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UNITED STATES
NUCLEAR REGULATORY COMMISSION
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September XX, 2020

Mr. Brian H. Whitley, Director
Regulatory Affairs
Southern Nuclear Operating Company, Inc.
3535 Colonnade Parkway, Bin N-226-EC
Birmingham, AL 35243

SUBJECT: MAINTAINING COMPLETION OF INSPECTIONS, TESTS, ANALYSES, AND
ACCEPTANCE CRITERIA (ITAAC) PRIOR TO SUBMISSION OF THE ITAAC
CLOSURE NOTIFICATION

Dear Mr. Whitley:

The purpose for this letter is to provide Southern Nuclear Operating Company, Inc. (SNC) with the staff's views on how SNC may maintain completion of the inspections, tests, analyses, and acceptance criteria (ITAAC) in the Vogtle combined licenses between completion (or partial completion) of an ITAAC and the submittal of the ITAAC closure notification (ICN) pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 52.99(c)(1).

In this discussion, the phrases "completion of ITAAC" and "ITAAC completion" mean that SNC has determined that: (1) The prescribed inspections, tests, and analyses were performed; and (2) the prescribed acceptance criteria are met.

Nuclear Energy Institute (NEI) 08-01, "Industry Guideline for the ITAAC Closure Process under 10 CFR Part 52," Revision 5 – Corrected (Agencywide Documents Access and Management System (ADAMS) Accession No. ML14182A158) provides industry guidance for maintaining the ITAAC conclusions between ICN submittal and the Commission's finding that the acceptance criteria in the combined license are met. The NRC approved NEI 08-01 for use, with certain exceptions, in Regulatory Guide (RG) 1.215, "Guidance for ITAAC Closure Under 10 CFR Part 52," Revision 2 (ADAMS Accession No. ML15105A447).

In addressing ITAAC maintenance, the staff's focus was on the period after ICN submission and before the 10 CFR 52.103(g) finding. The NRC focused on this interval because the ICN must be complete and accurate in all material respects, as required by 10 CFR 52.6(a). Thus, the ICN must discuss any information material to closure of the ITAAC that arises between ITAAC completion and ICN submission.

For the following reasons, the staff has determined that ITAAC maintenance principles provided in NEI 08-01 and RG 1.215 may be applied when new, material information on ITAAC closure is discovered between the completion of the ITAAC, or portion thereof, and ICN submission, with some exceptions and clarifications:

1. The materiality requirement for ITAAC Post Closure Notifications (IPCNs) in 10 CFR 52.99(c)(2) is based on the same materiality requirement that applies to ICNs through 10 CFR 52.6, as discussed in the 2012 final rule promulgating the IPCN requirement, "Requirements for Maintenance of Inspections, Tests, Analyses, and Acceptance Criteria" (ITAAC Maintenance Rule) (77 FR at 51887). Thus, approved guidance on when new information is "material" and needs to be reported in an IPCN should also generally be acceptable for determining when information that arises between ITAAC completion and ICN submission needs to be reported in the ICN.
2. The approved guidance describes how to maintain successful completion of the ITAAC for issues arising after ICN submission. The same methods should be sufficient to maintain successful ITAAC completion if the same issues arise after ITAAC completion but before ICN submission. In some cases (e.g., certain post-work verifications) the licensee might be able to maintain ITAAC completion without re-performing the ITAAC, as discussed in NEI 08-01. On the other hand, if the population of systems, structures, and components (SSCs) subject to ITAAC increases, then the ITAAC must be performed on the additional SSCs because performance of the ITAAC is not yet complete. The ITAAC must be successfully completed in its entirety; ITAAC maintenance principles can be used to maintain this result.
3. Some ITAAC maintenance guidance in RG 1.215 and NEI 08-01 might be less relevant prior to ICN submission. For example, if a licensee discovers that information in an already-submitted ICN is inaccurate, but determines that the inaccuracy is immaterial, it need not submit an IPCN. But if the licensee discovers that information in a draft ICN is incorrect, the staff anticipates that the licensee would correct the inaccuracy before ICN submission regardless of the perceived materiality of the inaccuracy.
4. If new, material information arises between ITAAC completion and ICN submission, the licensee must take the appropriate action to resolve the issue before ICN submission to meet 10 CFR 52.99(c)(1). An ICN that simply describes a plan for addressing the issue is not sufficient because 10 CFR 52.99(c)(1) requires the ICN to provide sufficient information to show that the ITA was completed and the AC "are met." This position is also consistent with how ITAAC maintenance issues are treated under 10 CFR 52.99(c)(2), which requires the IPCN to contain "sufficient information to demonstrate that, notwithstanding the new information, the prescribed inspections, tests, or analyses have been performed as required, and the prescribed acceptance criteria are met."
5. Licensees should communicate with the NRC early in its ITAAC maintenance evaluation process. Early communication alerts the NRC that additional activities may be scheduled that affect an SSC, including physical security hardware, or a program element for which one or more ITAAC have been completed. This will allow the NRC inspectors to discuss the licensee's plans for resolving the issue. The NRC may then observe any of the upcoming activities to make a future determination about whether the acceptance criteria for those ITAAC continue to be met.
6. Guidance in NEI 08-01 about the voluntary notification to the NRC's Headquarters Operation Officer (HOO) of ITAAC maintenance issues that require submittal of an IPCN is not applicable prior to an ICN's submittal.

The 2012 final ITAAC Maintenance Rule explains how ITAAC maintenance supports the NRC's ability to find that the acceptance criteria in the combined license are met (77 FR at 51884-85):

The staff will consider that all acceptance criteria “are met” if both of the following conditions hold:

- All ITAAC were verified to be met at one time; and
- The licensee provides confidence, in part through the notifications in 10 CFR 52.99(c), that the ITAAC determination bases have been maintained and the ITAAC acceptance criteria continue to be met; and the NRC has no reasonable information to the contrary.

Similarly, ITAAC maintenance activities may be performed prior to ICN submission to maintain successful ITAAC completion, and material information on such activities should be included in the ICN, as discussed above, to provide the NRC with confidence that the earlier successful performance of the ITAAC has been maintained and the AC continue to be met.

Additional Background:

After rulemaking in Calendar Year (CY) 2007 on 10 CFR Part 52 (72 FR 49352), the NRC developed guidance on the ITAAC closure process and the requirements under 10 CFR 52.99. The NRC addressed additional implementation issues in the CY 2012, final ITAAC Maintenance Rule (77 FR at 51887).

The NRC addressed the ITAAC maintenance issue by (1) informing industry that licensees need to provide the NRC with confidence that ITAAC completion is being maintained so that the NRC will have a basis to make the required 10 CFR 52.103(g) finding, and (2) issuing a regulation (10 CFR 52.99(c)(2)) requiring licensees to submit an ITAAC post-closure notification describing the successful resolution of new information materially altering the basis for ITAAC completion that was described in the ITAAC closure notification for that ITAAC.

The ITAAC post-closure notification is required following the licensee’s ITAAC closure notifications under 10 CFR 52.99(c)(1) until the Commission makes the finding under 10 CFR 52.103(g), referred to as the ITAAC maintenance period. 10 CFR 52.99(c)(2) requires the licensee to provide the NRC with timely notification of new information materially altering the basis for determining either that inspections, tests, or analyses were performed as required, or that acceptance criteria are met (referred to as the ITAAC determination basis).

The concept of “material” in 10 CFR 52.99(c)(2) was based on the concept of “material” in 10 CFR 52.6(a) (derived from 10 CFR 50.9(a)), as discussed in the final ITAAC Maintenance Rule (77 FR at 51887):

The term “materially altering” refers to situations in which there is information not contained in the 10 CFR 52.99(c)(1) notification that “has a natural tendency or capability to influence an agency decision maker” in either determining whether the prescribed inspection, test, or analysis was performed as required, or finding that the prescribed acceptance criterion is met. See Final Rule; Completeness and Accuracy of Information, December 31, 1987; 52 FR 49362, at 49363.

Applying this concept, the final rule describes five reporting thresholds for IPCNs (77 FR at 51888). NEI 08-01 provides detailed guidance on these thresholds and includes many examples of when reporting is required and what actions are sufficient to maintain the earlier determination that the ITAAC have been successfully completed.

If you have any questions, please contact me at (301) 415-7000 or Christopher.Welch@nrc.gov.

Sincerely,

Omar Lopez-Santiago, Branch Chief
Vogtle Project Office
Division of Nuclear Reactor Regulation

Docket Nos.: 52-025
52-026

cc: See next

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MAINTAINING COMPLETION OF INSPECTIONS, TESTS, ANALYSES, AND ACCEPTANCE CRITERIA (ITAAC) PRIOR TO SUBMISSION OF THE ITAAC CLOSURE NOTIFICATION
DATED: September XX, 2020

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