

## COMMISSIONER DIAZ' COMMENTS ON SECY-00-0092

The U.S. Congress intended, and our stakeholders deserve a clear and predictable combined license (COL) process. I believe that having licensing information reviewed by the NRC at the earliest possible time fulfills this goal and is of benefit to the agency, the potential licensee, and the public. Therefore, I agree with the staff that a COL applicant should submit up front all the relevant information that is necessary for reviewing a construction permit as well as an operating license, including detailed construction plans. In this regard, I am mindful that, although it is the Department of Energy's responsibility to keep nuclear power as an option for meeting our nation's energy needs, the NRC should discharge its responsibility in a manner in which, after ensuring the public's health and safety, does not diminish the viability of the option.

I approve, for Commission review, the staff's proposal to develop a requirement for a plant-specific probabilistic risk assessment (PRA) in the upcoming Part 52 rulemaking. [10 CFR 52.47\(v\)](#) already requires that a design-specific PRA be part of the application for a standard design certification. In contrast, [10 CFR 52.79\(c\)](#) requires that a COL application include inspections, tests, analyses, and acceptance criteria (ITAAC). In this paper, the Commission is being asked to approve having the ITAAC include "programmatic" activities. I believe this expansion is contrary to the understanding of ITAAC to which the Commission agreed in the late 1980's, i.e., that ITAAC would apply only to "hardware." Given the experience the NRC and the industry has gained in the intervening years and the recent regulatory reforms undertaken by the NRC, particularly in the area of risk insights, I believe there is no need for such an expansion of ITAAC. According to Part 52, a COL applicant will have to comply with most of the requirements in Part 50, including inspections and enforcement. <sup>(1)</sup> Moreover, the Commission granted design certifications to the Westinghouse AP600, the ABB/CE System 80+, and the GE ABWR without "programmatic" ITAAC. Therefore, I question the advisability of now interjecting the subjectivity of "programmatic" ITAAC into the COL process and disapprove the staff's proposal to treat QA deficiencies related to ITAAC.

I also do not approve, at this time, the proposed ITAAC verification program as it seems premature. I do believe that as we gain experience from implementing the revised reactor oversight process, as well as other Commission risk-informed initiatives, risk insights will be gained that will be useful for this purpose. To minimize uncertainty and ensure regulatory stability, the staff should make any necessary adjustments as part of the revision to Part 52 and not wait until future nuclear plant applications are announced.

I approve the form and content of the generic COL in [Attachment 2 to SECY-00-0092](#) and the staff's proposal to require applicants to certify that ITAAC have been met, provided that "programmatic" ITAAC are not included.

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1. For example, [10 CFR 52.83](#) states: "Unless otherwise specifically provided for in this subpart, all provisions of [10 CFR part 50](#) and its appendices applicable to holders of construction permits for nuclear power reactors also apply to holders of combined licenses issued under this subpart. ...Similarly,...applicable to holders of operating licenses also apply to holders of combined licenses issued under this subpart." [10 CFR 52.99](#), "Inspection during construction" states: "Holders of combined licenses shall comply with the provisions of [10 CFR 50.70](#) and [50.71](#)."