



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

November 1, 2023

MEMORANDUM TO: Lauren A. Nist, Director  
Vogtle Project Office  
Office of Nuclear Reactor Regulation

Susan H. Vrahoretis, Assistant General Counsel  
Reactor Programs  
Office of the General Counsel

FROM: Cayetano G. Santos Jr., Senior Project Manager  
Vogtle Project Office  
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF OCTOBER 24, 2023, COMMENT GATHERING  
PUBLIC MEETING ON LESSONS LEARNED FROM THE ITAAC  
HEARING PROCESS FOR VOGTLE UNITS 3 AND 4

On October 24, 2023, the U.S. Nuclear Regulatory Commission (NRC) held a virtual comment gathering public meeting. The purpose of the meeting was to gather insights from external stakeholders on lessons learned from the adjudicatory proceedings for Vogtle Electric Generating Plant (Vogtle) Units 3 and 4 associated with inspections, tests, analyses, and acceptance criteria (ITAAC). The staff will use the comments it receives during the meeting to inform a report on lessons learned from the Vogtle ITAAC proceedings. This meeting did not address broader issues of how the ITAAC hearing procedures may, or should, apply to reactors or reactor deployment models that differ significantly from reactors or deployment models that were assumed in the development of the ITAAC hearing procedures. The NRC staff may separately engage with the public on whether contemplated future reactors or deployment models may warrant changes to the ITAAC hearing procedures.

The meeting notice and agenda are available in the Agencywide Documents Access and Management System (ADAMS) at Accession No. ML23293A033. A list of attendees is enclosed.

CONTACT: Michael A. Spencer, NRC/OGC  
301-287-9115

The final ITAAC hearing procedures were published on July 1, 2016 (81 FR 43266) and served as the basis for case-specific notices and orders for the Vogtle ITAAC proceedings. In the staff requirements memorandum (SRM) (ML16092A099) for the final procedures, the Commission provided the following direction to the NRC staff: *“Upon completion of the ITAAC hearings for the Vogtle and Summer projects, if held, the staff should conduct a lessons learned review and propose changes to these procedures, as appropriate.”* As discussed below, ITAAC adjudicatory proceedings were instituted for Vogtle Units 3 and 4. No such proceedings were held for Virgil C. Summer Units 2 and 3, and the combined licenses for those units were terminated.

The Vogtle Unit 3 ITAAC proceeding was noticed on February 12, 2020 (85 FR 8030), and one hearing request was filed. The Commission denied this hearing request on June 15, 2020 (CLI-20-6, 91 NRC 225, ML21168A338). On August 3, 2022 (87 FR 48201), the NRC made the finding under Title 10 of the *Code of Federal Regulations* (10 CFR) 52.103(g) that all acceptance criteria in the ITAAC for Vogtle Unit 3 are met. The Vogtle Unit 4 ITAAC proceeding was noticed on February 2, 2022 (87 FR 5851), and no hearing request was filed. On July 28, 2023 (88 FR 50919), the NRC made the finding under 10 CFR 52.103(g) that all acceptance criteria in the ITAAC for Vogtle Unit 4 are met. As provided by 10 CFR 52.103(h), the ITAAC are no longer requirements for the licensee after the 10 CFR 52.103(g) finding is made.

Mr. Michael Spencer, an attorney with the NRC’s Office of the General Counsel who was lead counsel for the NRC staff during the Vogtle Unit 3 ITAAC proceeding, provided background information on the ITAAC hearing process and summarized the NRC’s experience during the Vogtle ITAAC proceedings (ML23293A005).

Mr. Stan Blanton, an attorney with Balch & Bingham who was lead counsel for the licensee, Southern Nuclear Operating Company, during the Vogtle Unit 3 ITAAC proceeding, described his perspectives on the ITAAC hearing procedures (ML23293A004).

Mr. Blanton was the only external stakeholder who provided views during the meeting. The following discussion summarizes the perspectives he provided in his slides and orally during the meeting:

- Attempting to draw lessons learned on the ITAAC hearing process from Vogtle Units 3 and 4 is challenging because there were no evidentiary hearings, but licensee and NRC staff experience leading up to the resolution of the Vogtle Unit 3 ITAAC hearing petition provides some lessons that could be useful in future proceedings.
- One of the biggest concerns was with how the NRC and licensees would deal with multiple ITAAC challenges (5, 10, or 20 challenges) in the compressed timeframe for ITAAC proceedings.
- The NRC’s engagement with stakeholders and the public during the development of the ITAAC hearing procedures contributed significant improvements to a first-of-a-kind hearing process. In addition, publishing the procedures well in advance of the hearing process assisted in the predictability and efficiency of that process, in particular by allowing external participants to understand the requirements ahead of time.
- The hearing procedures effectively balance timely resolution of contentions, which are expected to be technical in nature, with a robust process that provides a fair hearing to intervenors.

- The NRC's choice to base the default hearing process on 10 CFR Part 2, Subpart L, "*Simplified Hearing Procedures for NRC Adjudications*," makes the most sense, but the procedures also provide flexibility to adapt the hearing process to the particular issues in the case.
- The opportunity for early submission of uncompleted ITAAC notifications and the consequent early publication of the notice of intended operation builds margin into the process, which would be especially important for particularly complex ITAAC challenges or multiple ITAAC challenges. Critical to this process was early engagement between the licensee and the NRC staff on uncompleted ITAAC notifications so that complete and adequate notifications could be submitted as early as possible. These are crucial lessons learned, and the NRC should encourage licensees to engage with the NRC early on uncompleted ITAAC notifications and to submit them early.
- Depending on the issues in the case, 10 CFR Part 2, Subpart N, "*Expedited Proceedings with Oral Hearings*," with only oral hearings and no written testimony could be conducted much more quickly. The NRC should consider using a Subpart N approach. The Subpart N process could be used for simple factual contentions such as whether or not a specific metric was met during a test (e.g., a dispute over a visual observation of a reading, such as whether the light was red or green). Subpart N might not be well suited to a contention that is more technical or involves a lot of engineering analysis.
- The Commission faithfully implemented the procedures, and complied with the schedules and policy underlying them, in resolving the sole contention in the Vogtle Unit 3 ITAAC proceeding.

The staff did not receive any Public Meeting Feedback forms.

Enclosure:  
List of Attendees

cc: Listserv

LIST OF ATTENDEES

OCTOBER 24, 2023, COMMENT GATHERING PUBLIC MEETING ON LESSONS LEARNED

FROM THE ITAAC HEARING PROCESS FOR VOGTLE UNITS 3 AND 4

<b>Name</b>	<b>Organization</b>
Cayetano (Tanny) Santos Lauren Nist James Gaslevic William (Billy) Gleaves Christopher Welch Nanette Valliere	NRC/Office of Nuclear Reactor Regulation
Michael Spencer Reuben Siegman Blake Vaisey	NRC/Office of the General Counsel
Joe Gillespie Julie Ezell	NRC/Commission Staff
Stan Blanton	Balch and Bingham
None Identified Themselves	Members of the Public

Subject: SUMMARY OF OCTOBER 24, 2023, COMMENT GATHERING PUBLIC MEETING ON LESSONS LEARNED FROM THE ITAAC HEARING PROCESS FOR VOGTLE UNITS 3 AND 4 DATED NOVEMBER 1, 2023

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**ADAMS Accession Nos.:**

**PKG ML23304A025**

**Meeting Notice ML23293A033**

**ITAAC Hearing Process ML23293A004**

**Lessons Learned ML23293A005**

**Meeting Summary ML23303A203**

**\*via email**

**NRR-106**

OFFICE	NRR/VPO/PM	NRR/DORL/LPL2-2*	NRR/VPO/D
NAME	CSantos	RButler (KGoldstein for)	LNist*
DATE	10/31/2023	10/31/2023	10/31/2023
OFFICE	OGC	NRR/VPO/PM	
NAME	SVrahoretis*	CSantos	
DATE	10/31/2023	11/1/2023	

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