



NUCLEAR ENERGY INSTITUTE

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Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Project 689

Dear Dr. Beckner:

This letter provides the industry's rationale on its proposal for addressing the Commission's Staff Requirements Memorandum (SRM) on SECY-04-0032; *Programmatic Information Needed for Approval of a Combined License Without Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC)*. We are providing this information as requested by the NRC staff in a July 27, 2005, public meeting.

This year, following the issuance of the SRM on SECY 04-0032, we continued the constructive meetings on the programmatic ITAAC issue that began in 2001. During these recent meetings, we have discussed with cognizant NRC staff each of the programs required by NRC regulation identified in the Commission's 2004 SRM and the SRM on SECY-02-0067, *Inspections, Tests, Analyses and Acceptance Criteria (ITAAC) for Operational Programs (Programmatic ITAAC)*. The programs encompassed by this issue are those that are required by NRC regulations. From these meetings, it is our understanding that with the exception of emergency planning, the NRC staff should be able to reach a reasonable assurance finding on the acceptability of operational programs with respect to NRC regulations without the need for ITAAC.

We agree that for the programs required by regulation, the FSAR should describe the programs and their implementation. Also, we agree that a license condition would be imposed concerning program implementation. Together, the FSAR program description and the license condition provide the necessary and sufficient programmatic information to enable NRC reasonable assurance findings for issuance of a combined license.

The enclosed proposal, which was discussed with the NRC staff on July 27, 2005, has been modified to reflect the outcome of the meeting. The proposal defines the scope of required programs and provides further discussion of the programmatic

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information to be included in a COL submittal and is consistent with the Commission direction given in its SRMs on this issue.

Background

The NRC's overall regulatory infrastructure for Part 52 reflects a strong recognition of regulatory hierarchy based on safety significance and importance. For example, design certifications under Part 52 use a two-tier approach, where the top level design and performance characteristics are placed in Tier 1 and subject to more stringent change controls versus the balance of design requirements in Tier 2. The use of a license condition and focusing the scope on those programs that are required by regulations is consistent with tiered regulatory philosophy and structure of Part 52, as proven in the certification of three designs.

Since the start of detailed industry-NRC interactions on this programmatic issue in 2001, the consistent focus has been on programs required by NRC regulation. In a letter dated May 14, 2001, the industry provided a provisional list of NRC-required operational programs and stated that the NRC regulations make ITAAC on such programs redundant and unnecessary.

In SECY 02-0067, the NRC staff recommended that combined license applications should contain ITAAC for operational programs required by regulation. However, in response to that SECY and the on-going industry-NRC interactions, the Commission has provided guidance in two SRMs: the SRM on SECY 02-0067 and the SRM on SECY 04-0032. In these SRMs, the Commission concluded that ITAAC on programs should not be necessary if the program and its implementation are fully described in the application (SRM/SECY-02-0067), and that "fully described" should be understood to mean that the program is clearly and sufficiently described in terms of scope and level of detail to allow a reasonable assurance finding of program acceptability in the COL (SRM/SECY-04-0032).

Scope of Programs

In examining the NRC regulations to determine the scope of required operational programs, and thus the scope of the proposed license condition, we have identified 17 programs that are explicitly required by regulation. The list of programs is provided in the enclosure. Initially, "reportability" was included in the provisional set of 14 programs. We have since determined that it should be not included in the scope of the proposed license condition because "reportability" is not an operational program and does not address an operational safety issue. Rather, "reportability" refers collectively to a number of NRC requirements that assure that the NRC is informed of defects, deficiencies, plant states and specific events. Licensees implement these reporting requirements through various administrative procedures.

We have modified the industry's July 27, 2005 proposal to include a table in the FSAR that identifies the required programs that are subject to the license condition and the FSAR sub-section where implementation timing is discussed. Presently, we envision that this table would be most appropriately located in FSAR Chapter 13, Conduct of Operations. Also, we have modified the proposed emergency planning license condition in response to the July 27, 2005 discussions.

Consideration of Other Programs Not Required by Regulation

Beyond the 17 programs required by NRC regulation, there are numerous other programs at operating nuclear plants. However, for resolving this specific programmatic issue, it is important to distinguish these other programs from those relatively few programs that the Commission has chosen, through its rulemaking procedures, to elevate to the status of regulation. A licensee may deviate from the codified requirements for these programs only by exemption in accordance with 10 CFR 50.12. These other operational programs have been established based on NRC generic communication, regulatory guidance, or a licensee specific commitment, often in response to a plant specific concern.

As requested in the July 27, 2005 meeting, we have reviewed the programs identified in AP1000 FSER "COL Action Items," and have determined that there are no additional programs to be added to this list of 17 based on the criterion for inclusion in the license condition proposed as part of the resolution of this issue. These programs, while important to the extent they are technically relevant, do not rise to the level of NRC regulation. Indeed, the regulatory treatment highlighted by the staff for these action items per Section III.E.4 of the design certification rules indicates that:

"[T]hese items constitute information requirements but are not the only acceptable set of information in the FSAR. An applicant may depart or omit these items, provided that the departure or omission is identified and justified in the FSAR. After issuance of a construction permit or COL, these items are not requirements for the licensee unless such items are restated in the FSAR."

This underscores the clear distinction between programs required by regulation and those that are not, and the appropriateness of focusing the resolution of this issue and the scope of the proposed license condition on programs explicitly required by regulation.

The FSAR program descriptions for those programs not required by NRC regulation should be based on past practice and current regulatory guidance. Implementation of these programs will also be subject to NRC inspection. The Commission has not chosen to elevate these programs to the status of regulation, and accordingly, they

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should not be elevated to the same status as programs required by regulation in the combined license application.

If you have any questions about the industry recommendation and associated rationale concerning programmatic information needed for COL approval without ITAAC, please contact Russ Bell at 202-739-8087 or rjb@nei.org or me at 202-739-8094 or aph@nei.org.

Sincerely,

A handwritten signature in black ink, appearing to read "A.P. Heymer".

Adrian P. Heymer

Enclosure

c: Joe Colaccino, NRR
Document Control Desk

**Industry Proposal on Operational Programs
For Discussion on July 27 w/NRC
Revised – August 31, 2005**

Based on our discussion in a June 9, 2005 public meeting, we envision five license conditions related to operational programs. Three are standards from past operating licenses (two on Fire Protection, one on Security), one corresponds to EP ITAAC 8.1.3, and one covers implementation of 17 required operational programs (See table below).

This proposal has been modified from the industry's proposal made in the July 27, 2005 meeting based on the discussions in the meeting. The proposal has the following main elements:

1. COL application FSARs will contain descriptions of operational programs; scope and level of detail will be consistent with past practice and current guidance (e.g., SRPs). Programs specifically required by NRC regulations (identified in the license condition proposed below) and their implementation will be clearly and sufficiently described in terms of scope and level of detail to allow a reasonable assurance finding of program acceptability in the COL.
2. NRC will be informed of changes to approved operational programs as described in the FSAR as follows:
 - For operational programs described in the DCD, such as ISI/IST, Section X.B of the design certification rules requires:
 - initial COLA and periodic¹ reports on departures from the generic DCD until fuel load
 - annual update of the plant-specific DCD until fuel load
 - Annual updates of the FSAR will be submitted between the time of COL issuance and fuel load in accordance with 10 CFR 50.71(e). These updates will include changes to the operational programs described in the site-specific portion of the FSAR
 - Change control processes contained in 10 CFR 50.54, 50.59, etc., provide additional mechanisms for informing NRC of program changes.
 - For programs identified in the license condition proposed below, NRC inspectors will be informed of changes implemented since the most recent plant-specific DCD/FSAR update when specific inspection schedules are

¹ Section X.B currently requires quarterly reporting during construction of departures from the generic DCD. The NRC has proposed semi-annual reporting of departures from COLA through fuel load as part of the AP1000 design certification rulemaking.

identified and requests for supporting information are made, and again when inspectors arrive on site and identify the program to be inspected. In addition, procedures and other program implementation details beyond those described in the plant-specific DCD/FSAR would be made available to NRC inspectors at these points upon request.

3. The threshold for informing NRC of changes would be the program descriptions in the plant-specific DCD/FSAR on which the staff based its COL safety findings; i.e., NRC will be informed of any changes to plant-specific DCD/FSAR program descriptions. The staff will be informed via required plant-specific DCD and FSAR updates. An example of a Fire Protection Program description, including discussion of implementation timing, has been discussed with the NRC staff, and an example of Radiation Protection Program description is being developed based on the forthcoming update of SRP 12.5. Other examples of program description content for FSARs could be developed.

Under this approach, there is no need to identify "key elements" of operational programs. The staff will be informed of any changes affecting plant-specific DCD/FSAR program descriptions.

4. COLs would include a license condition on the implementation of required operational programs (proposed license condition #1 in the table below). Consistent with SECY-02-0067, the scope of the license condition is focused on programs implemented after the COL is issued that are explicitly required by regulation. For example, programs required by tech specs, but not by 10 CFR (such as the Ventilation Filter Testing Program), are not included within the scope of the proposed license condition. These programs will be described in FSARs as appropriate (consistent with past practice and current guidance) and are subject to tech. spec. administrative controls in addition to the change controls governing the plant-specific DCD and FSAR.

The proposed license condition on implementation timing would refer to a table in the FSAR that identifies the required programs subject to the license condition and the FSAR sub-section where implementation timing is discussed. Presently, we envision that this table would be most appropriately located in FSAR Chapter 13, Conduct of Operations. An example of this table is provided below.

5. We do not believe that a license condition is necessary to require submittal of ISI/IST and PSI/PST Programs. These programs are already required to be submitted to the regulatory authority by the ASME Code incorporated by reference in 10 CFR 50.55a (f) and (g).
6. We believe the requirements of the standard license conditions in the fire protection and security areas would be better served by incorporating these

change process and continuing implementation requirements into the regulations, rather than including these conditions in each license issued.

License Conditions Related to Required Operational Programs

Item	FSAR Section	Program Title	Source	Strawman License Condition
1.	13.X	Implementation of Required Operational Programs	(see FSAR Table 13-X)	Within [one year] after COL issuance, the Licensee shall make available to the NRC staff a schedule that supports planning for and conduct of NRC inspection of programs <u>listed in FSAR Table 13-X</u> . The schedule shall be updated at least every [six months] until the Commission's authorization to load fuel.
2.	9.5.1	Fire Protection Program	10 CFR 50.48	The Licensee shall implement and maintain in effect the approved FPP. ¹
3.	9.5.1	Fire Protection Program	10 CFR 50.48	The Licensee may make changes in the approved FPP without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of fire. ¹
4.	13.3	Emergency Preparedness Program	10 CFR 50.47, 10 CFR 50, Appendix E	Prior to exceeding 5% of rated power, the Licensee shall <u>resolve</u> deficiencies, if any, identified during performance of the offsite EP exercise.
5.	13.6	Physical Security Program	10 CFR 50.54(p), 10 CFR Part 26, 10 CFR Part 73	The Licensee shall implement and maintain in effect the approved physical security, guard training and qualification, and safeguards contingency plans. ¹

¹ Appropriate rulemaking would obviate the need for this license condition.

**Strawman FSAR Table 13–X
Operational Programs Required by NRC Regulation and Subject to the
License Condition on Program Implementation**

Item	Program Title	Source	FSAR Section on Implementation Timing
1.	Inservice Inspection Program	10 CFR 50.55a	3.6.2.4.x
2.	Inservice Testing Program	10 CFR 50.55a	3.9.6.x
3.	Environmental Qualification Program	10 CFR 50.49	3.11.x
4.	Preservice Inspection Program	10 CFR 50.55a	5.2.4.x
5.	Reactor Vessel Material Surveillance Program	10 CFR 50.60; 10 CFR 50.61; 10 CFR 50, Appendix A (GDC 32); 10 CFR 50, Appendix G; 10 CFR 50, Appendix H	5.3.1.6.x
6.	Preservice Testing Program	10 CFR 50.55a	5.4.8.x
7.	Containment Leakage Rate Testing Program	10 CFR 50.54(o); 10 CFR 50, Appendix A (GDC 53); 10 CFR 50, Appendix J	6.2.6.x
8.	Fire Protection Program	10 CFR 50.48	9.5.1.x
9.	Process and Effluent Monitoring and Sampling Program	10 CFR 50, Appendix I	11.5.x
10.	Radiation Protection Program	10 CFR 20.1101	12.5.x
11.	Plant Staff Training Program	10 CFR 50.120; 10 CFR 52.78	13.2.1.x
12.	Operator Training Program	10 CFR 55.13; 10 CFR 55.31; 10 CFR 55.41; 10 CFR 55.43; 10 CFR 55.45	13.2.2.x
13.	Operator Requalification Program	10 CFR 50.54(i), 10 CFR 50.34(b), 10 CFR 55.59	13.2.2.x
14.	Emergency Preparedness Program	10 CFR 50.47, 10 CFR 50 Appendix E	13.3.x

ATTACHMENT 2

Item	Program Title	Source	FSAR Section on Implementation Timing
15.	Physical Security Program including: <ul style="list-style-type: none"> • Weapons Training Program; Weapons Qualification and Requalification Program • Vehicle Control Program • Access Authorization Program • Fitness for Duty Program 	10 CFR 50.54(p); 10 CFR 73.45 <ul style="list-style-type: none"> • 10 CFR 73, Appendix B • 10 CFR 73.55 • 10 CFR 73.56 • 10 CFR 26 	13.6.2.x
16.	Quality Assurance Program – Operation	10 CFR 50.54(a); 10 CFR 50, Appendix A (GDC 1); 10 CFR 50, Appendix B	17.2.x
17.	Monitoring the Effectiveness of Maintenance at Nuclear Power Plants	10 CFR 50.65	17.4.x