



NUCLEAR ENERGY INSTITUTE

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October 5, 2007

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

**Subject:** Feedback on Construction Inspection and ITAAC Workshops on August 30 and 31, 2007

**Project Number: 689**

Dear Mr. Tracy:

The industry appreciates the opportunity to participate in development of guidance for the Construction Inspection Program (CIP), including assessment and enforcement and ITAAC close-out. As mentioned during the recent Commission briefing on new reactors, the industry believes that this guidance is an important near term priority to foster common understanding and confidence in the new construction inspection and ITAAC processes under Part 52. This work is also important to support NRC inspection of ITAAC-related activities that may begin before combined licenses are issued. For discussion at our next public meeting October 18, this letter provides feedback on the August 30 CIP assessment and enforcement workshop, the August 31 ITAAC close-out workshop, and suggested future topics.

### **CIP Assessment and Enforcement**

The NRC staff presentations provided at the August 30<sup>th</sup> public workshop on CIP assessment and enforcement were helpful in getting the conversation started, and we appreciate the significant staff effort to create draft proposals for discussion with stakeholders. As some of the industry feedback that day indicated, we believe the staff's proposals to be too complex and would lead to continuous management meetings, focused inspections, etc., to address issues that are readily resolvable by the licensee's Corrective Action Program (CAP). Such a result would be incompatible with the objective of a predictable CIP that supports licensee construction schedules, and would not be in the best interest of the NRC, licensees or the public. As basis for continuing the CIP assessment

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discussions begun on August 30, Enclosure 1 provides specific comments and recommendations to refine the NRC's initial proposals and simplify the process.

As discussed in Enclosure 1, we believe the over complexity of the CIP assessment process presented on August 30 stems, at least in part, from borrowing too heavily from the operational Reactor Oversight Program (ROP). We agree that the CIP assessment should be transparent, predictable and scrutable. However, the extent to which ROP concepts can be applied to the construction phase is limited by significant differences between the operating and construction environments. The construction phase calls for a simpler and fundamentally different assessment approach based on the following principles:

- The CIP assessment framework can and should reflect that there is no immediate impact on the health and safety of the public due to inspection findings during the construction phase
- Industry and NRC experience in modern and modular construction practices is extremely limited. The CIP assessment process should be as simple as possible, yet assure that significant issues involving programmatic breakdowns or willful noncompliance trigger an appropriate NRC oversight response. As a general matter, we do not agree that CIP assessment provides "a process for evaluating individual issues" or "inspection insights", as described by the staff on August 30.
- Strengthened licensee CAPs should be relied upon to resolve the majority of inspection issues.

Key operational ROP concepts do not apply or are not necessary for the construction phase. The staff has already excluded some inapplicable ROP elements from CIP assessment, including performance indicators and significance determination which require years of steady-state data and assume radiological risk that does not exist for construction activities. In addition, we believe that cross-cutting issues are unnecessary and would unduly complicate the construction phase assessment process. Moreover, to underscore the distinction from the ROP and avoid confusion and misinterpretation, use of ROP terms in the CIP assessment process should be avoided. For example, instead of the construction "action matrix" proposed by the staff, there would be a "construction response table."

A significant challenge to developing a framework for construction assessment and enforcement is that there is no experience with construction under Part 52. For at least the first wave of new plants, the industry recommends a CIP assessment process that is simple and triggers NRC response based on escalated enforcement actions resulting from significant programmatic breakdowns in construction quality assurance. As we gain data and experience from first wave construction, the industry is prepared to work with the NRC to refine the initial CIP assessment process or develop a potentially more sophisticated, ROP-like process, as appropriate.

### **ITAAC Close-out**

The ITAAC close-out process is fundamental to successful construction under Part 52. As we have learned from past interactions, the best way to determine a "sufficient" level of detail in the ITAAC close-out letter is to work from examples. During the August 31 workshop on the ITAAC close-out process, the NRC staff provided constructive feedback on two initial examples of ITAAC close-out letters required by new Section 52.99. A good start was made towards a common understanding of the basic format and content of these letters. There was agreement to continue to address this issue through development and discussion of additional ITAAC close-out letters for a representative set of ITAAC.

Enclosure 2 provides for discussion at our October 18 public meeting a proposed general format for ITAAC close-out letters and updates of the two initial examples based on our August 31 discussions. To provide a sound foundation for further work in this area, we request that the staff be prepared on October 18 to concur in or provide specific comments on the general format and examples of "sufficient" information provided in Enclosure 2.

As discussed on August 31, the industry plans to develop and seek NRC endorsement of a generic guidance document on the ITAAC close-out process. This guideline will standardize and streamline aspects of the ITAAC close-out process and will include guidance and examples on ITAAC close-out letters based on our further interactions. We plan to further discuss the scope and schedule for this document with the staff on October 18.

### **Future CIP Topics**

We look forward to continuing to work with the staff in the months to come to develop and finalize guidance for the CIP assessment and ITAAC close-out processes. At our October 18 public meeting, we plan to discuss the frequency of interactions necessary to support timelines for finishing these guidance documents and other CIP-related tasks next year. A starter list of future topics for discussion is provided below:

- Common understanding of overall framework for CIP assessment and enforcement
- CIP definitions of:
  - Minor/Greater than minor
  - ITAAC finding (including ITAAC-related boundaries)
  - Construction finding/Inspection finding
  - Others
- Assessment and enforcement for
  - Self-revealing issues
  - Licensee-identified issues
- Circumstances under which NRC would revoke a previous ITAAC determination
- Greater depth on vendor inspection program

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- Reporting thresholds under 50.55e
- Allegations and safety-conscious work environment
- Transition to ROP
- Public comment and feedback on IMC procedures
- Additional ITAAC close-out examples
- Maintaining the validity of ITAAC post close-out
- Content of 225 day notification on uncompleted ITAAC
- Industry guidance document on ITAAC close-out process
- Industry guidance document on Corrective Action Program

Again, we thank you for the opportunity to work with your staff on these important issues for new reactor construction and look forward to our continued dialogue. If you have any questions on this letter or its enclosures, please contact me or Leslie Kass at (202) 739-8115; [lck@nei.org](mailto:lck@nei.org).

Sincerely,



Russell J. Bell

Enclosures

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