

September 5, 2014

MEMORANDUM TO: Patrick Moulding, Assistant General Counsel
Division of New Reactor Programs
Office of the General Counsel

FROM: Michael A. Spencer, Senior Attorney /RA/
Division of New Reactor Programs
Office of the General Counsel

SUBJECT: NOTICE OF FORTHCOMING PUBLIC MEETING TO DISCUSS
PROPOSED PROCEDURES FOR ITAAC HEARINGS

DATE & TIME: Monday, September 22, 2014
1:30 p.m. – 3:30 p.m.

LOCATION: U.S. Nuclear Regulatory Commission Headquarters
Commissioners' Conference Room
One White Flint North, 1st floor
11555 Rockville Pike
Rockville, MD 20852

PURPOSE: To discuss issues related to certain public comments on the
"Proposed Procedures for Conducting Hearings on Whether
Acceptance Criteria in Combined Licenses Are Met," which was
published in the *Federal Register* on April 18, 2014. Comments
on the proposed procedures were due on July 2, 2014, and six
comment letters were received. Two commenters requested a
public meeting on the proposed procedures, and one specifically
requested a meeting on issues associated with interim operation
during the pendency of a hearing on inspections, tests, analyses,
and acceptance criteria (ITAAC).

As explained in detail in the attached meeting agenda, the
meeting will address six issues associated with public comments
on interim operation and claims of incompleteness. Members of
the public will be given a chance to provide their perspectives on
these positions, and the NRC staff may ask questions on some (or
all) of these positions to better understand them. However, the
NRC will not at the public meeting be making any determinations,
tentative or otherwise, on the commenters' positions. Documents
that are relevant to the public meeting are identified below.

CATEGORY 3: This is a Category 3 meeting.* Public participation is actively
sought for this meeting to fully engage the public in a discussion of
regulatory issues.

MEETING CONTACT: Michael A. Spencer
301-415-4073
Michael.Spencer@nrc.gov

* The NRC's Policy Statement, "Enhancing Public Participation in NRC Meetings," effective May 28, 2002, applies to this meeting. The policy statement may be found on the NRC Website, <http://www.nrc.gov/public-involve/public-meetings/v67n102p36920.pdf>, and contains information regarding visitors and security.

Please inform the NRC's meeting contact of your intention to attend by September 18, 2014. This should help speed your processing through security and ensure that sufficient copies of meeting materials are available.

TELECONFERENCING: Interested members may participate by telephone via a toll-free teleconference line. Those interested in participating in this meeting should dial 1-888-946-6305 and when prompted enter the pass code 8299361 followed by the # sign.

DOCUMENTS: The proposed procedures are available at <http://www.gpo.gov/fdsys/pkg/FR-2014-04-18/pdf/2014-08917.pdf>.

The public meeting will address six issues related to interim operation and claims of incompleteness that have arisen because of public comments on the proposed procedures. These public comments are in the following comment letters, which can be obtained from the NRC's website through the Agencywide Documents Access and Management System (ADAMS):

- Nuclear Energy Institute (ADAMS Accession No. ML14190A012).
- South Carolina Electric & Gas Company (ADAMS Accession No. ML14190A013).
- Southern Nuclear Operating Company, Inc. (ADAMS Accession No. ML14190A011).
- Westinghouse Electric Company LLC (ADAMS Accession No. ML14190A010).

The meeting agenda specifically identifies which commenters made which comments. Meeting participants can access the comment letters to learn more about the commenters' positions.

PARTICIPANTS: NRC staff, interested stakeholders, and members of the public. NRC participants include staff from the Office of the General Counsel (OGC) and possibly staff from other NRC offices.

NRC

Michael Spencer, OGC, et al.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in this meeting, or need this meeting notice or the transcript or other information from the meeting in another format (e.g. braille, large print), please notify the NRC's meeting coordinator. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Seating may be limited and will be available on a first-come basis.

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DISTRIBUTION: PUBLIC, MASpencer, JCMartin, PMoulding

ADAMS ACCESSION NO.: ML14248A254

*concurred via email

OFFICE	OGC/NRP
NAME	MASpencer
DATE	09/05/2014

OFFICIAL RECORD COPY

AGENDA

PUBLIC MEETING – PROPOSED ITAAC HEARING PROCEDURES

SEPTEMBER 22, 2014; 1:30 PM – 3:30 PM

LOCATION: NRC HQ – COMMISSIONERS' CONFERENCE ROOM, OWFN 1ST FLOOR

Time

1:30 PM Welcome/Introductions

1:35 PM *INTERIM OPERATION:* According to the proposed procedures, if an ITAAC hearing request has been granted, interim operation is allowed only if (1) the NRC staff makes the 52.103(g) finding that all acceptance criteria are met, and (2) the Commission determines that there is reasonable assurance of adequate protection during interim operation. Based on the relevant legislative history, the proposed procedures further provide that the Commission's adequate protection determination is not to be based on a conclusion that the petitioner's prima facie showing is incorrect. In addition, the proposed procedures state that the Commission's adequate protection determination will be timely so long as it is made before scheduled fuel load.

Issue 1: The Nuclear Energy Institute (NEI) and South Carolina Electric & Gas (SCE&G) assert that for the purposes of allowing interim operation, the 52.103(g) finding need only be made on the uncontested ITAAC.

Issue 2: NEI, SCE&G, and Westinghouse assert that the Commission's adequate protection determination for interim operation can be based on a pre-hearing conclusion that the petitioner's prima facie showing is incorrect.

Issue 3: NEI, SCE&G, and Southern Nuclear Operating Company (SNC) urge the Commission to make the adequate protection determination as soon as possible so that licensees can better schedule their preparations for fuel loading.

2:25 PM Break

2:35 PM *CLAIMS OF INCOMPLETENESS:* A claim of incompleteness is a claim that the licensee has not provided the information required by 10 CFR 52.99(c) and that this prevents the petitioner from making the required prima facie showing for ITAAC hearing requests. SNC suggests requiring petitioners to consult with the licensee before filing the claim because the licensee may voluntarily provide the requested information. SNC recommends that consultation be initiated 21 days after the notice of intended operation is published. On a related topic, Westinghouse suggests that the procedures include a process for access to SUNSI or SGI in the context of claims of incompleteness.

Issue 4: Is the consultation requirement a good proposal?

Issue 5: Should consultation also be required for claims of incompleteness after the original deadline, and if so, when should consultation be initiated?

Issue 6: If the petitioner seeks access to SUNSI or SGI, should any additional procedures apply to the consultation process? What is needed to grant a claim of incompleteness seeking access to SUNSI or SGI?

3:25 PM Closing