



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

September 4, 2007

Glenn M. Tracy, Director
Division of Construction Inspection and Operational Programs
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Tracy:

I benefited from last week's two-day public workshop on the construction inspection program and the ITAAC process through an increased understanding of the NRC's plans. My ability to understand the presentations and provide constructive comments was hampered by the limited access to the materials. For example, some of the presentation slides and related materials were not made available until after the presentations began. When the NRC provides stakeholders with such last minute materials and seeks feedback 30 seconds later, the quality of such feedback is diminished. Assuming that the NRC really wants more than "off the top of my head" or "from the hip" comments, it might be better for future meetings and workshops if the materials to be discussed were made available in advance. If stakeholders did not review the materials in advance and come to the meetings prepared, it would be our bad. Right now, it's NRC's bad.

Sincerely,

A handwritten signature in dark ink that reads "David Lochbaum". The signature is written in a cursive, flowing style.

David Lochbaum
Director, Nuclear Safety Project



Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

COMMENTS ON CIP AND ITAAC CLOSURE LETTERS	
No.	COMMENT
1.	The construction inspection program (CIP) concept, borrowing relevant aspects of the reactor oversight process (ROP), is a very good one and should serve all stakeholders well.
2.	The Nuclear Energy Institute (NEI) representatives commented during both days of the workshop that the NRC's proposed CIP concept contained only Up escalators with no Down escalators. While the NRC's proposed CIP concept is consistent with the existing ROP framework which has long been accepted and applied by the industry, there may still be a way to acknowledge or credit commendable licensee performance. It received very little discussion during the workshop, but the industry may conduct self-assessments. Such self-assessments might be a viable means for giving good performers credit. For example, when sufficient information has been compiled to render placement in the licensee response bin meaningful, the NRC might permit a self-assessment to substitute for a baseline NRC inspection. The licensee would docket a report on any such self-assessment and provide scope of information and level of detail comparable to that which would have been publicly available had the assessment been conducted via an NRC inspection.
3.	Regarding slides 13 and 14 on the NRC's August 30 th presentation "Role of the Assessment and Enforcement Programs," there appears to be an inconsistency in the process for handling construction findings and the comparable process for handling ITAAC findings. On slide 13 for construction findings, there's a NRC determination about whether a construction finding with programmatic aspects resulted from a breakdown in the QA program or oversight. On slide 14 for ITAAC findings, there's no similar NRC determination for ITAAC findings having programmatic aspects.
4.	Regarding slide 13 on the NRC's August 30 th presentation "Role of the Assessment and Enforcement Programs," the NRC's determination "Would licensee controls identify problem?" appears totally inappropriate because of its entirely speculative nature. By regulation, licensees are required to identify non-conforming conditions so one could argue that this determination must be Yes. But the entry condition for the process leading up to this determination is a non-conforming condition that was NRC identified or self-revealed, one could argue that this determination must be No. Rather than waste FTEs speculating on some future action or inaction on the part of the licensee, the NRC's process should stick to known facts. It is crucial that NRC's processes and outcomes be fact-based and not fiction-based. The public is neither interested by nor well served by NRC's guesses.
5.	Regarding slide 14 on the NRC's August 30 th presentation "Role of the Assessment and Enforcement Programs," the NRC's determination "Was licensee's determination [regarding ITAAC closure] correct at time of submission?" plays a key role in defining extent-of-condition assessment. There's a related NRC determination "Has the NRC accepted ITAAC closure?" It begs another determination – "Was NRC's acceptance correct at time at the time?" Just as the initial determination helps define the extent-of-condition appropriate for the licensee's closure, our suggested determination would help define the extent-of-condition appropriate for the NRC's acceptance.
6.	Regarding the weighing factors on slide 28 of the August 30 th presentation, the weighting factor of 1 for a substantive cross-cutting issue appears low. There's a long and growing list

COMMENTS ON CIP AND ITAAC CLOSURE LETTERS

No.	COMMENT
	<p>of very serious nuclear plant problems caused by inadequate quality assurance, corrective action programs, problem identification and resolution programs or whatever term is applied to this activity this week. Zimmer, Midland, Grand Gulf, Wolf Creek, Watts Bar and many others during the construction phase and Davis-Besse (2002), Salem, Millstone, Indian Point, Cooper (virtually any year), Davis-Besse (1985), Browns Ferry, DC Cook, and many others during the operations phase all involved substantive cross-cutting issues (e.g., inadequate QA) that were ignored or downplayed by the industry and the NRC for too long. Assigning the LOWEST POSSIBLE WEIGHTING factor to perhaps the single most important warning sign is just wrong. It should have a weighting factor of 2 or certainly no less than 1 11/16.</p>
7.	<p>Regarding the entry ticket to the second bin as explained on slide 30 of the August 30th presentation, a weighting factor of 1 seems too low a threshold. If left this low, our comment #6 on significant cross-cutting issues getting what appears too low a weighting factor (1) becomes moot. We believe the criterion for entry to the second bin should be bumped up to at least 2, which would un-moot our comment about the significant cross-cutting issue weighting factor needing to be more than 1.</p> <p>At risk of straying from the commendable guiding principle articulated on slide 5 (Keep it simple), this might be an opportunity to tier the entry criterion for the second bin depending on whether the QA program has been certified. Absent such certification, the criterion might be 1 since an NRC inspection focused in the area would be warranted to verify extent of condition. However, if confidence can be given to the licensee's QA program, such as would result from the NRC certification, a criterion of 2 might be more appropriate because the element associated with a sound QA program would likely ask and answer the same questions the focused NRC inspection would cover.</p> <p>This tiered approach might also address, somewhat, NEI's concern discussed in comment #2 above about the NRC's process only providing for more burden. The second bin criterion initially being 1 and shifting to 2 upon certification of the licensee's QA program could be viewed as a reduction of undue burden.</p>
8.	<p>The entry criteria for the third and fourth bins (3 and 7 respectively) appear to be the right levels. Slides 31 and 32 in the August 30th presentation explain these bins and the associated NRC responses. Not specified on the slides, but perhaps discussed during the public meeting after I left, is the time-frame associated with the weighting factors. The ROP has time limits on how long inspection findings remain in effect with respect to placement on the Action Matrix. It's not clear if a weighting factor arising during the 1st year of the CIP has an indefinite life or gets taken off the board through time or effort.</p> <p>UCS believes that weighting factors should remain in effect until the NRC determines that licensee's corrective actions have effectively resolved the issue. That NRC determination must be more than simply agreeing the licensee has developed a reasonable corrective action plan. It must wait until NRC can evaluate implementation of those corrective actions. Once such meaningful NRC determination has been made and publicly communicated, it might be time to take the weighting factor off the table.</p>
9.	<p>Regarding slide 9 of the NRC's August 31st presentation, "ITAAC Closure Verification Using Sample-Based Inspection Program," the second bullet states the NRC's intention to inspect a sample of ITAAC-related activities in order to verify proper ITAAC closure. Sample audits have long been a hallmark of NRC oversight and can be successful in this</p>

COMMENTS ON CIP AND ITAAC CLOSURE LETTERS	
No.	COMMENT
	<p>application. However, for reasons detailed below, success in this case will likely be elusive. Sample audits succeed or fail on the few things examined being representative of the whole. NRC's current approach seems designed to ensure the audit sample DOES NOT represent the whole and that the audit sample will examine the wrong part.</p>
10.	<p>The final bullet on slide 11 of the August 31st presentation is true. But it may not be relevant. It is true that observing members will provide insights on the family containing that member. But if the process results in bifurcated licensee effort for the NRC-inspected ITAACs and the ITAACs publicly shielded from NRC view, the insights will not be relevant.</p>
11.	<p>Slides 12 through 17 of the August 31st presentation reflect a massive waste of NRC resources on some ill-advised mathematic exercise aimed at telegraphing to the nuclear industry ITAAC areas virtually immune from NRC oversight. Those untold hundreds, perhaps thousands, of NRC person-hours would have been better expended actually inspecting plants. While no new reactors are currently under construction, those NRC inspection-hours would have served the American public better had they, for example, examined the cooling towers at Vermont Yankee, the pressurizer sleeves at Palo Verde, the security officer testing regime at Shearon Harris, the steam dryers at Quad Cities, or any one of innumerable preventable failures not prevented.</p>
12.	<p>Slide 17 of the August 31st presentation reports that NRC has decided not to inspect ITAACs which its fuzzy math "calculated" to have some subjective value less than 0.4. Time and again, the NRC tried this fuzzy math scheme and it failed every time. The NRC shouldn't continue to apply an approach thoroughly demonstrated to be deficient on the hope that someday it might work. It's not working, let it go.</p> <p>Decades ago, the NRC established safety class I and II intended to distinguish between the "important" and "unimportant" structures and components. Then the NRC had to embark on a costly and lengthy II/I program when it became abundantly obvious that problems not identified and corrected on the II (unimportant) side impaired the I (important) stuff. Likewise, the NRC established its inspection program to focus on the nuclear steam supply system (NSSS) rather than the balance-of-plant (BOP) side. Then the NRC had to promulgate its maintenance rule (10 CFR 50.63) when the undetected gremlins on the BOP side impaired the NSSS side. More recently, NRC inspectors wanted to pursue the repetitive containment entries required at Davis-Besse to deal with clogging filters on the radiation monitors, but NRC managers cited the ROP risk-informed hierarchy – which placed the radiation monitors below the NRC-interest threshold – as the reason not to authorize that probe. Even more recently, NRC inspectors conducted power uprate inspections using IP 71004 that purportedly focused on the high risk areas for potential problems and NEVER, EVER identified anything. Not a single finding at any site using that useless procedure. Yet the recurring steam dryer problems at Quad Cities, the shake 'n' bake damage to the relief valves at Quad Cities, the collapsed cooling tower at Vermont Yankee, and many more self-revealing problems demonstrate there was much to be found. The NRC's "smart" audits are consistently out-smarted. Ever time the NRC draws lines or creates thresholds, problems on the "wrong" side of the lines and thresholds expose Americans to undue risk. The <u>proper</u> lesson from these decades of reality is to <u>stop</u> drawing the lines and creating the thresholds.</p> <p>UCS strongly recommends that the NRC jettison its fuzzy math and instead inspect a random set of ITAACs. It can still be a sample audit. But if the NRC is going to inspect less than half of the ITAACs, as it currently plans, the agency must not telegraph to the</p>


COMMENTS ON CIP AND ITAAC CLOSURE LETTERS

No.	COMMENT
	<p>industry the majority of ITAACs that stand little or no chance of NRC inspection. Recall the oft-asked question in school, “will this be on the test?” The industry is very interested in knowing the homework it doesn’t have to do, and the work that won’t be checked by NRC. The NRC should not make it easy for its licensees to shirk their duties to conform with federal safety regulations, but that it precisely what this current NRC scheme will achieve.</p> <p>The NRC’s ITAAC inspections have the rumored objective of providing assurance that ALL ITAACs have been properly performed and closed. Under the current approach, the NRC’s ITAAC inspections will provide – at most – assurance that the minority of ITAACs that it chose to spot-check have been closed. The remainder of the ITAACs – publicly shielded from NRC examination – will likely get lip service treatment by the cost-conscious licensees. That’s not what the public expects or deserves.</p>

COMMENTS ON CIP AND ITAAC CLOSURE LETTERS

No.	COMMENT
13.	<p>Slide 16 of the August 31st presentation lists ITAACs from the AP-1000 and provides the special values divined by the NRC for each. Recalling that NRC intends to turn its back on ITAACs with divined values of less than 0.4, there are bunches of ITAACs listed here that NRC will ignore. Worse yet, by publicly turning its back on these ITAACs, it is likely – nay, certain – that the industry will also significantly drop its attention to these NRC-ignored ITAACs.</p> <p>UCS strongly feels this NRC approach is wrong and predicts it will fail to adequately protect the public. The industry cannot conform to federal safety regulations, like fire protection, it knows the NRC <u>will</u> inspect. Only a naïve buffoon would believe their performance will be better on areas they know NRC will <u>never</u> examine.</p>
14.	<p>Several times during the discussion on August 31st of the ITAAC closure letter, NRC staffers questioned whether the public would want and need to see more information. Much of this discussion focused on the references cited in the ITAAC closure letters, such as calculations and procedures, that would not be publicly available. NRC staffers suggested that the public would be better served if those calculations and procedures be submitted with the ITAAC closure letters.</p> <p>While the public may have once dreamed of reviewing documents along with the references cited in those documents, those dreams have long ago been dashed. To provide the public with all applicable documents now would be like giving a sugar cookie covered in icing to a diabetic. The information rush could kill us.</p> <p>It is beyond ironic for the NRC to suggest that industry provide cited references to its ITAAC closure letters when the NRC does not provide cited references to its own inspection reports. Below are two pages from a typical NRC inspection report. The second page lists the documents reviewed by the NRC inspectors during the inspection. Many of the documents are referenced explicitly or implicitly within the inspection report. I’ve annotated the list to indicate if the documents are publicly available. To save some time, note that NONE – repeat, NONE – of these documents are publicly available. The NRC’s inspections reports generated during its CIP will likely continue this ancient process of listing documents that the public cannot access.</p> <p>The NRC staff ponders if the public might want to see documents that industry references. I can’t help but ponder why the NRC doesn’t abide by or strive to the same open-access level that it seems to want the industry to attain.</p>

COMMENTS ON CIP AND ITAAC CLOSURE LETTERS

No.	COMMENT																		
 <p style="text-align: center; font-size: small;"> UNITED STATES NUCLEAR REGULATORY COMMISSION REGION I 475 ALLENDALE ROAD KING OF PRUSSIA, PENNSYLVANIA 19406-1415 </p> <p style="text-align: center; margin-top: 20px;">May 10, 2007</p> <p> Mr. Fred R. Dacimo Site Vice President Entergy Nuclear Operations, Inc. Indian Point Energy Center 450 Broadway, GSB P.O. Box 249 Buchanan, NY 10511-0249 </p> <p> SUBJECT: INDIAN POINT NUCLEAR GENERATING UNIT 2 - NRC INTEGRATED INSPECTION REPORT NO. 05000247/2007002 </p> <p>Dear Mr. Dacimo:</p> <p>On March 31, 2007, the U.S. Nuclear Regulatory Commission (NRC) completed an inspection at Indian Point Nuclear Generating Unit 2. The enclosed integrated inspection report documents the inspection results, which were discussed on April 4, 2007, with Mr. James Comiotes and other members of your staff.</p> <p>The inspection examined activities conducted under your license as they relate to safety and compliance with the Commission's rules and regulations, and with the conditions of your license. The inspectors reviewed selected procedures and records, observed activities, and interviewed personnel.</p> <p>Based on the results of this inspection, four findings of very low safety significance (Green) were identified. Three of these findings were also determined to be violations of NRC requirements. However, because of their very low safety significance, and because they were entered into your corrective action program, the NRC is treating these findings as non-cited violations (NCVs) consistent with Section VI.A.1 of the NRC Enforcement Policy. If you contest any NCV in this report, you should provide a written response within 30 days of the date of this inspection report with the basis for your denial, to the Nuclear Regulatory Commission, ATTN.: Document Control Desk, Washington, D.C. 22055-0001; with copies to the Regional Administrator, Region I; the Director, Office of Enforcement; and the NRC Senior Resident Inspector at Indian Point Nuclear Generating Unit 2.</p> <p>In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter, its enclosure, and your response (if any) will be available electronically for public inspection in the</p>	<p>Section 1R01: Adverse Weather Protection</p> <p><u>Procedures</u></p> <p>OAP-48, "Seasonal Weather Preparation," Revision 3 NOPE 2-SOP-11.5, "Space Heating And Winterization," Revision 31 NOPE</p> <p><u>Condition Reports</u></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">IP2-2006-05455 NOPE</td> <td style="width: 33%;">IP2-2006-05351 NOPE</td> <td style="width: 33%;">IP2-2006-05702 NOPE</td> </tr> <tr> <td>IP2-2006-05438 NOPE</td> <td>IP2-2006-04676 NOPE</td> <td>IP2-2006-00058 NOPE</td> </tr> </table> <p>Section 1R04: Equipment Alignment</p> <p><u>Condition Reports</u></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">IP2-2006-06755 NOPE</td> <td style="width: 33%;">IP2-2006-06227 NOPE</td> <td style="width: 33%;">IP2-2006-07199 NOPE</td> </tr> <tr> <td>IP2-2006-06749 NOPE</td> <td>IP2-2006-05635 NOPE</td> <td>IP2-2006-07329 NOPE</td> </tr> <tr> <td>IP2-2006-02046 NOPE</td> <td>IP2-2006-04720 NOPE</td> <td>IP2-2007-01340 NOPE</td> </tr> <tr> <td>IP2-2006-01544 NOPE</td> <td>IP2-2006-07100 NOPE</td> <td></td> </tr> </table> <p><u>Procedures</u></p> <p>2-COL-21.3, "Steam Generator Water Level and Auxiliary Boiler Feedwater," Revision 29 NOPE 2-PT-W1, "Emergency Diesel Generator," Revision 20 NOPE 2-SOP-27-3.1.1, "21 Emergency Diesel Generator Manual Operation," Revision 14 NOPE 2-SOP-27.3.1.3, "23 Emergency Diesel Generator Manual Operation," Revision 13 NOPE 2-COL-10.2.1, "Containment Spray System," Revision 18 NOPE PT-Q35B, "22 Containment Spray Pump Test," Revision 14 NOPE</p> <p><u>Drawings</u></p> <p>9321-F-2030-39, "Flow Diagram Fuel Oil TO Diesel Generators" NOPE 9321-H-2029-49, "Flow Diagram Starting Air to Diesel Generators" NOPE 9321-F-2028-36, "Flow Diagram Jacket Water to Diesel Generators" NOPE 9321-F-2018, "Flow Diagram Condensate and Boiler Feed Pump Suction," Revision 141 NOPE 9321-F-2019, "Flow Diagram Boiler Feedwater," Revision 113 NOPE 9321-F-2735, Sheet 1, "Flow Diagram Safety Injection System" NOPE</p> <p><u>Work Orders</u></p> <p>IP2-2006-23407 NOPE</p>	IP2-2006-05455 NOPE	IP2-2006-05351 NOPE	IP2-2006-05702 NOPE	IP2-2006-05438 NOPE	IP2-2006-04676 NOPE	IP2-2006-00058 NOPE	IP2-2006-06755 NOPE	IP2-2006-06227 NOPE	IP2-2006-07199 NOPE	IP2-2006-06749 NOPE	IP2-2006-05635 NOPE	IP2-2006-07329 NOPE	IP2-2006-02046 NOPE	IP2-2006-04720 NOPE	IP2-2007-01340 NOPE	IP2-2006-01544 NOPE	IP2-2006-07100 NOPE	
IP2-2006-05455 NOPE	IP2-2006-05351 NOPE	IP2-2006-05702 NOPE																	
IP2-2006-05438 NOPE	IP2-2006-04676 NOPE	IP2-2006-00058 NOPE																	
IP2-2006-06755 NOPE	IP2-2006-06227 NOPE	IP2-2006-07199 NOPE																	
IP2-2006-06749 NOPE	IP2-2006-05635 NOPE	IP2-2006-07329 NOPE																	
IP2-2006-02046 NOPE	IP2-2006-04720 NOPE	IP2-2007-01340 NOPE																	
IP2-2006-01544 NOPE	IP2-2006-07100 NOPE																		