

September 14, 2007

Mr. Mark Gaffigan
Acting Director, Natural Resources
and Environment
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Gaffigan:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your e-mail dated August 29, 2007, requesting NRC review and comment on your proposed report entitled, "Nuclear Energy: NRC's Workforce and Processes for New Reactor Licensing Are Generally in Place, but Uncertainties Remain as Industry Begins to Submit Applications" (GAO-07-1129). I appreciate the time and effort that you and your staff have invested in reviewing this important topic and the care that you have taken to ensure that your report is constructive and accurate.

Overall, the NRC considers the draft report to be comprehensive, fair, and balanced. The report accurately identifies the accomplishments as well as the challenges that the agency faces in preparing its workforce for new reactor licensing reviews. Specifically, the report discusses the NRC's ability to manage its workload associated with the anticipated 20 new reactor applications in the next 18 months. Ultimately, the NRC believes the report's findings, conclusions, and recommendations to be very helpful.

The agency continues to aggressively take steps to address these challenges. The Office of New Reactors (NRO) continues to be proactive in hiring staff with the appropriate skill sets and providing key training to staff members. In addition, NRO continues to develop tools that will enhance consistency and coordination, as well as, increase efficiency in reviewing combined license (COL) applications.

The enclosure provides some minor comments for your consideration. We plan to implement your recommendations. Should you have questions about these comments, please contact Ms. Melinda Malloy at (301) 415-1785.

Sincerely,

/RA/

Luis A. Reyes
Executive Director
for Operations

Enclosure:
NRC's Comments on Draft GAO-07-1129

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NRC's Comments on Draft GAO-07-1129

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DATE	09/05/2007	09/07/2007	09/14/2007	09/14/2007

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NRC's Comments on Draft GAO-07-1129, "Nuclear Energy: NRC's Workforce and Processes for New Reactor Licensing Are Generally in Place, but Uncertainties Remain As Industry Begins to Submit Applications"

The NRC staff suggests the following minor changes to improve accuracy and completeness:

1. Include a disclaimer in the introduction, explicitly stating that the report does not address non-LWR licensing readiness. The staff suggests the following disclaimer: "This report focuses on the readiness of NRC to license new light water reactor (LWR) designs. It does not address the readiness of NRC to license new advanced non-LWR designs such as liquid-metal-cooled reactors or high temperature gas-cooled reactors. These reactors are significantly different from LWRs and will require additional regulatory infrastructure supported by long lead time research and development efforts."
2. Page 2, insert "COL" between "an" and "application" in line 10 (and change "an" to "a").
3. Page 2, in Figure 1, revise wording from "Verification of Regulations" to "Verification that Facility Conforms to Application" and conform the text in footnote a.
4. Page 4, in Figure 2, the information for FP&L should be revised to note they are planning for two units (see RIS response letter dated July 2, 2007 from FP&L).
5. Page 5, add a footnote at the end of the first sentence that ends in "public hearing": "The evidentiary hearing portion of the adjudicative process occurs near the end of the licensing process. However, pre-hearing activities, which include decisions on standing, contention admissibility, and procedural motions, begin upon docketing of the application by the NRC and continue during the period of the staff's review."
6. Page 6, there is a reference regarding the hiring of entry level and upper level individuals, while the first page of the overview document mentions hiring of entry level and mid-level individuals. The two pages should have consistent wording.
7. There are several references to acceptance criteria for the acceptance review in the draft report. For example:

Page 8: "...NRC plans to publish acceptance review criteria...by the end of September 2007..."

Page 19: "...NRC has not developed its criteria for accepting (docketing) a COL application..."

Page 26: "...NRC plans to publicly release the criteria..."

Enclosure

The office instruction currently being developed does not include acceptance criteria to accept, defer, or reject an application for docketing. The application content is described in Regulatory Guide 1.206 for the safety review and NUREG-1555 for the environmental review. The office instruction relies on the use of these documents to identify deficiencies in the application. Therefore, the NRC has already provided applicants what is expected to be included in COL applications (as well as applications for a design certification and an early site permit). No additional acceptance criteria will be provided in September 2007.

What will be published is guidance to the staff on how to conduct the acceptance review using the above-referenced documents. Tools will also be provided to guide the staff for both the safety and environmental review. Finally, templates will be included for the staff to compile the results of their review and transmit this information to safety and environmental project managers.

The draft GAO report should be modified to correctly state what will be included in the staff's office instruction and note that the staff has already published the information needed to be included in a COL application.

8. Page 9, last paragraph, the phrase "Under 10 C.F.R. Part 52" seems misplaced, it is suggested that the phrase be moved into the second sentence, after "Accordingly."
9. Page 11, the third sentence from the end is incorrect. Suggest after "plans" strike the rest of the sentence and insert "to increase staff by a minimum of two (2) FTE to support the licensing effort."
10. Page 12, in the second line of table, after "review" insert "and."
11. Page 12, in the fifth line of table, insert the wording "and on judicial review;" after "adjudications."
12. Page 13, in the first paragraph, the text refers to "2-day regulatory and technical overview training." It is not clear what training this refers to as there are several different training courses of varying lengths. Suggest deleting the entire sentence.
13. Page 13, in the second sentence of the second paragraph, revise the sentence to read: "For example, NRC managers told us implementation of some in-depth training courses on the new reactor designs was delayed until February 2008 because of a combination of Federal budget constraints and unresolved issues associated with the new reactor designs that hindered training course development."
14. Page 14, in the second sentence of the first paragraph, revise the sentence as follows: "As a result, staff reviews may not be as ~~thorough~~, timely, and consistent until...." (It should be noted that planning tools do not affect the thoroughness of staff reviews.)

15. Update status of Part 52 to indicate that it is available. Part 52 is mentioned on Page 20, Table 4 (the first row in the table) and on Page 21, in the second full paragraph (says Part 52 and LWA rule were not available in final form as of August 2007). Revise wording to indicate that the Part 52 rule was published in the *Federal Register* on August 28, 2007, and the rule becomes effective on September 27, 2007. The Federal Register citation for the Part 52 final rule is 72 FR 49351. In addition, it should be noted that the LWA rule was submitted to the OMB for clearance review on August 30, 2007.
16. Page 20, Table 4, in the second line item in the table entry on Regulatory Guide 1.206, revise the wording to read the following: “provides guidance to applicants on how to comply with the law-regulatory requirements laid out..”
17. Page 20, the eighth line item is ITAAC, which is listed as complete with no remaining work. It should be noted that to date, the staff has neither reviewed nor approved site-specific ITAAC, resolved major issues associated with design acceptance criteria (the design portion of certain ITAAC), and developed the ITAAC closeout process for all ITAAC. While we are working with external stakeholders in all of these areas, to say that the ITAAC regulatory framework is complete is misleading. The draft GAO report should be modified to reflect the remaining work to be done on ITAAC as described above.
18. Page 20, Table 4, in the ninth line item, strike everything after “by” and insert “early calendar year 2008.”
19. Page 25, in the second line, reword as follows: “the environmental review, 24 months. Portions of these reviews occur in parallel. ~~and the p~~ Prehearing activities take place concurrently with the staff’s reviews, and the hearing on any contested issues and on the uncontested portion of the application takes approximately 12 months, after the staff’s review documents are completed. ~~and hearing portion, 24 months of which 10 to 12 months are proceedings on contested issues and the remainder on the uncontested portion of the application.~~”
20. Page 25, revise last sentence (about templates) to read: “NRC agreed to their use.” (It is the applicants who use the templates not the NRC.)
21. Pages 25-26, with respect to the acceptance review process, add a comment regarding that the NRC issued Regulatory Guide 1.206 to guide applicants in preparing the necessary applications. The guide was developed with stakeholder interaction and virtually all of the guidance was available in the March time frame. Thus, applicants are not dependent upon the availability of the staff’s acceptance review process in order to submit their applications.
22. Page 26, first bullet of the third sentence, change “requirement” to “process.” The fourth sentence should read, “NRC has stated that it requires high quality, complete submittals for docketing.” In the fifth sentence, add to the end, “and to determine whether to accept, reject, or delay docketing.”

23. Page 27, first sub-bullet under “Completing revisions to the hearing process,” revise the sentence to read: “In June 2007, NRC issued a proposed policy statement that would allow the Licensing Board ~~NRC and third parties (e.g., local communities or environmental organizations)~~ to consolidate hearings on formal contentions regarding the standardized portions of multiple applications.” Delete entire next sentence.
24. Page 28, second line of text continued from previous page, revise the sentence to read: “responsibility for this portion of the hearings because it could ~~reduce the number of requests to staff for explanation of its findings~~ conduct a different style hearing.”
25. Page 28, in the second paragraph, four lines from the end, delete “for” in “...conduct for design certification reviews....”
26. Page 34, table entry on security rulemakings, add the word “Section” before “73.62,” Column 2, in the second bullet, after “73.55,” insert “and 73.56.” Column 2, in the fourth bullet, change to “the draft final rule for Part 73.55 will be available by early calendar year 2008.”
27. The staff indicated at the exit conference that the prioritization scheme would be in place by the end of the year, as GAO had previously indicated in its Statement of Facts. It is suggested that a comment be added in the report to indicate this commitment.
28. It is suggested that the report indicate that the request for additional information database will be in place by end of March 2008.