

January 7, 2008

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Stephen D. Dingbaum **RA/**
Assistant Inspector General for Audits

SUBJECT: STATUS OF RECOMMENDATIONS: AUDIT OF NRC'S
LICENSE RENEWAL PROGRAM (OIG-07-A-15)

REFERENCE: DEPUTY EXECUTIVE DIRECTOR FOR REACTOR AND
PREPAREDNESS PROGRAMS MEMORANDUM DATED
OCTOBER 30, 2007

Attached is the Office of the Inspector General's (OIG) analysis and status of the recommendations as discussed in the agency's response dated October 30, 2007. Based on the response, recommendations 1, 2, 3, 4, 5, 6 and 7 are resolved. Please provide an update on the seven resolved recommendations by June 30, 2008.

Recommendation 8 is addressed to the Commission. Therefore, this recommendation will remain unresolved until the Commission provides a response and OIG has an opportunity to analyze that response.

If you have questions or concerns, please call me at 415-5915 or Sherri Miotla at 415-5914.

Attachment: As stated

cc: V, Ordaz, OEDO
M. Malloy, OEDO
P. Tressler, OEDO

Audit Report

Audit of NRC's License Renewal Program OIG-07-A-15

Status of Recommendations

Recommendation 1: Establish report-writing standards in the *Project Team Guidance* for describing the license renewal review methodology and providing support for conclusions in the license renewal reports.

Agency Response Dated October 30, 2007: Agree. The staff will update report-writing guidance to include management expectations and report-writing standards. The staff will complete the update by April 30, 2008.

OIG Analysis: The proposed corrective action to update report-writing guidance addresses the intent of OIG's recommendation and the April 2008 date to finalize the guidance is not unreasonable. OIG notes, however, that there currently are eight license renewal safety evaluation reports planned for issuance between now and April 2008. Given that the agency has been aware of OIG's recommendations since May 24, 2007, OIG anticipates that NRC management's expectations and report-writing standards, while not finalized in guidance form until April 2007, will be reflected in license renewal audit, inspection, and safety evaluation reports issued henceforth.

OIG will close Recommendation 1 upon receipt and review of the revised report-writing guidance to ensure the final product satisfies the recommendation.

Status: **Resolved.**

Audit Report

Audit of NRC's License Renewal Program OIG-07-A-15

Status of Recommendations

- Recommendation 2:** Revise the report quality assurance process for license renewal report review to include:
- establishing management controls for Nuclear Reactor Regulation and Division of License Renewal management to gauge the effectiveness of team leader and peer group report reviews, and
 - implementing procedures that would specify additional report quality assurance steps to be taken in the event that the team leader and peer group report reviews fail to ensure report quality to management's expectations.

**Agency Response Dated
October 30, 2007:**

Agree. The staff will enhance the report review process to enable peer reviewers to verify that staff reports meet management expectations. The process will include a method to gauge the effectiveness of the team leader review and the peer group review. The process will also define actions to take if these reviews do not meet management expectations. The staff will implement the report quality assurance process by April 30, 2008.

OIG Analysis:

The proposed corrective action addresses the intent of OIG's recommendation and, similar to our response to Recommendation 1, the April 2008 date to formally implement the quality assurance process is acceptable. NRC is currently reviewing 10 license renewal applications, with 2 more expected during the first half of 2008. Therefore, OIG emphasizes the importance of implementing elements of the quality assurance process through interim guidance to team leaders and peer reviewers. Such interim guidance issued in a timely manner should enhance quality assurance for those reports expected to be issued prior to the proposed April 2008 completion date.

Audit Report

Audit of NRC's License Renewal Program OIG-07-A-15

Status of Recommendations

Recommendation 2 will be closed when the agency submits, and OIG reviews, a finalized updated process to determine that the intent of this recommendation has been satisfied.

Status: **Resolved.**

Audit Report

Audit of NRC's License Renewal Program OIG-07-A-15

Status of Recommendations

Recommendation 3: Clarify guidance and adjust procedures for auditors' and inspectors' removal of licensee-provided documents from license renewal sites.

**Agency Response Dated
October 30, 2007:**

Agree. The license renewal staff will work with the inspection program staff and the Office of the General Counsel to develop consistent guidance for removal of applicant/licensee documents from applicant/licensee sites. The staff will update the guidance by September 30, 2008.

OIG Analysis:

The staff's proposal to develop consistent guidance meets the intent of OIG's recommendation; however, the completion date for updating the guidance is unreasonably long given the multiple license renewal applications currently under review. Unless management steps in to ensure a timelier update to the guidance, the inconsistent treatment of applicant/licensee documents between the audit and inspection staffs is perpetuated. Therefore, until such guidance is finalized, OIG requests that management implements interim guidance to ensure that staff auditors and inspectors are subject to consistent guidelines with regard to the removal of licensee-provided documents from license renewal sites.

Status:

Resolved.

Audit Report

Audit of NRC's License Renewal Program OIG-07-A-15

Status of Recommendations

Recommendation 4: Establish requirements and management controls to standardize the conduct and depth of license renewal operating experience reviews.

**Agency Response Dated
October 30, 2007:** Agree. The staff will provide additional guidance and management controls to standardize the conduct and depth of license renewal operating experience reviews. The staff will establish controls to standardize reviews by April 30, 2008.

OIG Analysis: The agency's proposed corrective action meets the intent of OIG's recommendation. Recommendation 4 will be closed when NRC provides evidence that its revised operating experience review guidance is issued and implemented.

Status: **Resolved.**

Audit Report

Audit of NRC's License Renewal Program OIG-07-A-15

Status of Recommendations

Recommendation 5: Expedite completion of the details for a revised Inspection Procedure (IP) 71003.

**Agency Response Dated
October 30, 2007:**

Agree. The staff has already identified the need to update IP 71003, "Post-Approval Site Inspection for License Renewal," dated December 9, 2002 (ML023570192). Revision began in the summer of 2006 and substantial progress has been made since that time. In November 2006, the staff sent the initial draft revision of IP 71003 to stakeholders in each of the U.S. Nuclear Regulatory Commission (NRC) regional offices for comments, and on April 3, 2007, held an NRC working group meeting with participation by representatives from all four regional offices. In August 2007, the staff completed a draft of the IP revision.

On August 9, 2007, the staff provided the draft of the revised IP 71003 to the Nuclear Energy Institute (NEI) and other stakeholders for their comments. The revision includes details regarding the scope, timing, and resource determinations of inspections. We expect to issue the final revised IP 71003 by June 2008, in time for the first plants going into the period of extended operation in 2009.

OIG Analysis:

The agency's proposed corrective action meets the intent of OIG's recommendation. However, given that revisions to IP 71003 began nearly 2 years ago, OIG is cautiously optimistic that the staff will meet its proposed June 2008 completion date.

OIG will close Recommendation 5 when NRC provides evidence that a revised IP 71003 has been finalized and issued.

Status:

Resolved.

Audit Report

Audit of NRC's License Renewal Program OIG-07-A-15

Status of Recommendations

Recommendation 6: Communicate the details of revised Inspection Procedure 71003 to all applicable staff and stakeholders.

**Agency Response Dated
October 30, 2007:**

Agree. Communications with stakeholders are part of our process. On April 3, 2007, the staff held an NRC working group meeting with participation by representatives from all four regional offices and NRR's Division of Inspection and Regional Support to discuss the initial draft revision of IP 71003. On August 9, 2007, the staff provided the draft of the revised IP 71003 to NEI and other stakeholders for their comments. The staff will address comments and expects to issue the final revised IP 71003 by June 2008.

OIG Analysis:

The agency's proposed corrective action meets the intent of this recommendation. OIG will close Recommendation 6 when NRC provides evidence that a revised IP 71003 has been appropriately communicated to all applicable staff and stakeholders.

Status:

Resolved.

Audit Report

Audit of NRC's License Renewal Program OIG-07-A-15

Status of Recommendations

Recommendation 7: Establish a review process to determine whether or not Interim Staff Guidance (ISG) meets the provisions of 10 CFR 54.37(b), and document accordingly.

**Agency Response Dated
October 30, 2007:**

Agree. The staff will enhance the current guidance, "Process for Interim Staff Guidance Development and Implementation," dated December 12, 2003 (ML023520620), to determine and document whether or not ISGs meet the provisions of 10 CFR 54.37(b). The staff will update the ISG guidance by September 20, 2008.

OIG Analysis:

The staff's plan to enhance the current guidance meets the intent of this recommendation. However, given that the guidance will not be formally updated until at least September 2008, OIG cautions the agency to carefully review any ISGs issued during the months preceding the update to ensure compliance with 10 CFR 54.37(b).

Recommendation 7 will be closed upon OIG's receipt and review of the enhancements to the ISG guidance to ensure the intent of this recommendation was met.

Status:

Resolved.

Audit Report

Audit of NRC's License Renewal Program OIG-07-A-15

Status of Recommendations

Recommendation 8: OIG recommends that the Commission: Affirm or modify the 1995 Commission's Statement of Considerations position regarding the applicability of the backfit rule to license renewal applicants.

**Agency Response Dated
October 30, 2007:**

We continue to disagree with the OIG's conclusion regarding the application of the backfit rule in the context of the license renewal process. My July 6, 2007, memorandum providing comments on the draft audit report (ML071770607) provides the basis for the staff's disagreement with this recommendation. We believe the OIG has failed to understand the relevant portions of the license renewal regulation and its Statement of Consideration that noted the basis for the inapplicability of the backfit rule. That basis is that a renewed license is a new license, voluntarily sought by the applicant, and as such, the policies underlying the backfit rule (regulatory predictability and stability) are not implicated for purposes of the license renewal application process. Moreover, the Commission had the opportunity to visit the application of the backfit requirements during a recent license renewal adjudicatory proceeding and held that it was an enforcement matter and not suitable for license renewal adjudication.

(See, Entergy Nuclear Operations, Inc., (Pilgrim Nuclear Power Station) CLI-06-26, 64 NRC 225 (2006)). In addition, the staff notes that once a renewed license is issued, the plant returns to normal oversight, including applicability of the backfit rule. A change in staff guidance that is not within the scope of 10 CFR 54.37(b), if applicable to a renewed license, would then be subject to the backfit rule, no different than any other change in staff guidance or NRC requirements. Backfit does not apply to prospective license applications.

Audit Report

Audit of NRC's License Renewal Program OIG-07-A-15

Status of Recommendations

OIG Analysis:

OIG appreciates the staff's response to this recommendation. However, given that the recommendation is addressed to the Commission, OIG will withhold its analysis until a response from the Commission is received.

Status:

Unresolved.