

## Preliminary Understandings on ITAAC Closure and Maintenance Issues

This enclosure summarizes important preliminary understandings related to ITAAC closure and maintenance that the industry and NRC staff have achieved to date based on a series of public meetings and workshops. To the extent these processes and activities are not already inherent in the new plant rules, they can be addressed through regulatory guidance. At an appropriate time, we plan to memorialize these understandings and resolution of the issues discussed in Enclosure 2 in a supplement to NEI 08-01, *Industry Guideline for the ITAAC Closure Process Under Part 52*, and to submit the supplemental guidance for NRC review and endorsement.

1. **ITAAC closure and maintenance** – As discussed by the staff in a June 11, 2009 public meeting, individual ITAAC are closed and verified to be met at a point in time. After ITAAC Closure Letters are submitted,<sup>1</sup> months or even years may pass before the time comes for the 10 CFR 52.103(g) finding. The NRC staff has expressed the need for confidence during this interim period that prior ITAAC conclusions are being maintained and remain valid so there is a reasonable basis to support a determination and recommendation to the Commission that all acceptance criteria “are met.”

We expect this confidence to derive from a combination of the following:

- a. inspections that verify and provide confidence that licensee programs are effectively maintaining ITAAC conclusions [this item is discussed further in Item 2, below];
- b. notifications (informal and formal) concerning events and activities that affect closed ITAAC [this item is discussed further in Item 3, below]; and
- c. the lack of open inspection findings (ITAAC-Related Construction Findings or ITAAC Findings) or other material information to the contrary.

In addition, we and the staff have envisioned that, while not specifically required by Part 52, licensees may provide the NRC with an “All ITAAC Complete” Letter along with (or following) submittal of the final ITAAC Closure Letter under 10 CFR 52.99. The purpose of this letter would be to affirm that all ITAAC have been performed, all acceptance criteria have been met, and all ITAAC conclusions are being maintained. The letter is also intended to facilitate the staff’s recommendation to the Commission concerning the completed status of all ITAAC in support of the 10 CFR 52.103(g) finding.

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<sup>1</sup> The ITAAC closure process is discussed in NEI 08-01, *Industry Guideline for the ITAAC Closure Process Under Part 52*, which is in the process of being endorsed in Regulatory Guide 1.215.

- 2. Attributes of licensee programs to maintain ITAAC conclusions** – As identified in NEI 08-01, licensees will use several programs to maintain ITAAC conclusions after ITAAC Closure Letters are submitted to the NRC. These include the Quality Assurance Program, Problem Identification and Resolution Program, Construction/Maintenance Program and Design/Configuration Control Program.

We recognize that confidence in these programs will be a key factor in the staff's determination and recommendation to the Commission that all acceptance criteria "are met." There is agreement on the set of attributes related to ITAAC maintenance that should be reflected in each of these licensee programs, and we plan to identify these attributes in a supplement to NEI 08-01. Inspection of these programs — and inspection of licensee ITAAC maintenance activities in particular — is expected to provide the NRC staff with substantial confidence that the licensee is effectively maintaining prior ITAAC conclusions.

Program attributes related to ITAAC maintenance must be implemented prior to use of these programs to support ITAAC maintenance, e.g., prior to submittal to the NRC of ITAAC Closure Letters.

- 3. Post-closure notifications on activities affecting closed ITAAC** – Following submittal of original ITAAC Closure Letters, we agree with the staff that under certain circumstances (e.g., when it is discovered that the original ITAAC Closure Letter contained a material error or omission), licensees would submit Supplemental ITAAC Closure Letters to the NRC. The purpose of Supplemental ITAAC Closure Letters is to formally notify the NRC of significant activities related to the maintenance of ITAAC conclusions and to assure a complete and accurate record of information pertinent to ITAAC closure. While not required by 10 CFR 52.99, such notifications appear generally consistent with current regulations (e.g., 10 CFR 52.6) and could be addressed in regulatory guidance.

As discussed in NRC public meetings, it is important to avoid unnecessary or excessive post-closure notifications that could confuse the public and/or place undue burdens on new plant licensees and the NRC staff. As such, we and the staff have focused considerable effort on defining appropriate notification thresholds. There is general agreement that a Supplemental ITAAC Closure Letter should be submitted to correct a material error or omission in the original ITAAC Closure Letter, or if events or activities cause the ITAAC Determination Bases as described in the original ITAAC Closure Letter to become inaccurate or incomplete. (We envision that the NRC will apply the same standard of materiality used in interpreting 10 CFR 50.9.) As discussed in the June 11 public meeting, Enclosure 2 provides initial industry comments on the specific additional notification thresholds proposed by the NRC staff as a basis for further discussion.

We and the staff also agree on the importance of normal daily communications with NRC resident inspectors concerning post-closure activities affecting ITAAC conclusions. Licensees are

expected to provide timely information to NRC resident inspectors and Headquarters staff, as appropriate, on post-closure events or activities that will affect the information documented in on-site ITAAC Closure Packages. These daily meetings and other communications will assure that NRC inspection staff have advance knowledge of licensee plans to work on systems, structures, and components (SSC) covered by closed ITAAC, so that inspectors can choose to witness or follow-up on those activities. There is agreement that more formal notification via Supplemental ITAAC Closure Letter would typically follow completion of the work and restoration of SSCs to compliance with ITAAC acceptance criteria.

Additionally, we agree that like-for-like replacement of components specifically identified and verified as part of ITAAC does not affect the validity of the original ITAAC Closure Letter, and no Supplemental ITAAC Closure Letter is necessary. However, for process transparency, we agreed that licensees should inform the NRC by letter when such ITAAC-specified components are replaced. If ITAAC-specified components are replaced, an ITAAC Component Replacement Summary Letter should be provided to the NRC no later than one year prior to the scheduled date for fuel load, with updates provided every 30 days as necessary based on component replacement activity. There is agreement that similar letters to the NRC are not necessary concerning repairs to ITAAC-specified components because the component that was originally subject to the ITAAC remains in place.

4. **10 CFR 52.103(g) finding that acceptance criteria “are met”** – Prior to plant operation, the Commission must find that “the acceptance criteria in the combined license are met.” There has been considerable discussion of the meaning of “are met” in this context, and as discussed in Enclosure 2, more is needed. However, we do agree with the staff that the “are met” language does not mean that the plant must be in perfect condition to receive the Section 52.103(g) finding, and that maintenance may be in progress on ITAAC components at the time the Commission makes an affirmative Section 52.103(g) finding. We and the staff agree that the state of being out-of-service pending restoration in accordance with licensee programs and procedures does not invalidate prior ITAAC conclusions; these ITAAC continue to be met and are being maintained. Components out-of-service for corrective maintenance will be tracked via the licensee’s Problem Identification and Resolution/Corrective Action Program. Thus, the Commission can make the 10 CFR 52.103(g) finding even if maintenance activities are not completed, provided the criteria for making the finding are otherwise satisfied. These important criteria are the subject of continuing discussions and Commission consideration. Enclosure 2 includes a proposed set of criteria for making the Section 52.103(g) finding.

Additionally, there is agreement that the role of ITAAC need not, and should not, be confused with the role of Technical Specifications by effectively requiring all ITAAC components to be “operable” in order for the Commission to make the Section 52.103(g) finding. Satisfying ITAAC provides reasonable assurance that the facility has been constructed in accordance with the approved design, and this is the focus of the Section 52.103(g) finding. Operability requirements

for SSCs are established by Technical Specifications, which take full effect at the time the Section 52.103(g) finding is made. The important distinction between ITAAC and Technical Specifications is further reinforced by the fact that after the Section 52.103(g) finding is made, ITAAC do not constitute regulatory requirements, and ITAAC expire upon final Commission action in the proceeding.