs to be resolved before COL? Yes, Joe.

20 MR. HEGNER: I think after January 29th Russ described
21 industry's reaction to the proposal. And based on that set of reactions, we
22 came up with a strategy that you saw described in the presentation that Russ
23 gave this morning.

24 We've heard some additional things, at least I have, that
25 makes me want to go back and rethink some of what we did. But even if I take
26 on the obligation of going through the 116 criteria and saying -- and I think that
27 is -- that is my obligation, to go through those and say which of those do I think

1 I could resolve at COL and in my particular case for an existing site -- and
2 which of those might carry forward beyond that.

3 And maybe these are topics that we'll get into later, but I still
4 have concerns about ITAAC that somehow are assigned to state and locals or
5 ITAAC that seem to deal with a level of detail that just doesn't seem at all
6 reasonable to me.

7 So I believe that there are still going to be coming out of that
8 process where I review the 116 EP ITAAC and only some fraction move
9 forward that I'm going to have questions regarding the ones that still carry
10 forward to the post-construction phase. And I think I'd like to still discuss that
11 more this afternoon.

12 MR. CAMERON: Okay. And I -- you know, and that's --
13 that's fair game I think at any point along the way. And the point you're making
14 is that even if you -- we go through this identification process there are still
15 going to be other issues in question.

16 MR. HEGNER: And some of them we have already touched
17 on, but, yes, I'd like to --

18 MR. CAMERON: Okay.

19 MR. HEGNER: -- continue to discuss those.

20 MR. CAMERON: Before we go on to the table, just let me
21 turn to Bob Weisman from our Office of General Counsel.

22 MR. WEISMAN: I just wanted to mention that, of course, the
23 statute provides for ITAAC emergency planning, but the Commission has made
24 it clear that whatever can be resolved at the COL stage needs to be resolved
25 at that stage. Whatever --

26 MR. CAMERON: Bob, he can't hear you. I'm sorry. He can't
27 hear you.

1 MR. WEISMAN: He can't hear me either?

2 MR. CAMERON: Let's start over.

3 MR. WEISMAN: Okay. I'm Bob Weisman from the Office of
4 the General Counsel. I just wanted to remind everybody that while the -- there
5 may be some measure of flexibility with respect to EP ITAAC because it
6 specifically mentioned it in the statute, the Commission has made it quite clear
7 that whatever issues can be resolved at the COL stage need to be resolved at
8 that stage. And we ought not to have ITAAC if we can resolve matters.

9 MR. CAMERON: So is the question, then, what -- what
10 needs to be resolved?

11 MR. WEISMAN: I think that's a fair way of putting it.

12 MR. CAMERON: All right. Should we go to George, and
13 then Eddie? All right.

14 MR. ZINKE: One of the things that we seem to not be on the
15 same page on is that we agree that everything that we can in any way resolve
16 at the COL is to our benefit, you know, to close those issues. And we also
17 recognize that there's going to be some number of items that don't get resolved
18 at COL and get resolved later.

19 One of the things we're struggling with is we do not believe
20 that ITAAC is the process for resolving all open items. We don't see ITAAC as
21 the open item resolution process. We see ITAAC as a special process that
22 was, even as was read this morning, you know, from the Energy Policy Act, it
23 has a specific purpose, and indeed it will resolve some category of open items
24 but it is not the replacement of open item lists.

25 And so for us it's not so much an issue of what gets resolved
26 at COL and what doesn't, it's what things should be ITAAC and for some other
27 open items that are -- would be some other process. And that's why we keep

1 bringing up the ideas of, well, you know, there's -- as Ben has said, you know,
2 there's regulations that we have to meet, and there's processes for verifying
3 we've met regulations, and there's inspections that are supposed to be verifying
4 certain things.

5 And all of that, in our view, is supposed to continue, and
6 ITAAC is something additional, not a replacement for all of those other
7 processes.

8 MR. CAMERON: And, George, let me ask you a clarification
9 on that before we go to Eddie and then across to Kathy. You're making the
10 point that ITAAC shouldn't be the vehicle for resolving open items. But even
11 constraining it to the purpose that ITAAC should serve, there still are some
12 items to be identified that should be resolved before the COL. I mean, you
13 don't disagree with that.

14 MR. ZINKE: Oh, no. I mean, there's --

15 MR. CAMERON: All right.

16 MR. ZINKE: -- lots of things that need to be resolved at COL.

17 MR. CAMERON: Okay.

18 MR. ZINKE: And if we could resolve everything, it would be
19 wonderful.

20 MR. CAMERON: All right. And let's keep in mind George's
21 point, though, about ITAAC shouldn't be used to serve a purpose it wasn't
22 intended for. Let's go to Eddie and then we'll go over to Kathy.

23 MR. GRANT: I essentially wanted to reiterate or expand on
24 that a little bit -- that the very notion of closing issues with ITAAC confuses me,
25 frankly, because to develop an ITAAC and identify the acceptance criteria
26 requires resolution. You have to agree that this is the test or the inspection or
27 the analysis that needs to be done and agree that this is the appropriate

1 acceptance criteria.

2 The only question, then, is, did you do what it said? Not, is
3 that adequate to close the issue? The issue is closed, so this whole item here
4 of closing issues with ITAAC just confuses me all the way around. I don't see
5 that that happens at all.

6 For things that -- for issues that are not closed at the time the
7 COL comes up, if there are any -- frankly, I doubt that there would be many, but
8 if there are any this would be your standard, usual license condition, not
9 something we would specifically identify as an ITAAC.

10 MR. CAMERON: Can we -- before we go to Kathy, can we
11 get some help from the NRC staff? You heard George, and then you heard
12 Eddie take this a bit further. Can you respond to that in terms of what we're
13 looking for on this issue?

14 MR. MUSICO: Well, I have a question. Eddie, when you say
15 "closing issues," could you explain that a little more? What do you mean
16 "closing issues"?

17 MR. GRANT: The safety evaluation report typically has two
18 lists. Safety evaluation would identify a list of open items, and typically there
19 is a list of confirmatory items. And those are things that are done somewhere
20 along the way.

21 But those are agreed-upon, again, things that need to take
22 place as far as the confirmatory items list goes, but not necessarily for the open
23 items. For the open items is where you have not yet -- we, the applicant, have
24 not yet provided enough information, and so you guys have not yet written off
25 on it. That is an issue that remains open, and something would have to happen
26 there, other than ITAAC.

27 MR. SEBROSKY: Perhaps we're not using the best words.

1 I mean, ITAAC is not meant to defer open issues.

2 MR. GRANT: Agreed. That's why I say, this confuses me.

3 MR. SEBROSKY: Yes. Well, what ITAAC is -- to put it
4 simply, ITAAC is a verification process. You've committed -- I mean, the way
5 that we did it in the design certification, the design certification applicants
6 committed to build the plant in a certain way. If they built the plant in that
7 certain way, it met our regulations.

8 Well, ITAAC confirms that you did that. If you build it -- if you
9 meet the ITAAC, you've demonstrated that the plant was built in accordance
10 with the design, and, therefore, meets the regulations. So if you look at
11 emergency preparedness and you say, "All right. We have 116 issues for the
12 greenfield site that we can't imagine right now that we'd be able to verify prior
13 to giving a COL," like the sirens. All right?

14 For a greenfield site, the sirens -- is it reasonable to expect
15 that we mandate that you have those sirens in place for a greenfield site before
16 we give you a COL? No.

17 Is it reasonable to expect that your emergency plan describes
18 the location of the sirens, how many of them there are, what quadrants they're
19 in? Yes. Would we find that acceptable at that time and document it in the
20 SER? Yes.

21 If we find it acceptable and say that's the basis for giving you
22 a COL, then the question becomes: what do you ITAAC as part of that? To
23 verify that as you build the plant those sirens are installed and that ITAAC is
24 met prior to fuel load.

25 So ITAAC is simply a verification process. And maybe we
26 weren't using the appropriate terms, but if you go back to what Dan and Bruce
27 were trying to communicate this morning is when you look at the 282 issues,

1 the vast -- the majority of those you -- we think that you ought to be able to
2 resolve and verify prior to giving a COL.

3 Those 116 are the set that a reasonable person would say
4 that -- we'll buy off on the description, just like we did for design certification,
5 but we'll leave the verification until later.

6 MR. CAMERON: So, Dan, do you want to add on that? And
7 I guess --

8 MR. BARSS: Yes, let me --

9 MR. CAMERON: Go ahead.

10 MR. BARSS: -- add on to that a little bit, draw the analogy of
11 a hardware ITAAC. You say you'll have a system that will provide so many
12 gallons per minute flow rate, you know, at a certain pressure. Well, we say,
13 "Okay. Show us the ITAAC." You're going to do a pressure test on that
14 system to show it will hold the pressure, and you're going to do a flow rate test
15 to show it will demonstrate the flow.

16 You haven't built it yet, so we can't, you know, see it and say
17 it's done. You're going to give us an ITAAC that says we'll show you, once
18 we've built it, that it's there. The same with the siren system, as he mentioned.
19 You haven't built it yet, so you're going to give us an ITAAC that says, "We're
20 going to have 116 sirens. They're going to provide 65 decibels, you know,
21 above, you know, whatever -- 10 decibels above background," whatever the
22 criteria there is.

23 And we'll say, "That looks good," and you're going to give us
24 an ITAAC that says, "We've actually built them. The sirens are in place. We've
25 tested them, and they meet the 65 decibels, you know, and 10 decibels above
26 background," or that's the ITAAC.

27 To draw that analogy a little further, the first one I think we list

1 is 24 hour a day staffing capabilities. If it's a greenfield site, you don't have any
2 employees yet. There's nobody there. You can write a plan that says, "We're
3 going to have this many people to do this job."

4 But they don't exist, so your ITAAC will say, "I've trained, I've
5 hired -- or I've hired and trained the people, and they're qualified to do the job
6 that I said they would do." You're going to submit that and tell us that you've
7 done that part of the program, and we'll say, "Okay. It's fine."

8 MR. CAMERON: Let me ask two questions of the group.
9 First of all, is it clearer now what staff is looking for? And, secondly, did we
10 identify in our chart which issues we thought should be closed -- could be
11 closed before COL? I'm just thinking, is it -- in terms of our time this afternoon,
12 there may be conceptual problems with this particular issue.

13 But do we really want to go through -- is it easier for you to
14 look at what we might have proposed as these can be done before COL, and
15 just comment on that in writing rather than going through each one? I don't
16 know. Do you want to add something before we go?

17 MR. BARSS: Let me I guess add some more clarification to
18 what we talked about this morning. The planning -- 16 planning standards, as
19 you have articulated and we all agree, have to be met. I mean, you're not
20 going to operate unless you meet those. The 282 criteria out of NUREG-0654
21 is how we gauge whether or not you meet those 16 planning standards.

22 What we've done is said 116 of those 282, we think you could
23 show us through ITAACs that you've met them. You could certainly show us
24 through the plan ahead of time that you've met some of them, but we're
25 allowing you that flexibility to show us up to 116 of them in ITAACs if you
26 choose.

27 All of the remainder of those 282 we think you could fully

1 explain to us in a plan ahead of time, and we would find resolution of those
2 issues before the ITAAC or before the COL is issued. But the others are the
3 ones we felt you wouldn't have built anything yet, or you wouldn't have hired
4 anybody yet, so you couldn't show us completion of them.

5 You could explain to us what you expect to have, but it
6 doesn't physically exist. So we can't --

7 MR. CAMERON: I think we're getting that point, and this --
8 this may be my ignorance, but are the 116 of the 282 -- are those 116 ones that
9 we think can be done before --

10 MR. BARSS: No. Those --

11 MR. CAMERON: -- the COL?

12 MR. BARSS: Those are the 116 --

13 MR. CAMERON: Or is there some subset of those that
14 you're looking for?

15 MR. BARSS: Well, that 116 we think could have ITAACs
16 written on those and would be acceptable to us to see those in ITAACs -- would
17 give them the opportunity to not fully address those beforehand and present
18 them in an ITAAC.

19 MR. MUSICO: Let me say it a different way. Everything
20 that's in NUREG-0654 that is not included in the 116 we would reasonably
21 expect to be fully addressed in the application.

22 MR. SEBROSKY: Well, that's 166.

23 MR. MUSICO: And a little variation here, that the 116 sub-
24 evaluation -- sub-acceptance criteria we're looking at, which basically parallels
25 the NUREG-0654 evaluation criteria, there are some variations in the language
26 to make it conducive to the COL process. But basically it's the same evaluation
27 criteria.

1 But, in essence, everything for a greenfield site -- everything
2 that's not in the 116 listing we would expect to see in the application.

3 MR. GRANT: Two things there I guess I would point out is
4 that ITAAC is not the only verification method available to the staff. Certainly,
5 all of the other inspection reports -- methods are available and can be used and
6 provide adequate verification that what we said we were going to do we actually
7 did.

8 The second item I guess I would point out is that this seems
9 to be, to me at least, quite inconsistent with what occurred during the design
10 certifications. Certainly, for a design that is described in a design certification,
11 none of that is constructed. And so using the process that I understand you've
12 iterated this morning, everything in the design certification that could not be
13 demonstrated during COL would have to become an ITAAC.

14 Well, clearly that did not happen for design certification.
15 There are many tests, analysis, and things that are not yet done, that are not
16 ITAAC on the design certification. So I'm a little confused as to why it is you
17 feel that everything that can't be completed at the time of a COL has to become
18 an ITAAC. That is clearly not consistent with what occurred during the design
19 certification.

20 MR. MUSICO: No, I don't agree with what you're saying.
21 When you're talking -- what I'm hearing is that you're talking about the design
22 certification process and this -- this world of ITAAC that exists for it.

23 What I was trying to do this morning was to focus us on
24 emergency planning to better understand the comparisons or lack of
25 comparison between the two processes. And I'll say it again, and hopefully I'll
26 be a little clearer this time.

27 Under the design certification process, there are a very

1 limited number of areas in emergency planning that are conducive to having
2 ITAAC associated with it. Design certification looks at a particular facility, a
3 particular design. We can look at specific equipment and hardware and
4 facilities that are associated with that specific design.

5 Those can be related to the emergency planning
6 requirements, and we can identify, which we have, those aspects of emergency
7 planning that can, in fact, be directly associated with facilities and equipment
8 which are conducive to a design certification process.

9 What we're looking at in the combined license is the entire
10 emergency planning program. We're looking at a comprehensive, integrated,
11 onsite/offsite program that we need to look at as a whole to determine whether
12 there is reasonable assurance that if you satisfy everything you say in the
13 application, which you're able to up front, and that which you cannot address,
14 you identify with an ITAAC where there's objective and clear criteria, so the
15 public can look at it before the plant is built.

16 Those two together is what we look at -- the entire universe
17 of emergency planning requirements for the COL. To compare that with a very
18 limited facility, equipment, and hardware-related ITAAC under the design
19 certification process is inappropriate. They don't compare.

20 MR. GRANT: I don't see the distinction.

21 MR. CAMERON: Okay. Let's -- I think that we're still
22 struggling with this, and let's go to Russ and Steve and Adrian and Ben. And
23 then I'm going to see if Bob Weisman from our Office of General Counsel still
24 wants to make a point that he was telling me about and get some reaction from
25 all of you up there. But let's start with Russ and go that way. Russ?

26 MR. BELL: I guess I just wanted to follow up. Eddie was
27 making the point that it's not the only verification -- Joe says it is a verification

1 process. Eddie's point is it's not the only verification process, so it does not
2 compute for us to conclude that if we can't resolve it at -- in the COL application
3 and through the review that it necessarily must become an ITAAC. There are
4 normal inspection processes.

5 I guess I wanted to just offer the analogy to a system, a
6 hardware system. Dan went here. That pump Dan was talking about, there's
7 an ITAAC on the flow rate at the end, but that pump won't work right if it's got
8 the wrong cable to it, or you won't have reliability if you've got the wrong cable
9 or the tray that it's in is overfilled.

10 It may not work for very long if you stored it inappropriately,
11 and the other things -- NRC also looks at receipt inspection when that -- to
12 make sure that the pump that was specified and is going in that has -- is
13 exactly what was ordered and has exactly the right materials.

14 Those things I just mentioned don't translate into ITAAC.
15 There is not an ITAAC on receipt inspection for that pump, for instance. And
16 it seems to be a comparison that, to us, does hold -- or to me doesn't, Bruce,
17 between what was done before and what should be done in the future, that
18 everything that cannot be accomplished at COL need not be -- become ITAAC,
19 that there are other inspection processes like those NRC will use to verify
20 receipt inspection, proper warehouse -- temperature in the warehouse, proper
21 cable tray fills, and all those kinds of things.

22 MR. MUSICO: If I could respond to that -- and I don't
23 disagree with that. One of the examples that was used in some of the bases
24 documents that we looked at was if you have an ITAAC that says you have to
25 have certain gpm flow in a system, that might be conducive to a valid ITAAC.
26 But to what extent would you need -- would you need an ITAAC for the QA
27 procedure that verified the instrumentation that measured that gpm? No. No,

1 I don't think so.

2 What we're dealing with here -- and I don't think we're -- we're
3 disagreeing -- I'm disagreeing with you -- is that -- and it's one of the three
4 issues that we're looking at. This is number three. It's the level of specificity
5 that we want reflected in the actual ITAAC, the actual evaluation criteria.

6 How far down do we have to peel the onion to determine, is
7 this the right level of detail to have an ITAAC for versus going down to all of the
8 minutia, all of the supporting details, supporting tests, inspections that are done
9 to support the final outcome of the -- for example, the flow rate?

10 And so the level of specificity is something we have to
11 determine. This is part of the process we're looking at right now -- all of us --
12 to determine how far down do we want to go, the level of specificity that we
13 want for the evaluation criteria. And we're open to suggestions on that.

14 Getting back to something I think Joe or Ben made reference
15 to earlier was the subjectivity of some of the evaluation criteria. We saw that.
16 We recognized that. What we were trying to do was to adapt what was
17 currently existing -- currently exists in NUREG-0654, be consistent with the
18 initial effort that utilized that, and try to adapt that language the best we could
19 to have objective evaluation criteria.

20 But in some cases, it was not that clear. So we agree that
21 some of the terms in the evaluation criteria are, in fact, subjective rather than
22 objective, which is the goal of -- goal, not the requirement, of the evaluation
23 criteria.

24 So we recognize that, and we intend to change that if we can
25 find something better to say, or you can suggest something better to say to
26 determine what level of specificity we need, so it's not that subjective.

27 Now, however, there may be instances where you just can't

1 do that. The criteria just really is not conducive to have something really crisp
2 and objective. You may need to have some subjectivity as part of an ITAAC
3 acceptance criteria. And we don't know to what extent that's going to exist at
4 this point in time.

5 But I agree with you there is some subjectivity there, and I
6 think we need to address that, and we intend to.

7 MR. CAMERON: I don't want to get us off on -- going off on,
8 it seems to me, an entirely different point. And I don't want to go to that issue
9 now until we've resolved this first one. Okay? We're not talking about level of
10 detail, are we? I thought we were talking about what could be -- I keep saying
11 "done," because I hate to use the word "resolve," "close," or anything like that,
12 before the COL.

13 So let's hold those thoughts, and let's keep going with this.
14 And let's just get Steve, and Adrian, Kathy, and Ben on the record here on this
15 issue we're discussing, and then let's see where we are with it.

16 And, Bob, if you still want to say something after that, go up
17 to the mike and do it.

18 Steve?

19 MR. FRANTZ: Your point seems to be that you need what
20 you'll call a comprehensive ITAAC. You need ITAAC that governs every issue
21 raised in 654, and that is exactly what we did not do in design certification
22 space. We did not take a staff guidance document and transport that into the
23 ITAAC world. We selected the most safety-significant elements and made
24 them ITAAC. And let me give you a very specific example here.

25 Let's take the reactor-building or containment-building. There
26 are, I'm sure, SRP criteria governing things like rebar, CAD welding, concrete
27 mix, and so forth. We don't have -- even though those are SRP criteria, we

1 don't have ITAAC on rebar, concrete mix, or CAD welding.

2 Instead, we have more safety-significant criteria governing
3 things like the dimensions of their containment building, governing the pressure
4 tests of the containment building, and we've chosen those as the most safety-
5 significant elements and limited our ITAAC to those. We have not chosen
6 ITAAC corresponding to each of the SRP criteria on the containment building.

7 We would propose to do exactly the same thing on the EP
8 ITAAC. We don't want EP ITAAC, and don't believe it's necessary to have EP
9 ITAAC for every one of the elements in 654 that can't be resolved at the time
10 of the COL.

11 Instead, you have ITAAC on the most safety-significant
12 elements of 654, and everything else gets governed by the NRC inspection and
13 enforcement process.

14 MR. CAMERON: Okay. And we're going to go to -- we're
15 going to get some people on the record. And I guess based on what you say,
16 I need to come back to the NRC about its distinction before or after. Is that a
17 meaningful distinction? I guess I still haven't heard that there's an agreement
18 here.

19 MR. BARSS: I guess the answer or reply -- I've heard
20 enough people say it now, and I understand the point that you're making. We
21 took every one of the criteria that are in NUREG-0654 and made a decision
22 ITAAC or not to ITAAC this.

23 And what you're saying, as I understand, is not all of them
24 need to be in there. We can go through it with a different comb, a different
25 filter, and, you know, maybe bunch some of them, maybe eliminate some of
26 them, and I -- I understand the point. I'm not sure which ones we would or
27 would not do. We obviously have not done that yet.

1 But I understand that the industry --

2 MR. CAMERON: Is that answering our question that we're
3 asking?

4 MR. BARSS: Well, I think it is -- I think at least --

5 MR. CAMERON: Okay.

6 MR. BARSS: -- it's opening to me an understanding of what
7 the industry is saying, or at least how they're reading what we gave them. And
8 answering that first question is, you know, what can be done before COL in
9 setting up the infrastructure that leads us to the COL point is -- how broad does
10 that ITAAC, you know, net need to be or can it be? At least that's what I'm
11 hearing --

12 MR. CAMERON: Okay.

13 MR. BARSS: -- I'm understanding your point.

14 MR. CAMERON: Joe, let's go to you, and then we'll go to
15 Adrian and Kathy.

16 MR. SEBROSKY: And I guess the thing that I -- if I
17 understand what Mr. Grant said and understand what Mr. Frantz said, I
18 respectfully disagree with their positions, in that I think what they're saying is
19 that we did not ITAAC certain portions of the regulations. That goes against
20 what ITAAC was meant to do.

21 ITAAC, if you go to slide 17 of what Bruce has, ITAAC are
22 necessary and sufficient to provide reasonable assurance that the facility has
23 been constructed and will be operated in conformity with the license.

24 So how do we do this for design certifications? If I agree with
25 points that ITAAC are high level in some cases, in a lot of cases, if you look at
26 a particular system, structure, or component like the RHR, there are several
27 things that could get ITAAC on the RHR system.

1 Is it safety-related? Was it taken credit for in the Chapter 15
2 analysis? What's behind that is a regulation requiring that. If you took credit
3 for it in your Chapter 15 analysis, that meant that you needed it for your ECCS.

4
5 So the ITAAC looks like, for the RHR system -- or safety-
6 related -- the pump puts out so much flow. Well, it doesn't tie that to 10 CFR
7 Part 50 in the ITAAC themselves. But the analysis that goes behind that,
8 essentially the staff agreed that that pump puts out so much flow it meets the
9 ECCS criteria. And we have -- if you look in Section 14.3 of the certified
10 designs, there is road maps to do exactly that.

11 For example, there is a list of design basis evaluation. Was
12 it used in a design basis evaluation? And what particular aspect of that system
13 was used in a design basis evaluation? So, in 14.3, if you were so inclined, you
14 could go to that and you could say, "Okay. Now I understand how we got the
15 flow rate ITAAC on that particular pump."

16 It gets back to the regulation. What Dan and what Bruce did
17 was they said, "Okay. I have these 16 planning standards that are the
18 regulations," which we're trying to verify, right? I mean, that's what we're trying
19 to do. And their approach to that was, well, in the past we've used the O654
20 criteria to verify you met those regulations. It seems like the logical starting
21 point for us on the EP.

22 I agree with that. I mean, if you meet -- the issue is not if you
23 meet every minutia of the SRP. The issue is, do you -- how do you verify that
24 you've met the regulations? That's the approach they took. And when you say
25 things like Steve that we don't have ITAAC on rebar, concrete mix, and CAD
26 welding, I agree with that.

27 But what we do have ITAAC on is there is an ITAAC that says

1 a report exists and concludes that that plant can hang in there seismically.
2 Guess what? If you screw up the rebar, the concrete mix, or the CAD welding,
3 you may not meet that ITAAC. That report that exists and concludes that
4 seismically it can hang in there we may not accept if we find deficiencies in
5 those three things that you mentioned.

6 So I -- what I think the staff did was to make the process as
7 transparent as possible and give you that road map ahead of time.

8 MR. FRANTZ: And if I can respond quickly on this, in the
9 design certification world we did not have ITAAC corresponding to every
10 regulation. For example, if you look at Appendix R -- and I realize it's legally
11 not applicable to new plants, but if you look at Appendix R there are many
12 aspects of that which are not subject to design certification ITAAC on the
13 design issues.

14 There is elements of the general design criteria that are not
15 part of the ITAAC. For example, there are requirements in the GDC to have
16 sufficient space to perform inspections. That was not deemed significant
17 enough to warrant ITAAC, so that part of the regulation has not been
18 transformed into an ITAAC.

19 50.55(a) of the regulations incorporates by reference the
20 ASME code and one of the IEEE standards. We don't have ITAAC
21 corresponding to every element of the IEEE code of the ASME standards. So
22 we don't have ITAAC for every regulation. What we've done is picked the most
23 safety-significant regulations and have ITAAC on those.

24 MR. CAMERON: Okay. And we're going to come back up
25 to the NRC staff in a minute. But let's go to Adrian and then Kathy and then
26 Ben.

27 MR. HEYMER: Thank you, Chip. I think what this interaction

1 shows is that there is some difference of opinion on what is the level of detail.
2 And I think the issue on the table initially, Chip, was COL issues and when
3 would they be resolved or how much should be in there to be resolved.

4 And I think -- and some members of the consortia who are
5 here today can check me if I'm wrong, but the smart COL applicant is going to
6 put as much as he can in the COL application ahead of time, because to do
7 otherwise would be extremely naive, both from a regulatory perspective and a
8 financial perspective.

9 So I think with regards to us responding to your question, how
10 much can we resolve at the time of the COL, we will resolve as much as we
11 possibly can at that period of time, because it's in our best interest to do that.

12 Okay. Now, speaking to some of the other issues that have
13 come up here, I happened to have sat through 29 days straight of developing
14 ITAAC, and we didn't necessarily focus on the regulations. But we did on
15 occasions go back and say, "Well, okay. Is there anything else we need to put
16 in?" And as someone said, "Well, is there a regulation on this?" Sometimes
17 it went back, but it wasn't always the case.

18 I do think, Chip, there is an issue here on scope and level of
19 detail that we've got to get to the bottom of, because it does appear to us that
20 we are saying -- and I'm not quite sure -- and perhaps the NRC can get back
21 to us on this, but I think we're a little confused here on the industry side of what
22 do you see as the difference between the SRP, the standard inspection
23 process, and ITAAC.

24 And I think we need to sort of get a better understanding of
25 how those play in -- so what we're coming up with before we can actually start
26 moving forward and developing something that we can say, "If you, as an
27 applicant, gave us something like this with this level of detail in a COL

1 application, then that would be okay as a general concept and principle of
2 moving forward."

3 MR. CAMERON: Okay. And the level of detail separate --
4 separate issue, and if -- I'm assuming that if you use some risk-significant
5 criteria to identify ITAAC, then you would want to know in relationship to each
6 one of those, what's the level of detail, right?

7 MR. HEYMER: As we said this morning, or as I said this
8 morning, we used the ROP process as a means of focusing on those aspects
9 that are really important from an EP perspective. And when we tried to write
10 the ITAAC back in the design certification, it's the same as I said before --
11 ITAAC are ITAAC, and it's the same concepts and principles.

12 What are the real important salient and significant aspects?
13 What really relates to the Tier 1 information in a design?

14 Now, we don't have Tier 1 here, but we do have, what are the
15 really important aspects? And I think that's what we really need to focus on,
16 because you've still got all the other inspections and procedures and activities
17 going on, of which there is a process to stop, because we're going to have a
18 license.

19 So I think that's one of the nuggets here that we've got to
20 really chisel down is, what do we really think is the appropriate level of detail?
21 And I think, Bruce, you spoke to it a little bit about the acceptance criteria and
22 the --

23 MR. MUSICO: May I just briefly respond?

24 MR. CAMERON: Let me get Kathy --

25 MR. MUSICO: Okay.

26 MR. CAMERON: -- and Ben. Go ahead, Kathy.

27 MS. ALLEN: I kind of -- I agree that in order to figure -- you

1 have to take a look at what kind of level of detail you want people to submit,
2 and how you're going to resolve the things that aren't included in the COL.
3 From an outside perspective, I'm trying to figure out exactly the licensee's
4 responsibility about -- concerning an ITAAC for an offsite response that they
5 don't really have control over.

6 There must be some other way to resolve some of these
7 issues other than ITAAC. There are regulations in place. There are conditions
8 of operating. I'm looking at this brand-new saying, "Well, maybe they all don't
9 need to be there in ITAAC space," and especially the ones that affect offsite.
10 I mean, there must -- FEMA is still going to come in and evaluate this. There
11 is a procedure already out there.

12 And if the locals and states aren't prepared to do their part,
13 nobody is turning the on switch on. So it's in everybody's interest to work with
14 the locals, but I don't know if this is something that's ITAAC-able.

15 MR. CAMERON: Okay. And let's -- that's going to resonate
16 further discussion.

17 MS. ALLEN: No, I'm done.

18 MR. CAMERON: Okay.

19 (Laughter.)

20 All right. Ben?

21 MR. GEORGE: Chip, you asked if this discussion would help
22 us better understand each other's position, and I guess for clarification the way
23 I've interpreted the NRC's position at this point is that unless it can be resolved
24 at COL, all the 16 standards or elements thereof need to be in ITAAC. I mean,
25 that's what I currently --

26 MR. CAMERON: Need to be in -- what was --

27 MR. GEORGE: In ITAAC. Okay. That's what I currently

1 understand.

2 We are offering, I think as the other side of the table has just
3 went through, a potential filtering process, recognizing that we have to meet all
4 of these requirements. Our licenses are going to be conditioned that we
5 comply with Chapter 1 of 10 CFR, which is all Parts 1 through 99, and which
6 includes EP.

7 You guys are going to inspect all of that. The locals and the
8 state are going to participate in all of that. And what we're trying to articulate
9 here is there is -- there's a risk-informed safety focus of a certain element of
10 that that rises to a higher standard called an ITAAC.

11 So I guess my confusion here is that this is not about
12 compliance. This is about ITAAC. And why does the staff feel they've got to
13 have an ITAAC on every element of every part of that regulation when there --

14 MR. CAMERON: I'm sorry. I didn't mean to cut you off. If
15 you want to finish, go ahead.

16 MR. GEORGE: I was going to say, well, the license requires
17 that we comply with it anyway.

18 MR. CAMERON: Okay. I'm going to go to Bob Weisman
19 now. And then I have a question to ask all of you that may -- if you can explain
20 this, and maybe it'll clear this up, at least in my mind. And I'm not the one who
21 needs to understand it, but it helps to facilitate the meeting.

22 Bob?

23 MR. WEISMAN: Thanks, Chip. I just want to take a step
24 back here for a second and say, well, what was the original purpose of ITAAC?
25 Why are we doing ITAAC at all? And I think that most of the people sitting
26 around the table will recognize that in the '70s and early '80s we had a Part 50
27 licensing process that had some unintended consequences that were not good

1 from the perspective of the regulator or the industry or the public.

2 And those unintended consequences resulted from how the
3 NRC went about meeting its statutory obligation of making the findings
4 necessary to issue a license. So I think that the NRC in the early to mid '80s
5 took the lead in reorganizing how it would make those findings, and made
6 several proposals to Congress for statutes, and finally recognized that through
7 Section 161(h) of the Atomic Energy Act we could reorganize those findings on
8 our own.

9 And the way we did it was to set out a COL, a license, where
10 we made all the findings with respect to design and program adequacy up
11 front. It allowed for public input. It allowed for all the technical issues to be
12 resolved at the COL stage. And then the purpose of the ITAAC was to add that
13 last little bit to those findings.

14 The ITAAC -- we would also consider the ITAAC, as Mr.
15 Grant pointed out, at the COL stage, to see that they were adequate to verify
16 that the design and the programs as described in the application were in fact
17 implemented the way they were described. That's the purpose of ITAAC.

18 It completes -- it is an element in the statutory finding that the
19 NRC has to make under Section 185 of the Act that the provisions of the Act
20 and the Commission's rules and regulations have been satisfied. That's a
21 prerequisite for the NRC to issue a license.

22 So I believe that to shift to what Dan and Bruce have been
23 saying about the 116 EP ITAAC, just to clarify, the staff will have considered
24 the adequacy of the program for those 116 elements. We're not leaving
25 adequacy to the ITAAC.

26 The program has got to be adequate at the COL stage or
27 there's not going to be a COL. The only thing that the ITAAC are going to

1 verify is whether that program described in the application has been properly
2 implemented. That's all the ITAAC are for. Okay. They don't get to
3 substance. They only get to implementation.

4 MR. CAMERON: Okay. Thank you. Thank you, Bob.

5 MR. WEISMAN: Can I add one other thing?

6 MR. CAMERON: Go ahead.

7 MR. WEISMAN: All right. Once the findings have been
8 made, then the findings of adequacy and that final finding with the ITAAC or the
9 final implementation aspect is verified with the ITAAC, then all of the other
10 processes kick in. If something is not material to the licensing decision, then
11 whatever process the NRC and the applicants have to control it is fine. That's
12 what's going to be used.

13 I think the question that Mr. Frantz was asking is: is
14 everything that we've got in our ITAAC -- is it material to the finding? And I
15 think that that's something that if -- I think that's something we need to
16 consider.

17 MR. CAMERON: Okay. Thanks, Bob.

18 Before we go to Jim Lyons and the NRC staff again, the
19 question on the agenda is: what EP issue should be resolved before the COL?
20 And we started off this discussion with George saying that ITAAC shouldn't be
21 the vehicle that flows out every issue. Okay?

22 And Dan Barss gave us some examples of what I think the
23 NRC meant by what issues can be closed out with COL, not issues that depend
24 on constructing the siren, for example, but issues, for example, the plan for
25 sirens. I'm just unartfully rephrasing that.

26 We then get into this discussion on level of detail, which to
27 me seemed like we were jumping away from this before COL issue, and then

1 we segued into the issue we started talking about this morning about, what are
2 the most risk-significant ITAAC.

3 So I don't know what the relationship is between those four
4 issues, but I'm going to turn it back to Jim Lyons and the NRC staff to try to
5 maybe put a finer point on, what do we want to know when we say what EP
6 issues should be resolved before COL. Can you try to put a, you know, context
7 on this?

8 Jim, do you want to start?

9 MR. LYONS: Well, I guess let me start. And maybe actually
10 what I'll do is just turn to them and ask some more questions. But I guess my
11 reading of that item was to try and understand that there are a number of things
12 that an applicant can provide at COL, and certainly those that are not in a
13 greenfield site that already have an emergency plan -- I think part of what we
14 were trying to do was to find out, well, what's a reasonable amount of
15 information to get? And maybe that's too hard of a question to answer.

16 Maybe what we really should be doing is getting down more
17 into the level of detail of how we determine which aspects of these program
18 requirements that actually need ITAAC. I think it goes back to what Bob
19 Weisman was just saying about the material aspects. I mean, what we're trying
20 to do is make a licensing decision, and we're trying to determine what
21 information we need to make that licensing decision -- that we have a
22 reasonable assurance, as we've talked before, about predictive reasonable
23 assurance.

24 One of the things I kind of wanted to bring up was the fact
25 that we keep bringing up that -- well, the normal inspection program will look
26 at these things. Well, there is no regulatory requirement for an inspection
27 program. There's no -- there's nothing that says we actually have to go out and

1 do all of these inspections.

2 And the inspections are not -- do not replace the information
3 -- you know, the fact that we're going to go out and inspect it later on doesn't
4 obviate the need for having the information out in front of us. We have to make
5 our regulatory decision -- our regulatory finding on it.

6 So, you know, the ITAAC have a certain regulatory aspect to
7 it that are linked to the licensing plant -- and whereas the inspection don't have
8 that same standard.

9 MR. CAMERON: Okay. Should we start with Dan, and then
10 Bruce and Joe, or how do you want to do it? And put that mike over by Dan.

11 MR. BARSS: Let me try to do better the job you gave me at
12 the beginning of the session, and that was explain the first question.

13 (Laughter.)

14 If you look in the Federal Register notice, and also the NEI
15 letter, there were four bulleted items in the back of the NEI letter, and those
16 four items show up in the notice. And the first one -- I'm just paraphrasing or
17 reading the last part of it. "Among the questions the staff will address with the
18 interested stakeholders is whether it is necessary to capture guidance related
19 to providing detailed EP ITAAC. And, if so, what is the best way to capture the
20 guidance?"

21 So that was our question that we hoped to discuss is, do we
22 need to discuss how we're going to provide that more detailed guidance on EP
23 ITAAC. Now, if I look at your -- your list that you've developed there for us, with
24 that in mind maybe I can address a couple of those.

25 One, closing issues -- I think that comes from what George
26 led off with. We do not see the ITAAC as the parking lot to close issues that
27 are unresolved. I think we've articulated both the industry and us, and I think

1 everybody understands.

2 The regulations state what has to be done, and we expect in
3 the COL process that either in the plan that comes in those regulatory
4 requirements will be met, and if they are not fully resolved that is what the
5 ITAAC is there to do is to show us where I guess the proof of the pudding is
6 when that comes in.

7 It's not, "We're going to answer this question later." It's,
8 "Here's the answer to the question that's in the COL application, and we're
9 going to demonstrate to you later how we did that," is what the ITAAC will be.

10 Does that make it clearer? No?

11 MR. GRANT: Not how, but that we did it.

12 MR. BARSS: That you did it, right. Yes. It's -- you're going
13 to explain how in the application that you submit, and then you're going to give
14 us an IOU that says, "We'll demonstrate it by this" is what we expect.

15 MR. CAMERON: Not that that -- that it's been done is the
16 purpose of the --

17 MR. BARSS: Right.

18 MR. CAMERON: -- the ITAAC?

19 MR. BARSS: It's proof we did what we said we would do. It's
20 the IOU. They're now paying up on that IOU that it's -- it's been delivered. And
21 the risk-significant comment there I think we've already discussed. That brings
22 to question, and certainly the staff is opening to relooking that we've put in
23 there, is how do we filter them? How do we decide how many of those or what
24 is open to the ITAAC possibility?

25 And as I expressed earlier this morning, and we see limiting
26 it only to the four planning standards that you have identified, narrows the field
27 for potential applicants. We see our approach leaving the field open, and they

1 can choose which ones they want to address.

2 If they want to address all of them, you know, except those
3 four risk-significant identified ones, that's acceptable. If they choose to go
4 beyond that bound, we would leave them that opportunity.

5 MR. CAMERON: So, which is in terms of the -- the risk-
6 significant, whatever is in this universe, okay, whatever we end up with there,
7 then you still have to get an answer to question number one, right? Which, as
8 I understand it, is really -- from reading the Federal Register notice, that's a --
9 that's more of a level of detail than -- which should be done before the COL?

10 MR. BARSS: I think that's -- that is correct. And do we need
11 to provide more guidance? And does there need to be more in the guidance
12 document as to what we want in there? I guess that was the question we were
13 asking.

14 MR. CAMERON: Okay.

15 MR. BARSS: And I want to make the point again, because
16 I'm not convinced that all of you in industry understand we -- we, as the staff
17 -- and I think our counsel has articulated this, too -- the 116 items are not, in
18 our mind, required to have an ITAAC in your application for them.

19 We only have said that these are items we could see you
20 giving us an ITAAC for, but we're not requiring an ITAAC for them. If you can
21 provide us enough information in the application that fully resolves that issue,
22 without having to provide an IOU, then that's fine, that's good, that's better.

23 MR. CAMERON: Okay. We're going to go to Eddie. I guess
24 the important thing is -- today is perhaps not being able -- not being able to
25 answer this question, this first question whether -- you know, as it's framed in
26 the Federal Register notice, but to make sure that the state representatives and
27 the industry representatives know what you're asking, what types of information

1 you're asking for.

2 And with that, Eddie, do you -- is this clear to you, what the
3 NRC wants?

4 MR. GRANT: No. In fact, that's where I wanted to start. I'm
5 thoroughly confused now.

6 (Laughter.)

7 You've indicated that these are 116 items that are -- that we
8 could clear up possibly some of these prior to getting a COL. However, I think
9 I'm pretty sure I heard this morning that you chose these 116 based on things
10 that a reasonable person would not expect to be able to --

11 MR. MUSICO: A reasonable regulator.

12 MR. GRANT: -- a reasonable regulator would not be able --
13 would understand that you would not be able to provide prior to getting that
14 COL.

15 MR. MUSICO: That's correct.

16 MR. GRANT: One of those sounds like the left path, and the
17 other one sounds like the right path. And I'm not sure how you get those to
18 merge and how I would be able to get rid of, say, eight or 10 or 100 of those
19 items prior to COL. I am now thoroughly confused.

20 MR. MUSICO: All right. Let me address this a little
21 differently. In looking at the emergency plans, the NRC is making a predicted
22 regulatory finding -- a regulatory finding of reasonable assurance that the plans
23 conform to the regulations and will be effective.

24 If you look at the Energy Policy Act of 1992, where it
25 specifically addresses ITAAC, it says, "The ITAAC that, if met, are necessary
26 and sufficient to provide reasonable assurance that the facility has been
27 constructed and will be operated in conformity with the license, the provisions

1 of this Act, and the Commission's rules and regulations."

2 Now, the criteria that the NRC uses to determine that
3 reasonable assurance is the 16 planning standards in 10 CFR 50.47(b). Those
4 are the planning standards that are also reflected in NUREG-0654, FEMA Rep
5 1 Rev 1, and are broken down into the 15 of the 16 planning standards in the
6 proposed ITAAC.

7 And then the 116 acceptance criteria are just subsets of
8 those 15 planning standards. So, in short, we're looking -- we're judging
9 reasonable assurance of -- to make a predictive regulatory finding, looking at
10 the 15 of the 16 planning standards at the COL stage.

11 Now, when I'm looking at this first question -- I didn't write this
12 particular question, and I was a little surprised when I first looked at it. I think
13 it's probably just phrased badly. I look at it as: what EP issues need ITAAC?
14 And I think that gets down into the sub-areas, the 116 criteria that fall
15 underneath those 15 planning standards.

16 And what we're looking at is the extent to which we need to
17 address each one of those. Is it appropriate? And then, if you choose to
18 address it, fine, as an ITAAC. If not, we want to see it in the application. But
19 I'm --

20 MR. GRANT: But you don't expect us to be able to provide
21 it in the application. So, therefore, you expect an ITAAC.

22 MR. MUSICO: Provide what in the application?

23 MR. GRANT: The information. You said a reasonable
24 regulator would not expect the utility to be able to --

25 MR. MUSICO: I think the clarification of that is --

26 MR. GRANT: -- provide this information.

27 MR. MUSICO: The clarification is --

1 MR. CAMERON: Let's go to Jim, and then we'll go to Kathy.
2 Jim, go ahead.

3 MR. LYONS: I was going to say, just to clarify, what they
4 said was if -- if you had a greenfield site, those were the items that they felt that
5 you -- you reasonably would not have in place already. But if you already had
6 an existing site and had an existing plan, the number of those -- I don't know
7 if you have all of them -- I guess you couldn't have all of them -- would be
8 already in place. And so, therefore, you could provide.

9 So that's I think the --

10 MR. GRANT: But for a greenfield, you would expect, then,
11 116 ITAAC.

12 MR. LYONS: No. Well, not necessarily. For a greenfield
13 there could be up to 116. If you wanted -- if there was no emergency plan in
14 place, absolutely nothing there, you could provide a certain amount of
15 information, emergency planning information, in an application -- concepts, how
16 your designs are going to be, what the facilities are going to look like -- but
17 there are certain things that just don't exist. And what we've done here is take
18 a cut at what we think is reasonable not to exist -- the siren systems, for
19 example. All right?

20 MR. CAMERON: Okay. Can we -- let's hear from Kathy, and
21 then we'll go to Dan. And I guess I've got to ask everyone around the table --
22 would it be useful for the NRC to clarify what information it needs in regard to
23 this first issue, so that in your written comments at least you'll have a better
24 idea of what we're asking for, if you don't already?

25 Kathy? And, George, I mean, are you going to do this as a
26 team?

27 MS. ALLEN: As a tag team.

1 MR. URQUHART: Tag team, yes.

2 MR. CAMERON: Okay, good.

3 MR. URQUHART: It just seems to me -- Kathy and I were
4 speaking and listening to the discussion that why don't the ITAAC apply to
5 greenfields perhaps only and leave existing sites alone?

6 MS. ALLEN: For existing sites, you have the requirement that
7 they review their plan annually and provide any changes to it? So can the
8 additional EALs for the new site and the other kinds of communication things
9 be part of that review process that has to be tested and exercised prior to
10 issuing a license to receive fuel or start up?

11 Is there any way to sort of change that to a different kind of
12 milestone situation for existing sites and then use the ITAAC for greenfield
13 sites?

14 MR. MUSICO: Let me address the first question, which was,
15 why don't we just have ITAAC for greenfield sites and not have ITAAC for
16 existing sites? Now, for the greenfield site, the plant doesn't exist. There's
17 nothing there.

18 For an existing site, the new plant doesn't exist either. But
19 various aspects are there and you wouldn't need an ITAAC for. So it's that
20 which does not yet exist, cannot yet be evaluated or exercised, we have a
21 placeholder. We have -- the ITAAC is the condition, it's the placeholder. And
22 when they satisfy that, they can start it up.

23 MS. ALLEN: But the only way, then, to satisfy that is through
24 ITAAC.

25 MR. MUSICO: The ITAAC was the mechanism that was --
26 that is used in the Part 52 paradigm as the placeholder. Again, it's -- the
27 purpose is to provide objective criteria that gives the applicant, the licensee,

1 regulatory certainty that they know that if they meet X they can turn the switch
2 on.

3 But it also is balanced against the timely and meaningful
4 participation of the public, so they can see up front, before the plant is built,
5 what the objective criteria is, and they can challenge it at that time before the
6 plant is built -- timely and meaningful participation rather than after the plant is
7 built, which has been some of the headaches associated with the past licensing
8 process.

9 So it's an objective placeholder that gets the public involved
10 up front. That was one of the fundamental intents behind the Energy Policy Act
11 was to bring the public in to participate more fully before the plant is built. And
12 it was devised as a tool to afford them the ability to see clearly, objectively,
13 exactly what is not contained in the application will be satisfied, so they can
14 discuss it up front.

15 Does that help?

16 MR. URQUHART: That's fine, Bruce. And I appreciate that,
17 but, you know, we don't -- aren't necessarily proposing any changes from
18 ITAAC to apply to the overall comprehensiveness of our approach. It sounds
19 to me, though, in terms of the public opportunity to participate in the new plant's
20 activity, it sounds like basically what ITAAC -- you're applying here that might
21 be an enhanced participation plan.

22 MR. MUSICO: Yes.

23 MR. URQUHART: Public participation plan.

24 MR. MUSICO: Yes. Well, that was the intent. That's the
25 legislative intent behind the new process.

26 MS. ALLEN: Right.

27 MR. MUSICO: Again, to bring the public in.

1 MS. ALLEN: But I would argue that if you have a true
2 greenfield site, there's nothing -- very little around there. Engaging the public
3 at the COL stage is totally different than engaging the public much later on in
4 the process, because once you start building it that's when they come.

5 MR. MUSICO: No. No, not necessarily. They engage the
6 public in the beginning before any work is done, before the license is issued.
7 The only difference is that for an existing site the public is already well aware
8 of what's in place, can see what's in place, can evaluate it, where there's an
9 ITAAC necessary, because it already exists. For a greenfield site now, the
10 public just has a lot more to look at.

11 MR. CAMERON: Okay. I think that this discussion -- this
12 issue is going to reverberate through the other topics. But I think we really
13 need to wrap this up and move on to the second issue.

14 And I wanted to go to Joe and Eddie, and perhaps, Joe, do
15 you want to try to offer something more on this? Okay. Joe, why don't you go
16 ahead?

17 MR. HEGNER: I believe my comment will help us segue into
18 the second topic. But to make sure that I understand this correctly and a little
19 bit -- I'm a little bit late, I think the discussion has moved on. Given the 202 --
20 282 total planning criteria in 0654, you folks have already assessed those and
21 believe that about 166 could be resolved in the COL application, leaving us 116
22 to deal with.

23 Now, I'm going to speak from the perspective of an existing
24 site. It seems to me that I could look at that 116 criteria and all of those that
25 are associated with offsite. I believe I could say I can disposition those
26 because of my existing emergency plan, because I believe the offsite response
27 is to the site, not to the individual unit.

1 There may be a few exceptions, but I think in large part I'll
2 probably be able to conclude that I can demonstrate I am meeting those
3 through my existing emergency plan, and I'm not going to need anything in
4 addition or additional ITAAC for an offsite response.

5 What I haven't done yet, and would like to do quickly, is to
6 review those 116 items and disposition them for offsite, as I described, and see
7 what else is left and whether or not any of those present either a challenge to
8 me or seem to be not significant enough to have an ITAAC. But I don't know
9 whether I can do that in the time remaining for the comment period, which
10 expires I guess on May 27th. But to me that would really answer for me
11 whether I have an issue going forward.

12 MR. MUSICO: If you look at those 116, you'll see that the
13 majority of them duplicate onsite and offsite. They're basically the same
14 requirement or the same criteria.

15 MR. HEGNER: So if my rationale holds, roughly half of them
16 could be dispositioned because I already have an existing site with an existing
17 emergency plan, and a state and local response that is geared to the site.

18 MR. MUSICO: In general, yes.

19 MR. HEGNER: Okay. Well, I'm -- I'll be conservative. At
20 least half.

21 MR. MUSICO: I don't disagree with what you're saying, that,
22 you know, many aspects of offsite emergency response and preparedness that
23 are already in place would be unaffected by the building of a new reactor at an
24 existing site. And it's resolved before the application comes in basically,
25 because it's already there.

26 As far as making an effort to take away the offsite emergency
27 planning ITAAC associated with offsite aspects, I don't know how beneficial

1 that would be. Again, they just duplicate many of the onsite criteria. For
2 example, we verify -- one of the ITAAC is verify that -- the ability to notify
3 emergency responders onsite. You have the same one for offsite.

4 MR. CAMERON: Okay. Eddie?

5 MR. GRANT: Yes, one quick point. I believe I heard -- it's
6 been a while now, but I think the question from the State of Illinois earlier was:
7 is ITAAC the only way that you can verify these emergency planning standards
8 and evaluation criteria? And after Mr. Musico's rather lengthy discussion there,
9 I'm not sure I heard an answer.

10 But from the utility's perspective, the answer would clearly be
11 no. There are other ways to do this verification, the same way that they've
12 been done under Part 50 for years now, that ITAAC is only one method that
13 could be done and that our entire discussion today has been that those should
14 be reserved for the very most significant items, not every unfulfilled criteria.

15 MR. CAMERON: Okay. And, Joe, your comment? And then
16 let me see if anybody in the audience wants to say something.

17 MR. SEBROSKY: And I go back -- and I understand what
18 you're saying, Mr. Grant, and I understand what Ms. Allen's concern is.
19 Unfortunately, we don't have members of the activist community here. But,
20 really, when you look at this issue and you say the important thing from the
21 activist community perspective is their optional hearing, after the plant is built,
22 is tied to whether or not the acceptance criteria have been met.

23 So if there's no ITAAC, they don't get a contention, they can't
24 intervene. And if you go back to what Bob Weisman was saying earlier, the
25 intent of the Part 52 process was to move as much stuff up forward in the
26 process as you could, but to not deprive the activist community of their hearing
27 opportunities.

1 So if you take a look at these 282 issues, and you say 166
2 of them the staff believes they can resolve prior to granting a COL, such that
3 there are no ITAAC, I understand from your perspective you want more than
4 that. And what Mr. Hegner was saying and what Mr. Zinke was saying was,
5 "Well, maybe for a site that already exists we can take a look at those 116, and
6 we can cull them down even more."

7 The intent of this question was to -- to also solicit from
8 another set of stakeholders, did -- are we culling it down too much? From their
9 perspective, from the activist perspective, the lack of ITAAC is not something
10 that they look on happily. They would rather have more ITAAC than less.
11 Industry would rather have less ITAAC than more.

12 So what we were trying to balance, and what this question --
13 it really goes to question number three in the Federal Register notice. There
14 isn't a direct line. What we were trying to balance is essentially say, "Hey,
15 listen, we took the 282. We drew the line here." And we said, "166 of them we
16 should be able to resolve prior to issuing a COL for a greenfield site."

17 We didn't look at it from the perspective of: a) what if you got
18 a Dominion -- the same applicant that's going to be running Unit 1/2 is going
19 to be running Dominion 3 and 4. We didn't look at it from that perspective.
20 And, I mean, we're willing to engage with NEI and industry to see how maybe
21 we can capture that for existing sites. I mean, that brings in a whole set of
22 different questions.

23 But to get back to what Mr. Grant was saying and what Mr.
24 George was saying, of course there is other avenues for the staff to do
25 inspections. Once the plant is operating, we do inspections of the emergency
26 preparedness.

27 But the thing that we, as the NRC, have to be able to do with

1 a straight face is say to the activist community, "You had an opportunity," or
2 you still -- because Part 50 is still there -- "you have an opportunity to litigate
3 these certain aspects. We're not depriving you of that opportunity; we're just
4 moving it up."

5 You can litigate the emergency planning, and you'll be able
6 to litigate that at the mandatory hearing associated with COL. If you don't like
7 anything -- any part of how the staff resolved that, you have the ability to do
8 that. And the resolution includes the ITAAC.

9 Once that is set, then you have the optional hearing
10 associated -- let's limit it to the ITAAC. So from the thing that we started out
11 with in the Part 52 process, if you go back to what Bob was saying, the basis
12 for our finding under Part 50 was something that could be litigated in court.
13 We're trying to preserve that under the Part 52 licensing process. And maybe
14 I shouldn't say in court, in a licensing proceeding.

15 So we are just trying to say, okay, for these -- here you have
16 these 16 regulations, the planning standards. How do we divide them up? And
17 how do we resolve as many of those issues as possible prior to issuing the
18 COL? That's a clear direction from the Commission to the staff.

19 We drew the line -- 166 and 116. Okay. So what remains?
20 Is that consistent with what we did under the Part 50 licensing process? We
21 ought to be able to say to any member of the activist community, "Okay. Give
22 me a scenario where you were able to litigate something, and I should be able
23 to point where you can litigate it under Part 52." That's the issue with ITAAC.

24 MR. CAMERON: Okay. Joe, I think that was helpful. But
25 although you refer to the activist community, although they may well be the
26 people who will be bringing these issues to the forefront, I think that the
27 broader, more important, point is not an opportunity for the activist community,

1 but an opportunity for any member of the public. Okay?

2 So please read Joe's use of "activist community" as "member
3 of the public," which I think is more appropriate.

4 Anybody out here want to -- yes. Can you use that?

5 MS. GILLES: My name is Nanette Gilles, and I'm a Project
6 Manager in the New Reactor Section in NRR. And two items -- first, a
7 question, a point of clarification on the industry's presentation on their risk-
8 informed approach.

9 And this goes to the slide that was put up that had the flow
10 diagram. And the top portion of the flow diagram concerned those items that
11 would be captured by ITAAC, and then the bottom portion concerned items that
12 would be followed up in the normal inspection process.

13 And my question goes to -- I notice that both the top portion
14 and the bottom portion feed into the box where the NRC makes its decision
15 whether to authorize fuel load. And I just want to clarify that that was your
16 intent -- to indicate that through both these processes the Commission would
17 rely on input from both these processes to make their decision to authorize fuel
18 load, not just on the -- whether the acceptance criteria had been met.

19 MR. BELL: I think the Commission is required by statute to
20 do so, to hear both from FEMA and from their own staff on the matter of
21 emergency planning.

22 MR. FRANTZ: And perhaps one clarification there. I think,
23 though, that the way it's considered is a little bit different in terms of the
24 hearing rights, and also in terms of the authority to issue a fuel load
25 authorization, the ITAAC must be satisfied.

26 In terms of things which are not in the ITAAC, they are still
27 subject to NRC inspection, and obviously FEMA input, too. And if there is any

1 significant violations, the staff would then take that into account, issue
2 appropriate enforcement action, and prevent us from unloading fuel until it was
3 corrected.

4 MR. GEORGE: I would further add the answer your question
5 overall is yes.

6 MR. CAMERON: Thank you.

7 MS. GILLES: And the other item was just -- we've had a lot
8 of discussion today about your perception that the staff feels a need for -- to
9 put an ITAAC on every item that might be inspected.

10 And I'll just point out that if you go back and look at the
11 statements of consideration for the original Part 52 rule, the Commission did
12 say in there that inspections that are conducted during construction under a
13 combined license will be based on ITAAC. And that may be some of where the
14 staff is coming from.

15 MR. CAMERON: Okay. Thank you very much.

16 I really think we need to go on to the second issue of state
17 and local government participation. And I think we're going to come back to
18 some of these major issues that were discussed. And I guess before we close
19 today we should get a feel from the participants around the table about what,
20 if anything, the NRC needs to do to sharpen the point on any of these
21 questions, so that you can give the NRC the answer that they need.

22 And, Dan, you teed up the last one. Are you going to tee up
23 this one for us?

24 MR. BARSS: If you want me to, yes. I wanted to go to an
25 example on the last one. But if you want to move forward, we can move
26 forward.

27 MR. CAMERON: Is this going to be -- it's going to be quick,

1 and it will illuminate all of the ambiguities that we --

2 MR. BARSS: I hope it might.

3 MR. CAMERON: -- discussed?

4 MR. BARSS: I hope it might.

5 MR. CAMERON: All right.

6 MR. BARSS: While we were discussing, I just kind of flipped
7 to a page, randomly chose a spot in what we've proposed for ITAACs. I wound
8 up on page 11-H8 -- is where I flipped to. And then I realized that H7 above it
9 has both an onsite and an offsite component, so it's probably more
10 representative of what we're trying to accomplish here.

11 And before we can discuss H7, we need to look at what the
12 criteria is or the program requirement. We're looking at 50.47(b)(8), which is,
13 "Adequate emergency facilities and equipment to support the emergency
14 response are provided and maintained." That's what the applicant needs to
15 explain to us in the COL.

16 And the fine point -- or the criteria, acceptance criteria, if we
17 go to H7, says for the licensee, "The licensee, where appropriate, has provided
18 offsite radiological monitoring equipment in the vicinity of the nuclear facility."

19 If we read the offsite one, H7, "The state and local
20 organizations, where appropriate, have provided offsite emergency monitoring
21 equipment in the vicinity of the nuclear facility." Basically, the same thing, just
22 two different people have responsibilities there.

23 Now, to go to the question I think we're trying to answer, level
24 of detail, how much do we need -- this criteria does not say what equipment
25 you're going to provide. We would expect that when you come in, if you
26 choose to use this as one of your ITAACs, you will say, "You're going to have
27 the following kinds of equipment to do monitoring," and outline what it is you're

1 going to have there -- specific type of meters, numbers of them, things like that.

2

3 That would be in -- from a planning phase, when you come
4 in, we can look at that and say, "That's reasonable to accomplish that specific
5 item," to have that much equipment. The same thing with the offsite. If the
6 offsite has no existing programs, has no reactor in their state, they probably
7 would not have any of this information.

8 So they -- that would need to be developed, and the applicant
9 is going to need to have, as part of their ITAAC, inclusion of a state's program
10 will demonstrate -- have the following things.

11 MR. BELL: We agree, Dan. Some of our ITAACs have --
12 say the same thing. The placeholders in our -- for our criteria, the following
13 equipment exists. And a note says, "The COL applicant or licensee will identify
14 the equipment," which would be verified that it exists and that ITAAC would be
15 done.

16 So you can't do that generically. That would be --

17 MR. BARSS: And now we switch greenfield to existing site.
18 An existing site already has all of that equipment in place, so this would
19 probably be an N/A as far as at the COL stage. I mean, I shouldn't say it's N/A
20 as an ITAAC. It will be able to be fully explained, because you can say you
21 have this existing at, you know, XYZ site, the state has all of this stuff in their
22 offsite program, and it's clear -- it's viewed as accepted, and we don't have to
23 include it as an ITAAC or even --

24 MR. BELL: For the state, yes, I don't think you'll have all of
25 the equipment in place for a new facility.

26 MR. GRANT: For control room monitors?

27 MR. BARSS: Well, no, just for H7. We're talking about

1 offsite monitoring equipment. Okay? This is stuff you've got somewhere sitting
2 for your field monitoring teams, things like that. Provide offsite radiological
3 monitoring equipment --

4 MR. GRANT: Right.

5 MR. BARSS: -- in the vicinity. But you will have that. That
6 will already exist, so that one is a no, never mind for the existing site. Does
7 that help add some clarity to the process? No?

8 MR. CAMERON: Okay. Dan?

9 MR. BARSS: Fifty percent. I'm doing all right.

10 (Laughter.)

11 MR. CAMERON: Dan, can you tell us what information the
12 NRC is looking for in terms of issue number two and any assumptions that that
13 is based on, because people may want to challenge the assumption, I don't
14 know.

15 Now, this issue -- and, George, we'll get to you on this,
16 whatever you want to say.

17 Go ahead, Dan.

18 MR. MUSICO: Let me just start with that.

19 MR. CAMERON: Oh, Bruce.

20 MR. MUSICO: The participant discussion, issue two, state
21 and local government participation, I touched on that this morning. Primarily,
22 we were looking at whether or not we would have another situation where a
23 state or local entity might choose not to participate in emergency planning and
24 to what extent would that necessitate the development of a separate set of
25 ITAAC to specifically address that situation.

26 Where some staff members, some reasonable regulators are
27 leaning at this point, is to possibly forego addressing that directly at this time,

1 not necessarily from a resource standpoint but from a need standpoint, in that
2 it's somewhat recognized that the initial applications will come in for existing
3 sites, and we don't view that as likely, that participating state and local
4 organizations around existing sites will opt not to participate with the new
5 proposed reactor.

6 So we don't see any necessity at this time in developing a
7 separate set of EP ITAAC criteria to specifically address non-participation by
8 state and local government entities. And for another good reason is that we're
9 having enough trouble as it is just determining what we're going to have when
10 the state and locals will participate.

11 But on the other hand, we see value in a lessons learned
12 approach with respect to going through the initial applications, when we review
13 those, and determine at that time -- have a more informed decision with respect
14 to the need to actually do that, because if we were to run into a situation where
15 a state or a local entity would choose not to participate, then Supplement 1 to
16 NUREG-0654 where the licensee or the applicant would be -- would have the
17 option to develop their own offsite plan, that would bring in a whole different
18 world of considerations with respect to how it applies to EP ITAAC.

19 So where we're leaning now is we don't feel it's -- we need to
20 address that at this point. On the other hand, if industry would like to take the
21 initiative and to propose EP ITAAC, that would be -- would specifically address
22 non-participation by state and local, understanding that we have a parallel path
23 in developing EP ITAAC for state and local participation, they can feel free to
24 do it. That's up to them, but we don't think it's necessary to address it at this
25 time.

26 MR. CAMERON: Okay. We're going to start with George
27 and Kathy, and I guess the first question is do you understand what the NRC's

1 position is and what type of comment the NRC is looking for on this one? And,
2 George and Kathy, whatever you want to offer and then we'll go around.

3 MR. URQUHART: I'm sure I wouldn't phrase the question or
4 comment quite that way, but I'm looking for Supplement Number 2, I think.
5 Supplement Number 2, and Bruce just mentioned Supplement Number 1,
6 which exists already for the non-participation of state and local, but here in
7 Supplement Number 2 I still believe that we need a linking document, a linking
8 document that speaks to state and local government from the language
9 standpoint of EP ITAAC contextualization or some sort of issues like that. Even
10 though, Ken, from FEMA, we were talking about perhaps state and locals will
11 never really need to have any application or need to have any definitions to
12 speak to EP ITAAC issues, because FEMA will make sure it's not either
13 transparent or not. But still I believe that there ought to be a linking, because
14 there could be some failures or issues there from state and locals. When
15 FEMA finds that it has not been met, they will apply it to in a statement back to
16 the state and locals that they did not meet an ITAAC. And someone's going to
17 wonder, "Well, what is this ITAAC relationship?"

18 So I think before we even get down the road to seeing that
19 result, we would write a document that ties or links this ITAAC discussion and
20 ITAAC process that we're bringing forth. And since we earlier said that it will
21 not modify or change 0654 but then let's link it to 0654 even in its unmodified
22 condition.

23 MR. MUSICO: Okay. Let me see if I can clarify this. I think
24 it's important. George, you've mentioned Supplement 2. There is an existing
25 Supplement 2 to NUREG-0654 FEMA-REP-1, Rev.1, which addresses early
26 site permit applications, and that is tied to NUREG 0654. It looks at Subpart
27 A of 10 CFR Part 52 specifically for the NRC to review emergency planning

1 information and issue an early site permit for a site. That's different than the
2 COL process, the combined license process. That is Subpart C to 10 CFR
3 Part 52.

4 But what I think I hear you asking is that -- and I'm going to
5 try to interpret it and suggest a path forward, and correct me if I misunderstand
6 your question -- one of the things we were looking at and we aren't quite ready
7 to discuss it, was that -- and you brought up the term, "linking to 0654," in
8 regard to COL ITAAC -- was the possibility of developing jointly with FEMA a
9 supplement for 0654 -- there are currently three supplements to 0654, and
10 Supplement 4 could be a new mechanism to link COL ITAAC and emergency
11 planning review processes offsite and onsite to NUREG-0654. And we had
12 been looking forward in time with what is the eventual evolution of our proposed
13 EP ITAAC?

14 It could possibly take the form, whatever form it takes,
15 eventually into a supplement to NUREG-0654, which would specifically link it
16 to the NUREG-0654 criteria because it's very conducive to that kind of linking,
17 analogous to what happened with Sup 2 in early site permit applications, and
18 it would also bring in to the process formally FEMA's participation because
19 NUREG-0654 and its supplements are joint documents, joint guidance
20 documents between the NRC and FEMA and pursuant to our Memorandum of
21 Understanding. I think Dan might have something to add.

22 MR. BARSS: I would just make sure that you understand,
23 and my management sitting here they understand, we're not saying we're
24 writing a Sup 4 --

25
26 MR. URQUHART: I know.

27 MR. BARSS: -- but that is the staff's view of the way to

1 document and put this stuff into the rest of the process that we have. That
2 would be the likely result of this is that we would develop a Supplement 4 to
3 NUREG-0654, and I think that's a subject we would address in the Commission
4 paper which we've committed to develop or at least told management we would
5 develop and go forward with this as a way to do that.

6 MR. MUSICO: But did that address your concern about
7 linking? I want to make sure I addressed your question.

8 MR. URQUHART: At least 100 percent.

9 MR. MUSICO: Because I think what you're asking is if we
10 link the COL ITAAC process to NUREG-0654, we're linking it to the state and
11 offsite evaluations.

12 MR. URQUHART: That's correct.

13 MR. MUSICO: Okay.

14 MR. CAMERON: At least 100 percent.

15 MR. URQUHART: At least 100 percent.

16 MR. CAMERON: I think we're done.

17 MR. MUSICO: Eddie, do you understand that?

18 MR. GRANT: Every word, Bruce.

19 (Laughter.)

20 MR. CAMERON: Now, why are you picking on -- don't pick
21 on Eddie. Okay. Kathy, do you have anything on participation or anything
22 else?

23 MS. ALLEN: I had viewed it totally differently.

24 MR. CAMERON: Why don't you call it?

25 MS. ALLEN: I guess I was looking at the whole process for
26 a new site or even an existing site. I suppose what I'm looking for is some sort
27 of -- I guess a link to milestones during the construction phase. As a local

1 government or state government at the COL point in time, it could take you,
2 what, four years to build a site, 20 years to build a site. I don't know. And am
3 I going to invest a lot of resources to write a big emergency plan for something
4 that may take a generation to build? Probably not. But I'd like to link the
5 cooperation between the site or the operator and the offsite people to certain
6 milestones a long the way. You shouldn't be knocking on my door two years
7 prior to receiving fuel saying, "Hey, it's time to get geared up on implementing
8 your emergency plans."

9 But I guess I looked at some of the stuff that was proposed
10 earlier today and looking at -- I guess what I'm looking for is some verification,
11 and I think it would make the public feel a little bit more comfortable too
12 knowing that at certain phases there will be certain things met onsite and offsite
13 so that you know that as we get closer and closer to actually starting this thing
14 up, that there is greater and greater input from the locals and participation by
15 the locals.

16 I said something earlier about the general public changing
17 over time. If you have a field in the middle of Illinois somewhere and you
18 decide to drop a nuke plant right there, maybe the population in the EPZ is 50,
19 but if you put a nuclear plant there, cities and towns spring up. I mean you've
20 seen it historically as you've built plants. Infrastructure comes in and suddenly
21 your population of 50 at day zero has expanded to maybe 5,000 people that
22 now have real input or real concerns about what's going on at that plant.

23 So if there are certain things tied to the licensing process or
24 agreements made or license conditions that these things were met before you
25 were allowed to go into the next phase, verification that the offsite people have
26 purchased or begun training or that there is a hospital in the area that can
27 handle potentially contaminated patients or something like that. I guess I was

1 just sort of trying to link it that way.

2 MR. MUSICO: I think I can address that partly, and then I'll
3 probably ask for some help with respect to the timing associated with COL
4 applications versus when the plant's actually built. But as a comparison, a
5 somewhat related comparison is the early site permit application process where
6 the early site permits that the NRC issues for a duration of ten to 20 years, and
7 then they can be extended.

8 And the question has come up and it has been addressed
9 with respect to changing aspects of emergency planning over the duration of
10 that permit. And there is a mechanism in place as part of I believe the
11 rulemaking associated with Part 52 currently that addresses the updating of
12 emergency plans that have been approved in an early site permit application
13 at the time a COL, combined license application, comes in. As a matter of fact,
14 that particular clause that's been inserted as part of the formal Part 52
15 rulemaking that's ongoing now but isn't quite finished was partially in response
16 to a comment we got from the State of Illinois' Department of Nuclear Safety,
17 as you may be aware of. So we listened, and we took action.

18 Now, to address that, what we require in the COL, what we
19 will require at the COL stage is that emergency planning information that was
20 submitted at the ESP application stage to the extent that it's changed, some
21 people have referred to it as material change, but the extent to which it
22 changes the evacuation time estimate may no longer be valid, there may be
23 other aspects associated with emergency response that were true at the time
24 of the ESP when it was issued by the NRC, and the NRC does a snapshot in
25 time when we look at an ESP application. But over the period of ten, 20 years,
26 30 years, 40 years maybe if they still have a valid ESP, early site permit,
27 they've got to update and correct any information that may have changed or no

1 longer is correct at the COL application stage.

2 Now, this is where I need help. When an applicant is issued
3 a combined license, a COL, what are the questions associated with the timing
4 of when the plant is actually built? Now, it seems to me that it would be a
5 financial decision on the part of the license holder in this case when they want
6 to start putting things in place, because I would not expect that they would build
7 an offsite EOF or train state emergency responders ten years before they really
8 intend to build the plant. So there would be a sequence of events that would
9 take place when the ITAAC would be satisfied.

10 As I said earlier this morning, we don't -- our concern is not
11 when the ITAAC is verified or the order in which it's verified, it's that is it all
12 verified and satisfies 15 of the 16 planning standards. So that may still be an
13 open issue with respect to timing after the COL is issued, and I don't know what
14 the answer to that is at this point on what would happen if emergency planning
15 information changes after the COL is issued and the plant's not built right away.
16 I think that's what your question is.

17 MS. ALLEN: That's part of it, but you've also asked -- your
18 question was what's the feasibility of developing these alternative ITAACs if
19 state and locals aren't participating? And I don't see a need to actually spend
20 time doing that at this point in time. I agree that that's kind of --

21 MR. MUSICO: An alternate set of ITAAC if the state and
22 locals choose not to participate.

23 MS. ALLEN: Correct.

24 MR. MUSICO: Which is a separate question.

25 MS. ALLEN: Right. And that was what started this, and I
26 don't see a need to do that, because if you have tied certain things along the
27 way, then you know -- you're not going to wait until the last minute to find out

1 that the state and local governments are not participating. You need to know
2 soon enough. And by tying certain milestones, making requirements on the
3 state and locals or getting some verification that at this point in time in
4 construction, then we'll have certain procedures in place from the -- we'll begin
5 the training with the locals or the -- I don't know if I'm making any sense here.

6 MR. SEBROSKY: Well, I guess the issue, the reason that we
7 asked the question, and I think I understand from industry's perspective.
8 Industry's perspective in their proposal is you have no ITAAC on offsite actions.
9 I mean that's it. That's their response to that. From our perspective, when we
10 give someone a combined license, the ITAAC are set at that. So if you had
11 offsite ITAAC and you wrote them in such a manner that it required state and
12 local participation, say the government changes and it now because five years
13 down the road they're ready to load fuel, ready to do the drill and the state and
14 local government says, "We're not going to participate," the licensee cannot
15 meet that ITAAC now. That was what was codified when we gave them the
16 COL that was cast in concrete.

17 So the thing that we were trying to figure out is from the
18 perspective of regulatory certainty, could you write the ITAAC in a manner that
19 in one case is an either/or? If the state and local government participates,
20 here's the set of ITAAC that the licensee has to demonstrate. If the state and
21 local government does not participate, here's the set of ITAAC that the licensee
22 has to demonstrate. And it was more from a perspective of if you take that leap
23 of faith and you say there are ITAAC associated with offsite actions, how do
24 you capture that the state five years down the road, ten years down the road
25 may decide not to participate?

26 MS. ALLEN: So are you proposing for like in Dan's -- his
27 example for H7 where it says, "The state and local organizations where

1 appropriate have provided offsite radiological monitoring equipment in the
2 vicinity of the nuclear plant facility." Are you proposing then to maybe change
3 some of these to say that offsite radiological monitoring equipment is provided,
4 period, and then some sort of --

5 MR. SEBROSKY: Well, I guess what we were trying to figure
6 out is do we have an either/or, or for Dan's example do you say, okay, for H7
7 the state and local organization where appropriate have provided offsite
8 radiological monitoring equipment in the vicinity of the nuclear facility." Okay.
9 That's the ITAAC if the state and locals agree to participate.

10 The "or" that we were trying to figure out if we needed is or
11 do you put in there under the realism rule what the licensee would provide, and
12 I'm looking to Dan and Bruce that the licensee would provide, assuming that
13 the state and locals don't participate. From NEI's perspective, they're just
14 saying that H7 doesn't exist for offsite. And from our perspective, our proposal
15 included offsite EP ITAAC, but it recognized that state and locals may choose
16 down the line after we give them the combined construction permit, the
17 conditional operating license to rescind -- I don't know if that's the proper term
18 -- but to rescind their agreement to participate.

19 MR. CAMERON: Joe's been characterizing the NEI position,
20 but can we also hear from NEI directly on these issues, starting with George
21 and then going to Steve? And I'm using NEI as a shorthand. George?

22 MR. ZINKE: Yes. Let me pose our position in sort of a
23 question. I mean this morning you read the Energy Policy Act, and you read
24 that licensee performs ITAAC. When we read that, we read licensee performs
25 ITAAC. And so our logic, legal logic is that those items where you specifically
26 say the state and local organization perform, that's not the licensee. So we
27 came to the conclusion that indeed they're important and indeed they need to

1 be done, but that's no ITAAC.

2 My question is you obviously have come to a different
3 conclusion, so can you or OGC explain your logic of how you've related the
4 words from the Energy Policy Act that the licensee performs ITAAC to getting
5 ITAAC on actions the licensee doesn't do?

6 MR. MUSICO: Okay. George, I think I can answer your
7 question with a question. If in fact there is -- state and locals choose not to
8 participate and the utility develops a utility offsite plan with ITAAC, who
9 confirms the ITAAC?

10 MR. ZINKE: It would seem to me that if you've got the
11 situation where the licensee had to develop those things, then the licensee is
12 doing that. But in your example, you're providing ITAAC where the other site
13 -- where the state and local have agreed to participate, and they're doing all the
14 actions but now they're ITAAC.

15 MR. MUSICO: I think you're limiting the ITAAC too tightly in
16 that the Energy Policy Act and the associated guidance that we've been looking
17 at specifically talks about the licensee satisfying the ITAAC, but it does not
18 preclude offsite ITAAC.

19 MR. CAMERON: Okay. Let's hear from Dan, and we want
20 to go to Steve, but as I understand what George is saying that there should be
21 -- the ITAAC of the license applicant should be for cases where state and local
22 government do not participate, which there should not be ITAAC, or when the
23 state and local government do participate, which is sort of turning it around
24 from what we might be proposing. But go ahead, Dan, and then we're going
25 to go to Steve.

26 MR. BARSS: 50.47(b), which is the regulatory requirement,
27 starts out, and I'll paraphrase the best I can from memory, it says, "onsite," and

1 then blah, blah, blah, talks about Section d, which is five percent, and that's not
2 applicable here because it's before fuel, it says, "onsite and offsite emergency
3 plans shall meet," and then it goes through the 16 planning standards. So it is
4 clear the regulatory requirement is that there be an onsite and offsite
5 emergency plan.

6 You, as the applicant, the industry, whoever the applicant,
7 have the responsibility to demonstrate to us that there is reasonable assurance
8 that adequate protection, health, safety to the public, all those good words that
9 are in (a) of 50.47(b) can be met. And part of that licensing process is to give
10 us, so that we can come to that reasonable assurance, the onsite and the
11 offsite emergency plans. That's why you write the ITAAC that says onsite will
12 have this, and offsite will have that. Now, you, in cooperation with your state
13 and locals, develop an integrated emergency plan. Part of it is your onsite, part
14 of it is your offsite plan, and you, as the licensee or the applicant and soon-to-
15 be licensee, come to us and say, "The ITAACs, the state has done their job,
16 the locals have done their job, people have been trained, the equipment's all
17 in place, da, da, da, da, da, da." You come and tell us that the offsite stuff is
18 ready and the onsite stuff is ready. That is your part of that process because
19 it's your license.

20 We, as a regulatory body, and FEMA, and counsel will correct
21 me if I'm wrong, we have no licensing authority, we have no power over -- we
22 have no licensing authority or power over state and local governments. They
23 are participating in this process by their good graces and willingness to support
24 you, and that's I guess the hairy part about it from the business decision
25 process for you guys is getting them on board, getting all that stuff lined up.
26 But in our view, in the licensing of it, we expect you to propose the ITAAC that
27 show us how the onsite and the offsite are going to be met.

1 MR. CAMERON: And we're going to -- I want to hear from
2 Ken, but let me get Steve on the record, because there may be something for
3 you to address there, Ken.

4 MR. FRANTZ: Yes. I think we fully agree with you that you
5 don't have control over the state and local governments, and neither do we as
6 licensees. And that's one of the reasons that there should not be any ITAAC
7 governing state and local activities. The Energy Policy Act, which is now in
8 Section 185(b) of the Atomic Energy Act, is very explicit. It doesn't really allow
9 much room for interpretation. It says, "The Commission shall identify within the
10 combined license the inspections tests and analysis, including those applicable
11 to emergency planning, which the licensee shall perform." There's not much
12 wiggle room there. The licensee's required to perform all of the ITAAC, and,
13 obviously, you cannot with respect to offsite elements. Therefore, by definition,
14 the offsite elements are not appropriate for the ITAAC.

15 These offsite elements are verified through the normal FEMA
16 inspections and the determination which we give to the NRC. That's the
17 appropriate way to verify the offsite elements, not through the ITAAC.

18 MR. CAMERON: Okay. Thank you. Ken, you've heard
19 discussion of a number of different issues, including Kathy Allen's sequencing
20 issue. What do you have to tell us?

21 MR. WIERMAN: Well, again, part of this is to try to get
22 everybody again on board through the whole process. All right. Now, the way
23 it sounds is if you just limit it to the licensee and say, okay, we don't have offsite
24 EP ITAAC, then we just wait till that exercise prior to going to five percent,
25 make sure everything's in place. I don't know if you really want to do that. This
26 process will allow you to have those things in place before you get to that point.

27 MR. FRANTZ: Well, there is another stage of this and that's

1 the COL stage. At that stage, of course, you need the offsite emergency plans.
2 You'll look at them as FEMA, the NRC will look at them, and there will be a
3 determination on the accuracy of the offsite plans prior to issuance of the COL.
4 So we're not waiting until the very end. All we're waiting for until the end is the
5 actual exercise itself.

6 MR. CAMERON: Okay. Let's hear from Gary Mizuno from
7 NRC's Office of General Counsel, and then we'll go back and see if there's
8 anything else that Ken wants to say and check in with the rest of the audience.
9 Gary?

10 MR. MIZUNO: Thank you. I'm responding to Steve Frantz's
11 discussion of the language of the Section 185(b), I believe. And I guess my --
12 and this is my own personal view, hasn't been discussed with our OGC
13 management -- but, initially, my view is that the language that he referenced
14 which refers to the licensee making the determination -- well, conducting the
15 ITAAC and making a determination whether the ITAAC had been satisfied is
16 not entirely true and entirely consistent with the concept that some other entity,
17 governmental entity, i.e. the NRC or possibly FEMA through a MOU, verifies
18 the determination or independently determines and verifies whether the ITAAC
19 have been met for purposes of making the licensing determination as to
20 whether the authorization to operate should issue. So I see nothing in the
21 language of the Act that somehow says that the NRC and/or FEMA through an
22 MOU where we have some discussion -- I'm sorry, we have some sharing of
23 responsibility there, somehow removes some responsibility from the NRC to
24 make findings with respect to the acceptability of ITAAC, and also by extension
25 the lack of need for an ITAAC in the area of offsite emergency preparedness.

26 MR. CAMERON: Okay. And the second OGC representative
27 who hopefully won't contradict the first OGS representative.

1 (Laughter.)

2 MR. WEISMAN: I won't take too long. I agree with Gary.
3 Again, we had discussions with our management.

4 PARTICIPANT: Can you translate that?

5 MR. WEISMAN: Pardon me?

6 PARTICIPANT: Can you restate Gary's -- what you agree
7 with?

8 MR. WEISMAN: I agree with what Gary said. I just want to
9 add that it is the applicant's responsibility to satisfy the NRC's rules. We have
10 rules and regulations on emergency planning that include offsite emergency
11 plans. The applicant is going to have to perform inspections, tests and
12 analyses to show that the acceptance criteria have been met for the offsite
13 plans. And that's what they're going to have to demonstrate to us so that we
14 can make our appropriate findings to show that the acceptance criteria have
15 been met and the condition in the COL met and proceed to power operation.

16 MR. BELL: Very quickly, we have no authority to perform
17 inspections or tests of the state and local government.

18 MR. WEISMAN: Well, how are you going to show us then?
19 Let me ask, I don't understand, I just don't understand, please explain to me
20 how is the applicant going to demonstrate that 50.47 is met? How are you
21 going to do that?

22 MR. BELL: Let me ask you a question: Have you ever relied
23 on ITAAC or has FEMA or the state and local governments ever relied on
24 ITAAC to come to this conclusion?

25 MR. MIZUNO: Well, actually, no, because ITAAC had never
26 been used before.

27 MR. BELL: Then I --

1 MR. CAMERON: Gary, let's let Russ complete his --

2 MR. BELL: Then I would submit that the answer to Bob's
3 question would be as it has always been done.

4 PARTICIPANT: Through FEMA.

5 MR. CAMERON: Okay.

6 MR. WEISMAN: What has always been done through
7 FEMA?

8 MR. BELL: FEMA verifies the adequacy and implementation
9 of the offsite response and provides that determination based on review of the
10 plan that feeds into the COL decision, and following the full participation
11 exercise, as I understand it, a determination on the implementation of that.
12 And we'll do so in the future independent of ITAAC.

13 MR. MUSICO: Under the Part 50 licensing process.

14 MR. CAMERON: Okay. I'm not sure -- can I just interrupt
15 here, because we are getting short on time, and I think that -- I didn't
16 understand that the NRC's position on this issue as a policy matter was driving
17 by a legal interpretation. And I think Gary is trying to -- is responding to
18 something that was said. But besides the legal issue here, and I think the NRC
19 needs to see whether there is some sort of a legal issue that's driving what it's
20 doing, but I think you brought this up as a policy matter, didn't you? Can I get
21 a clarification on that, Joe?

22 MR. SEBROSKY: Yes. We did not -- when we wrote the
23 questions that we placed in the Federal Register notice, we fundamentally
24 assumed that there would be ITAAC associated with offsite activities. We did
25 not understand that NEI's position was that there would be no ITAAC
26 associated with offsite activities. So there's a fundamental --

27 MR. CAMERON: Right. But you need to understand, though,

1 that if we decided to adopt the NEI position, it may be that there's no legal bar
2 to adopting that position.

3 MR. SEBROSKY: That's correct.

4 MR. MIZUNO: That's correct. There is no legal -- as far as
5 I can tell, we could interpret the statute that way. But I'm saying I was taking
6 the point that Mr. Frantz suggested that perhaps the statute forced us to the
7 position of NEI in which I was saying, no, we are not forced down the road of
8 taking the NEI position.

9 MR. CAMERON: And I think that clarifies it. In other words,
10 you have the leeway to consider NEI position. Gary was just reacting to a
11 statement that Steve said that might have taken it further than we needed to.
12 So I think that that is clear.

13 We have this concurrent review issue coming up next, but
14 really we had some discussion of the risk issue and we're going to consider
15 that, you guys are going to consider whether it really should be those four
16 points from ROP, but just to close off this state and local government issue,
17 Ken Wierman this morning raised an issue that there are implications for state
18 and local government from using a risk significant approach. And I wondered
19 if you could -- could we just get that on the table if there's something that you
20 want to say about that before we go on?

21 MR. GRANT: Cutting down the 116 down to just using --

22 MR. CAMERON: Yes, or whatever, 116 down to 50 or four
23 or whatever. What are the implications for state and local government from
24 doing that?

25 MR. GRANT: Chair, before we go on there were some
26 incorrect statements here on this last issue that need to be cleared up for the
27 record.

1 MR. CAMERON: Okay. Eddie, we'll go to you on that. Let's
2 get this on the table and then we'll --

3 MR. GRANT: The verification was never in question. The
4 verification is performed by the NRC and by FEMA. It was never under
5 question. We agree with our friends from OGC entirely. The question from the
6 Act and the statement in the Act is that ITAAC are items that the licensee shall
7 perform, and it's the performance question that we based our position on. We
8 cannot perform that state and local organizations have established a central
9 point. That is not something the licensee can do. The Act itself is very clear,
10 as Mr. Frantz was pointing out, that ITAAC are items that the licensee shall
11 perform. It doesn't say anything about who's going to verify that the licensee
12 performed, but only that the licensee shall perform, and that's where our
13 position is based, not on verification.

14 MR. MIZUNO: Okay. Then let me respond to that, because
15 I understand that point, and I think that that's a question that needs to be
16 addressed. But I would say as an abstract matter it doesn't -- there might be
17 a practical reason why a licensee couldn't perform the ITAAC, conduct the
18 ITAAC, I guess, in the matter of an offsite emergency preparedness, but as an
19 abstract matter, there is a -- you could identify actions that a licensee could
20 take that could give the regulatory reasonable assurance that an ITAAC for an
21 offsite action or activity had been completed, for example, obtaining
22 certifications of letters from the offsite officials, reaching an MOU with the
23 official so that your people go on and look at stuff. I mean I'm just saying that
24 there are abstractly possible ways of doing that. Now, whether it's a practical
25 matter or not and whether for other reasons from a regulatory or policy
26 standpoint we want to go down that route, that's something else. But I
27 understand that point, and certainly we will take it into consideration.

1 MR. CAMERON: Okay. And I think that -- I hate to use the
2 phrase about beating a dead horse in Kentucky Derby week, but especially I
3 think all of the pros and cons, issues that we've considered are on the table on
4 this issue, and I think we have to move on. Ken, you've had some time to think
5 about implications.

6 MR. WIERMAN: Yes. Getting back to just using the four
7 risk-significant criteria, and just going with my experience in offsite EP and
8 when I used to work for the utility in offsite EP, a lot of state and locals -- if you
9 do it that way, a lot of state and locals might feel out of the loop as far as this
10 whole process is concerned. And that's the -- I just want to bring that up as an
11 issue and one thing I want people to think about.

12 So if you just limit it to those four, you may isolate state and
13 local people as far as this whole process is concerned, and I hate to see
14 another Shoreham happen where you get at the end and nobody wants to
15 participate, and then you're stuck with a plant that's built and you can't run.

16 MR. CAMERON: Is there an element of an educational issue
17 here in the sense from what I understand people saying and people from the
18 industry is that the ITAAC puts a finer point on some aspects of the emergency
19 planning process, but the total emergency planning requirements there is going
20 to have to be demonstrated compliance with that total regulatory framework
21 even if something isn't in ITAAC. So if something's not ITAAC, doesn't deprive
22 the local and state governments of anything related to compliance with
23 regulations, does it?

24 MR. FRANTZ: They still have to comply.

25 MR. WIERMAN: Yes. They still have to go through the
26 exercises, they have to meet all the other 0654 --

27 MR. SEBROSKY: Yes, but the question is, and I really do

1 have a question here, under Part 50, if we license a plant under Part 50 and a
2 member of the public wanted to -- prior to issuance of the operating license
3 wanted to submit a contention that the offsite actions were not done
4 appropriately, could they do that?

5 MR. FRANTZ: Under the current state of the law, I think
6 there's a requirement that there had been a fundamental flaw somewhere in
7 the exercise to get a hearing on the exercise itself. Obviously, they can always
8 raise an issue on the accuracy of the offsite plans at any time, but under --

9 MR. SEBROSKY: So is your answer yes? I mean if there
10 was a fundamental flaw in how the offsite -- if FEMA identified a problem, there
11 was a fundamental flaw, and let's get back to our finding on whether or not we
12 can allow fuel load is limited to the acceptance criteria, right? So if FEMA --
13 under Part 50, if FEMA found that there was an offsite action that wasn't
14 appropriate, I think -- I'm not expert in this -- I think it's true, but that the
15 Commission could use that as a basis for not granting the operating license,
16 and we could -- an intervenor or member of the public could litigate that prior
17 to granting the operating license.

18 MR. FRANTZ: Right now under Part 50 that's true. Under
19 a COL, it's a little bit different. If there is this kind of a flaw in the offsite portion
20 of the exercise, FEMA would make its determination, give it to the NRC, the
21 NRC would take enforcement action against us.

22 MR. SEBROSKY: Yes. So what you're saying is we would,
23 in essence -- I mean I get back to Part 52 wasn't meant to be, in my opinion,
24 that different than Part 50. Again, getting back to the straight face test and a
25 member of the public says, "Hey, I was able to litigate under Part 50, offsite
26 emergency plan actions, whether they're adequate or not," and now if we follow
27 your proposal, and I think I understand what it is, they wouldn't be able to

1 litigate that.

2 MR. FRANTZ: They can still litigate at the COL state the
3 adequacy of the plant itself.

4 MR. SEBROSKY: Prior to issuing the COL.

5 MR. FRANTZ: Yes.

6 MR. SEBROSKY: But if we didn't have acceptance criteria
7 on it, if we didn't have ITAAC on it under the Part 50 process, they could litigate
8 that prior to granting an operating license. Under this process, they can litigate
9 prior to granting a COL the lack of ITAAC, but once the ITAAC are set and if
10 there are no offsite EP ITAAC, they would not be able to litigate that under the
11 52.103 hearing.

12 MR. CAMERON: And that's the issue the NRC is weighing
13 is balancing the possibility of doing that. I don't know whether George and
14 Kathy want to say anything about their views of whether local and state
15 government about whether it's critical to them, but Joe is also raising and
16 framing in terms of the public.

17 MR. URQUHART: Let me respond to Ken's comment about
18 the state and locals may feel left out if we go with the risk-based. Well, again,
19 I'm back to this point that we're tying the EP ITAAC to state and local offsite
20 when I think Eddie and others are trying to make a distinction now that who
21 does this EP ITAAC apply to? If we take it, state and locals will take that 0654
22 and that's why the supplement of the document would help clarify this kind of
23 comment, because in the absence of a supplement, then EP ITAAC does not
24 apply to us. We're going to participate in the 0654 and let FEMA continue to
25 observe and participate and declare that we have been found okay. And,
26 therefore, we're really not going to be left out.

27 MR. WIERMAN: Well, I think when I mention that it's just if

1 you have these ITAACs assigned to offsite, okay, then there's certain
2 conditions that they know that offsite has to -- or will be part of this whole
3 process instead of waiting again till the FEMA inspector's coming in or prior to
4 the exercise making sure all your offsite plans and procedures are okay and we
5 actually evaluate the exercise.

6 MR. CAMERON: Okay. I think we really need to go on to
7 concurrent review unless you have something?

8 MR. BARSS: Let me go to an example again on this one.

9 MR. CAMERON: Are you going to set it up for us?

10 MR. BARSS: I'm still on the old -- the one we were just
11 finishing.

12 MR. CAMERON: Okay.

13 MR. BARSS: Maybe summarize an example. I'm on Page
14 15 now, I-9, which would be one of the risk-significant ones, and just to set the
15 stage here, "Adequate method systems or equipment for assessing and
16 monitoring actual or potential offsite consequences of radiological condition in
17 use." I-9 reads basically the same for the licensee or the state and locals. I-9,
18 "The licensee has the capability to detect, measure radioiodine concentrations
19 in the air with a plume exposure as low as ten to the minus seven curries cc
20 under field conditions." It talks about interference also. The same thing applies
21 for state and locals if they would have that.

22 Again, looking at a greenfield condition because it's an
23 existing site they would obviously have this, but under a greenfield condition,
24 we would expect that the applicant is going to explain to us how they're going
25 to do that monitoring. We don't expect them to buy the equipment, train the
26 people, have the vehicles ready to roll. So at the ITAAC they say, "We've got
27 the equipment, we've got the people trained and they can do it." Same thing

1 applies to the offsite, state and locals. We wouldn't expect them to have it
2 when the application is submitted, but the licensee is going to provide an
3 ITAAC to say that, "When we load fuel we'll confirm that the state and locals
4 have developed this capability and report back." That's an ITAAC that the
5 licensee can perform. Not that they're going to do that. They're not going to
6 be developing and -- the state and locals are doing that as far as the program
7 goes. They're confirming to us that that has been accomplished.

8 MR. GRANT: FEMA will do that for you.

9 MR. CAMERON: Okay. This is an example going to what
10 Gary said about there's a way to frame it so that the obligation on the utility is
11 not for license applicant is not to provide this stuff but to confirm that it has
12 been provided. All right. George, you want to finish this up and then we're
13 going to go --

14 MR. ZINKE: What I heard is you're saying under this that the
15 licensee will inspect the state to ensure that this is done then. And I don't know
16 of any of our operating plants that have the authority to go and inspect the state
17 activities to ensure under what these words say that the state have the
18 capability to detect -- we don't do inspections of the state and the local.

19 MR. BARSS: I didn't say inspect.

20 MR. ZINKE: But how else will I write a certifiable statement
21 that I can go to jail to that the state has that capability?

22 MR. BARSS: Because you've got an integrated program that
23 you're developing along with them. They're either your partner in protecting the
24 health and safety of the public or --

25 MR. ZINKE: But I don't perform those state activities.

26 MR. BARSS: You don't perform them, but you'll know
27 whether or not they've done it or whether or not they've got it. And if you've got

1 a good working agreement with them, which you're going to have to have,
2 they're going to say, "Program's in place, people are trained, we're ready to go,
3 send the letter."

4 MR. GRANT: But you already know that. You have an
5 agreement with FEMA and they've already inspected it. Why do we have to --

6 MR. ZINKE: It just seems totally inconsistent with what our
7 operating fleet does now. Totally inconsistent.

8 MR. BARSS: Because they're operating. This is licensing a
9 new plant.

10 MR. ZINKE: It seems totally inconsistent with what our
11 operating fleet did during the licensing process.

12 MR. BARSS: This is a new licensing process. It's Part 52.

13 MR. CAMERON: Okay. I think you get an idea about what
14 the concerns are, okay, from the industry on this issue, so that's information to
15 think about in doing the balancing.

16 I don't want to drop the concurrent review because that may
17 be important and could -- one of the three, Joe or Bruce or Dan, can you just
18 very simply tell us what that is and see if there's any comments from around
19 the table on that issue?

20 MR. BARSS: I think without going to the note there, the
21 question is do the ITAACs have to be done in a specific order or can they be
22 done in a random order? Does one build on the next one? I think that's the
23 question that we need to know from the potential applicants and from the
24 public, what's their feeling on that? And I guess the exercise plays into that too
25 somehow in that the exercise may be the final exam or the oral board or
26 whatever you have that brings it all together. That is an introduction.

27 MR. CAMERON: Okay. And I think we realize that there is

1 a whole hierarchy of issues that need to be resolved here, but whatever the
2 resolution of that are there any comments on the sequence of -- the logical
3 sequence of review? Russ?

4 MR. BELL: Well, try as we might, we might write down the
5 ITAAC in any area in some sort of logical, sequential order, but the reality is
6 how they are completed, the order in which they're completed will depend on
7 a number of factors which are far down the road, and we're far too feeble-
8 minded to think of them all.

9 So we've always understood and imagined that any ITAAC
10 could be completed in any order, multiple ITAAC could be completed at the
11 same time, and we just identify very clearly to the NRC when we're making
12 these representations which ITAAC we're talking about are being completed
13 and what the bases was there. And I'm not aware that that's a controversial
14 point at all, and we might be able to --

15 MR. BARSS: You may have found something we can agree
16 on.

17 MR. BELL: -- conserve agenda, yes.

18 MR. CAMERON: Okay. Well, and when you said multiple
19 ITAAC addressed at the same time, does multiple mean related ITAAC?

20 MR. BELL: I'm trying to think on how to relate it to this
21 context, but, certainly, in the design area you could have training as a
22 prerequisite to conducting the exercise, as an example.

23 MR. CAMERON: Okay. But it seems like -- you know, you
24 hate to see -- to think that anything here is going to be non-controversial, but,
25 comparatively speaking -- because I was going to say that it's sort of a common
26 sense, logical way to do it, but I hate to even say that. But perhaps this is a
27 second order issue compared to some of the bigger issues that we've been

1 talking about.

2 MR. MUSICO: Yes. I don't see that as an issue, Chip.
3 Actually, when I first read the question, I said, why are we asking this? And as
4 far as the order, again, as you said, it's a logical order that would come about
5 as far as developing the emergency plans. You're not going to test the
6 adequacy of a facility before you build the darn thing, and that's up to the
7 licensee when they want to -- what's appropriate as far as the sequence in
8 which they satisfied the ITAAC. They can do them at the same time, they can
9 do them in sequence as long as they satisfy the subsequent ITAAC. So we
10 don't see that as an issue.

11 MR. CAMERON: Okay. Then let me put a question to all of
12 you around the table. We can go a little bit longer than 4:30 if we want, but,
13 whatever, the remaining time that we have left there's a fourth discussion area
14 that was meant to be a catch-all. Is there anything there that someone thinks
15 is really key to discuss now? Other options are do you want to say anything
16 more about the risk-significant issue? I think you made some progress on that
17 issue in terms of the NRC being willing to think about some things and the
18 industry perhaps going to think about other risk-significant items. Do you want
19 to say anything about that? And is there anything that the industry or the states
20 need to know before they can intelligently comment on this first issue that we
21 started out with that was framed on the agenda of what issues, VP issues need
22 to be resolved before the COL, and we really got into a lot of maybe wrapping
23 around the axle on that one.

24 So I guess are there suggestions for how you want to
25 profitably spend the rest of the time today? Nader?

26 MR. MAMISH: Yes. The comment that I was going to make
27 doesn't refer to how we were going to spend the rest of the time. My question

1 deals with where do we go from here? I've heard a lot of good stimulating
2 dialogue, excellent views from this side, excellent views from all sides, and I'm
3 trying to formulate in my head where do we go from here? Do we get written
4 comments from you? Do we try to get together to try to resolve the
5 differences? Do we get together with our Office of Legal Counsel to deal with
6 some of the policy or the legal issues? Where do we go from here?

7 MR. CAMERON: Okay. I mean that's a good issue to
8 address. Are there any suggestions along that line? George, do you have --
9 Russ? Go ahead, Russ.

10 MS. HEYMER: I think at the moment there's a notice on the
11 table requesting public comment by May 27, and I think we're going to feel
12 obliged to respond just to dot the i's and cross the t's. But to me that's an
13 exercise that we just have to go through, but the real meat is getting down and
14 having some working-level meetings, and I don't mean a working-level meeting
15 like this, but I mean around the table, going through a specific plan, what will
16 we submit.

17 Let's make it easy to start with, an EP plan associated with
18 a unit is going on in an existing site, and so what would we submit as part of
19 the COL application and try and come up with the ITAAC associated with that.
20 And in those discussions we'll get into the level of detail of how specific we're
21 going to be on the acceptance criteria. And we'll probably raise some issues
22 that we're going to have to take up and have some discussion with senior
23 management on. And that's going to take a little bit of time but not much, but
24 I think it's going to have to do that to get resolution of this in the time frame that
25 we're looking at from the licensee's perspective.

26 MR. CAMERON: You mean when you talk about a specific
27 plan are you talking about a strawman plan?

1 MS. HEYMER: I'm talking about going to an existing licensee
2 and getting their EP plan on their site and saying, okay, if we were going to
3 develop a -- not that we're saying there's going to be a new site here, but if we
4 were going to develop a plan, here's a site, here's an existing EP plan, what
5 would we submit under COL? Because to me that's the easy part, okay? And
6 then once we've got a good handle on that, then we can think about the
7 greenfield. And I'm just tossing it out, I'm talking -- sort of talking as I think, and
8 if any other members of the industry believe that we should do something
9 different, please, join in and we can have a collegial discussion. I mean to me
10 that's what's going to happen. Otherwise I don't think we're going to get
11 anywhere.

12 MR. CAMERON: Okay. You talked about two things. One
13 is following through on the comment process. Second thing is future meeting
14 on an EP plan from an existing site. Is there anything that -- any information
15 -- I think that regardless of whether anything would settle today, we certainly
16 all of us have gotten a lot of information about the parameters of the problem
17 and where there may be ambiguities. Do you need any more information in
18 order for you to comment by May 7? I don't know if you do or not or if we can
19 --

20 MR. GEORGE: I guess I'd like to ask is the staff open to
21 considering a safety focus of the EP ITAAC or are you guys pretty well settled
22 that you've got to have an ITAAC on everything? It's not -- I guess I'm trying
23 to understand whether you're open to a different filter or not?

24 MR. BARSS: Yes, we're open to a filter.

25 MR. GEORGE: Okay.

26 MR. CAMERON: Yes. I think that that was -- and that's good
27 that that's clarified. You are open to a filter.

1 MR. BARSS: But you need to explain what the filter is.

2 MR. GEORGE: Understand.

3 MR. CAMERON: And what the criteria or philosophy is
4 behind that filter.

5 MR. BELL: Just to be clear, the staff's filter is, as I
6 understand it, is if it's addressed in the COL, filters out of ITAAC. If it's not
7 addressed in the COL, it filters in. That's a filter. That may not be the filter that
8 --

9 MR. BARSS: Our filter was --

10 MR. BELL: -- moves us --

11 MR. BARSS: -- will there be something there that we can see
12 or won't there, and, obviously, you won't have hired people, you won't have built
13 buildings, you will not have put sirens up, you won't have trained anybody, so
14 those are the things we thought that would be an ITAACs. You could fully
15 explain how you are going to build a building and how you are going to train the
16 people and how many sirens you're going to put where, but they don't exist, so
17 if you're giving a predictive reasonable assurance finding on that, your ITAAC
18 is you saying, "We built the building, we've hired and trained the people, and
19 we've put the sirens up." That's how we set the filter is will there be a physical
20 structure or somebody to look at or won't there? And at the COL stage, a lot
21 of those things won't be there, so we expected an ITAAC later to say, "We've
22 met that."

23 MR. CAMERON: And that goes back to Eddie's original
24 question this morning about what criteria did the staff use? Is it clear from what
25 Dan said what our, quote, "filter," unquote, is?

26 MR. GEORGE: I clearly understand that. I guess I'm asking
27 the NRC are they open to looking at another filter that takes PRE insights and

1 safety focuses the EP ITAAC?

2 MR. BARSS: The answer is yes. We're open to additional
3 filters. Remember this was our first shot.

4 MR. GEORGE: Yes, I understand that.

5 MR. BARSS: And it is by no means a final done position. It
6 was kind of a let's float this balloon and see where it goes.

7 MR. GEORGE: Okay. I understand.

8 MR. CAMERON: Okay. Let's go to one of our senior
9 managers here.

10 MR. LYONS: Let me propose something here that will maybe
11 actually flip what we were just talking about. Instead of having you provide us
12 written comments and then have a meeting subsequent to that to maybe get
13 down into the details, maybe we ought to flip this. Maybe what we ought to do
14 is extend the comment period to allow us to have a subsequent working-level
15 meeting where maybe we could get down to some of the specifics, and then as
16 we're able to work through those, then ask for additional comment. And from
17 anybody -- obviously, we'd be welcoming any comments anybody wants to
18 provide us in the intervening time. So if state would like to provide comments
19 with something they've heard and want to provide us some input, we'd certainly
20 like to have that to move forward with that. If members of the public or
21 anybody else would like to do that, then we would continue to accept those
22 comments. But to allow people some additional time and maybe it's a month,
23 maybe it's six weeks, we could look where we could have an additional meeting
24 and start to try and work through some of the issues. I think Adrian was right
25 in that in a lot of cases when you actually get down to looking at them, the
26 issues start to make sense. It helps us then to test applying the different filters
27 that we might apply, given a plan from an existing site.

1 I guess one of the issues that we didn't touch on, and I don't
2 know if we want to discuss this, but just let me ask this question. There's
3 certainly -- using an existing emergency plan at an existing site that's going to
4 have the power generating company or the utility that owns that site continue
5 to own that site and have its facility on, I think that's the easiest one to work
6 with.

7 The question would become is if in some of the consortium
8 scenarios if there's a separate entity that comes onsite and operates a plant on
9 that site that has an existing emergency plan that's controlled by another entity,
10 how does that work? That may be -- you know, that could cause -- it would
11 seem to me that would make things a little more difficult, a little more tenuous
12 of just saying, well, this EP is -- the emergency plan carries forward because
13 the agreements are with the different entities. So it would seem to me that
14 that's another aspect of it that maybe we want to look at as we go through this
15 example.

16 MS. HEYMER: I think that's an excellent comment, Jim, to
17 extend it. I think that's practical. It stops us doing a bunch of work and then
18 probably another bunch of work on top of that. And if that can be achieved, I
19 think we would fully support that.

20 With regard to your second topic about supposing we get an
21 operating company on an existing site that's got a licensee, I think that's a
22 perturbation that can follow on. So I think just do the fairly reasonably
23 straightforward one first and then look at a variation on the theme which would
24 be the operating company coming on to an existing site and then go to perhaps
25 a little bit more challenging one about the greenfield and what could we actually
26 achieve there. We might be surprised, but I think that's the right way to do it
27 myself.

1 MR. CAMERON: Okay. That's sort of -- you know, you've
2 had this overview discussion and then you'd work from the bottom up and see
3 what fell out on those top level issues.

4 Now, Jim and Nader obviously have to check in with
5 management, their senior management, to discuss whether to extend the
6 comment period, but is there anybody who would object to that? We heard
7 Adrian support it. Does anybody identify any problems with extending the
8 comment period?

9 MR. LYONS: I guess the other question we were just saying
10 is there a real need for the extension or --

11 MR. CAMERON: Can you get some useful information now.

12 MR. LYONS: -- can we get some useful information now?
13 I mean maybe the other thing is is, if you would, to close out this FRN you all
14 could provide us whatever comments you want to provide us and I would
15 assume that one of those comments would be let's get together and have --
16 that would be another to do it to kind of close this thing out. So I don't know.
17 I could, I guess, raise that up also to put this Federal Register Notice to bed.

18 MR. CAMERON: Okay. George, do you have a comment on
19 that?

20 MR. ZINKE: Yes. Two comments. One, there are a few of
21 the issues that we've talked about that it would seem to me that either a better
22 process would be for us to go ahead and give you some written comments on,
23 things that may involve policy issues that we can meet and meet and meet and
24 it's still not going to change that. You need to get OGC involved. And for those
25 kinds of things, I think we ought to just go forward with and give you comments
26 and get them working.

27 As far as extending the comment period, one of the things

1 that we had discussed that dealt with your process, it was our fear that if you
2 did not extend it, then our ability to continue discussions on these topics and
3 try to come to some resolutions and go through examples and really have
4 some working meetings, that your process would not allow it because now
5 you'd be in some pre-decisional period on preparing papers for the SECY, and
6 if that's going to happen, then I would definitely be in favor of extending the
7 comment period to allow us to have some different format than this working
8 level. If your process was not going to disallow that, that we could, even after
9 we go past that comment period, then meet and continue to discuss and get
10 into more detail, then I think the time on the comment period may be less
11 important.

12 MR. CAMERON: Let's get some advice from our Office of
13 General Counsel about whether there would be any bar such as that. Do you
14 just want the microphone?

15 (Laughter.)

16 MR. HEGNER: If they don't object, that means they don't
17 agree or disagree, right?

18 MR. CAMERON: I'm going to be right back.

19 (Laughter.)

20 MR. CAMERON: Joe?

21 MR. HEGNER: I believe that both industry and the staff
22 make the best progress on any issue when we move from the abstract to the
23 concrete. So I endorse what Adrian is suggesting, and I think we should walk
24 before we run.

25 I also agree or I think I would try to echo what George said,
26 that to the extent that we can make progress in parallel with -- if we have to
27 extend the comment period in order to work through that example and then

1 discuss it, then that's what we need to do. If we can do that in parallel or let the
2 comment period close and continue the dialogue, that's fine as well. So either
3 way works.

4 MR. MAMISH: Let me tell you my fear is giving you four or
5 six weeks and then have to extend it again. So I'd like us -- my suggestion
6 would be to work through the issues as quickly as we can, the policy issues,
7 the technical issues and the legal issues, and at some point, perhaps prior to
8 the 28th -- is it the 28th of May?

9 MR. SEBROSKY: Twenty-seventh.

10 MR. MAMISH: Twenty-seventh of May -- make a decision as
11 to how much progress we've made and how much time we need.

12 MS. HEYMER: I hear what you're saying, Nader, but I really
13 -- and it sounds as though I'm stopping the tape recorder here, but I really think
14 that we will know some of the issues, and this has been a very useful meeting
15 to flesh some of those out and get an idea of where some of the differences
16 are. But until we actually get down working to a specific real-life example, we
17 won't know all the issues, but that's not to say that we just carry on meeting and
18 meeting and meeting and trying to resolve them. I do believe that we've got to
19 set up a schedule that defines we're going to meet here and define the issues
20 out of this, we come back and then set a time frame having had a chance to
21 sort of plan it out to when we can actually say that we're going to be able to
22 give you a definitive set of issues that you can start going forward or that we
23 can start raising to senior management to see if we have to go the way of the
24 SECY or whether or not we can resolve them through some senior
25 management interaction.

26 So I mean I really think we've got -- we should focus on doing
27 -- focusing on something practical and real. We've got some issues on the

1 table now, but I really think we've got to do that before we can actually say what
2 are all the issues involved.

3 MR. MAMISH: I don't think we're disagreeing. My discomfort
4 is extending it by some period of time and then finding ourselves not --

5 MS. HEYMER: Not ready.

6 MR. MAMISH: -- not ready.

7 MS. HEYMER: Right. Yes, I agree with that totally.

8 MR. CAMERON: Okay. Ben?

9 MR. GEORGE: Thanks, Chip. I guess what Jim and Adrian
10 were suggesting, Nader, I think is a proposal to have some regulatory
11 efficiency here, and as I understand it, there is some agreement here that the
12 NRC is open to discussing the scope of EP ITAAC in trying to balance the
13 litigative issue relative to the public, what's available to the public and at the
14 post-COL stage. And what we are suggesting is that that level rise -- that that
15 be a criteria that we would discuss with you is a risk-informed focused, safety-
16 focused based type of criteria.

17 So to the extent that we can make progress on that, I think
18 the interactions are helpful and maybe us getting down to that level of detail on
19 the issue, but to the extent, let me say, that that's not workable, then maybe
20 that should not be extended. So I guess my question is it depends on, I think,
21 how open the NRC is going to be to these discussions.

22 MR. CAMERON: Can I just give one option here that you
23 need to think about in whatever you do? We did invite representatives of the
24 activist community to come to the table today who did not come to the table as
25 of this day. I understand that they are involved at this point. Whatever you do
26 on this issue you can't -- the NRC should not leave itself subject to the criticism
27 that any comments that come in, written comments from those who were not

1 here today, are rendered meaningless because you've made this a moving
2 target and you've moved on. So I think in your deliberations you need to think
3 about that aspect.

4 MR. LYONS: Well, I appreciate that, Chip. And I guess to
5 answer George's question about whether or not we saw that the ending of the
6 comment period as stopping the discussion, that's not really our intent, and so
7 from that standpoint interactions can continue after that. And I think maybe
8 based on what Chip was saying is that maybe the answer is, to go back to my
9 second option, is to go ahead and leave -- you know, give us the comments
10 you can give us based on what we have here understanding that we will meet
11 later on to discuss some specific aspects of taking an existing plan and an
12 existing site and putting it through the process of trying to see where we come
13 out so that we can then have a good idea of what -- so I guess -- and that
14 comments would -- that that process will continue on and try to resolve the
15 issue.

16 MR. CAMERON: Okay. I'd like to just ask our state
17 representatives if they have anything to add at this point? George or Kathy?

18 MR. URQUHART: Very good discussion. No, not to add on
19 that. I concur.

20 MR. CAMERON: Okay. Great. Kathy? Thank you. Dan
21 Barss?

22 MR. BARSS: I guess a summary comment to answer Ben's,
23 I guess, question to us again. Prior to January 29 of this year, nobody had
24 ever seen a complete set of any set of ITAACs other than the few
25 representative examples, and it was our attempt as the staff to say, "All right,
26 what is this animal going to look like," and that was our first attempt. And in the
27 process between us and FEMA in developing those, we had at one point --

1 personally, I had a very narrow set, and then I had a very large set, and then
2 I had a medium set, and we fluctuated, we went back and forth. What you
3 have in your hands is what we ended up with, which is the biggest set, which
4 we felt was the broadest applicable and the most opportunity for all.

5 Certainly, we expect refinement to it. It's an iterative process,
6 I guess, at this point. You've given us your opinion, your views, your, I guess,
7 first approach or I'm sure you went around, up and down too on the size of
8 yours, and we look forward to moving forward with that and focusing a little
9 better, refining and doing what we can.

10 We've not received much from the public. Certainly,
11 hopefully there will be some written comments or whatever that come in to help
12 us along that line. We got some state input today, which I think is very
13 valuable, helpful to myself, at least, as a senior technical staff on this to get
14 their perspective on it and appreciative of your comments and of your views.
15 And, yes, our minds are not set, that we are open and looking forward to
16 working with you on this.

17 MR. CAMERON: Thank you, Dan. And, Joe, did you have
18 a comment for us?

19 MR. SEBROSKY: Yes. I guess being the Project Manager,
20 I'm just trying to figure out the action items. I think what I understand is,
21 clearly, one action item is we owe feedback to the stakeholders as to whether
22 or not we're going to extend the comment period, and I don't think we gave a
23 decision right here. We have to take into account what --

24 PARTICIPANT: What's the preferred option?

25 MR. SEBROSKY: Well, I think the preferred option is to
26 extend it.

27 MR. MUSICO: To not extend.

1 MR. SEBROSKY: Okay. So we've determined that we're not
2 going to extend the comment.

3 MR. MUSICO: I think it's the best route.

4 MR. SEBROSKY: I guess I was confused.

5 MR. LYONS: Sorry.

6 MR. SEBROSKY: No, that's all right. I wasn't keeping up.

7 The other thing, if I understood correctly, NEI took an action item to look at the
8 116 items that -- maybe this isn't appropriate either -- but NEI took an action
9 item to take an existing site and postulate that we put another plant on an
10 existing site, a new plant, and to come up with an ITAAC based on that filter.
11 Did I understand that correctly, Adrian?

12 MR. SEBROSKY: Okay. Now, when you -- from my
13 perspective, I see two possible filters. The one filter is, okay, how much credit
14 for the 116 that the staff developed, how much of those can we credit for an
15 existing site, what does that set come down to? Does that set come down to
16 50? And what would it look like? Okay. That's one filter.

17 A second filter would be, okay, we went from 116 and I'm
18 making this number up to 50, and then we're applying a second filter that we
19 call risk informed. If we took the 116 that the staff wanted and we said we
20 could address these, we end up with 50; we risk inform and we end up with 20
21 or whatever the number would be. Would that be part of your action item to do
22 that? Well, the number isn't important. I mean what I'm trying to figure out
23 from my perspective --

24 MS. HEYMER: Well, I mean we're going to take a look at --
25 once we've found someone who's willing to come forward, I mean it's a
26 proposal yet and we've got to find someone who's willing to say, "Yes, me too."
27 Once we've found that person, we can then sit down and say, "Okay. Here's

1 the EP plan. What would we submit at COL, and what would be the ITAAC,"
2 and we've got to have some time to sort that out ourselves. And once we've
3 done that, I think we would come to you. Now, whether it would be 20 ITAAC,
4 30 ITAAC, 50 ITAAC or even 100 ITAAC, I don't know, but I think it depends
5 -- we've got to go through a certain number of steps first.

6 MR. SEBROSKY: But the issue, and maybe I'm not
7 articulating it very well, the issue from my perspective -- I'm not speaking for
8 Dan or for Bruce -- from my perspective it would be interesting to me to find out
9 from your perspective -- forget about risk informed for a second -- from your
10 perspective, the 116 would go down to what if it was a North Anna 3?

11 And then I think I understand what you're saying is -- so I'm
12 trying to figure out what filters --

13 MR. HEGNER: What I would propose is that we would go
14 through a process in the same way that for CIPIMS we would come to you and
15 first tell you what we're going to do, and then after you say, "Okay, we
16 understand what you're going to do," then we would go ahead and do it, and
17 then we would examine the results. So I could see us doing something similar
18 to take an existing site, existing emergency plan and go through the process
19 or just develop the process for the industry and then come to you and say,
20 "Here's the process we would go through for an existing site and an existing
21 emergency plan and the criteria we would propose to use." And once you guys
22 said, "That seems reasonable to us," then we would go ahead and implement
23 that.

24 MR. SEBROSKY: So the action item essentially would be to
25 have another meeting in the May-June time frame to talk about --

26 MR. HEGNER: The process that we would implement --

27 MR. SEBROSKY: -- the process.

1 MR. HEGNER: -- as a trial balloon, as a test case using the
2 most simple approach of an existing site, existing plan.

3 MR. CAMERON: So just to be clear, this is not something
4 that the NRC would be necessarily expecting in the May 27 written comments
5 from the industry --

6 MR. HEGNER: Correct.

7 MR. CAMERON: -- but it would be something for the follow-
8 up meeting, right?

9 MR. HEGNER: We could capture the essence of the process
10 or the intent.

11 MR. CAMERON: Okay. Is that okay with you, Joe and Jim
12 and everybody?

13 MR. SEBROSKY: That's fine. I guess I was just trying to
14 figure out the commitments moving forward, and I think I understand the action
15 item right now is industry will get together and give us a time schedule for when
16 they can --

17 MS. HEYMER: We can give you a time schedule, but we
18 would be, I think, interested in moving at a pretty fast cantor rather than just
19 walking it through.

20 MR. BARSS: That was my concern, because we have kind
21 of indicated we want to work on a SECY and I think we said fall -- is that what
22 we've committed to -- in our planning process it's the fall of 2004 to be doing
23 that SECY. And, obviously, this work that you do will flavor what we write in
24 that SECY, the options and opinions and things like that.

25 MR. HEGNER: And we have no interest of having any
26 adverse impact on your schedule.

27 MR. BARSS: Yes. Of course, I understand our schedule

1 plays into your schedule because you're looking at the end of the year having
2 something done, so we need to do ours so you can do yours.

3 MS. HEYMER: We're looking towards the end of the year to
4 have to issue total results which would play into a fall SECY the way things turn
5 out.

6 MR. CAMERON: Okay. Ben, did you have -- were you
7 done? Did you have anything else you wanted to say?

8 MR. GEORGE: I guess not. Really, the only thing I wanted
9 to say is I appreciate the NRC's staff articulation of the fact that they're subject
10 to the litigated aspects of the public here, and they're trying to strike the right
11 balance between that and you might say normal compliance processes, ITAAC
12 versus that. You have to strike a balance there, and I guess I'm encouraged
13 to hear that you don't think you've got to have an ITAAC on everything that's
14 in the EP standards I think I'm encouraged by that, and I guess that's the read
15 I'm taking away from here on that. We're looking for the right balance here for
16 public participation in the ITAAC piece. Is that a correct phraseology here?

17 PARTICIPANT: Yes.

18 MR. GEORGE: Okay.

19 MR. CAMERON: Okay. Jim or Nader, as our senior
20 managers, do you want to say anything in closing?

21 MR. LYONS: I guess I'd just like to thank everybody for their
22 participation and sticking around and going through all this. It's been very
23 interesting, and I really do think we've made some progress. One thing I do
24 want to point out to those that are here there's an NRC public meeting
25 feedback form that's at the back of our slide package. You can just pull that
26 off. We'd really appreciate any comments you have on this meeting to help us
27 do better in the future. And with that, that's all I have.

1

MR. CAMERON: Well, thank you all for coming.

2

(Whereupon, at 4:44 p.m., the ITAAC Workshop was

3

concluded.)