



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

OFFICE OF THE
INSPECTOR GENERAL

March 31, 2009

MEMORANDUM TO: R. William Borchardt
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: DIRECTOR, OFFICE OF NUCLEAR REACTOR
REGULATION, MEMORANDUM DATED FEBRUARY 25,
2009

Attached is the Office of the Inspector General's (OIG) analysis and status of recommendations as discussed in the agency's response dated February 25, 2009. Based on the response, recommendation 3 is closed and recommendations 4 and 7 are resolved. Recommendations 1, 2, 5, 6, and 8 were previously closed. Please provide an update on the two resolved recommendations by September 30, 2009.

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

Attachment: As stated

cc: V. Ordaz, OEDO
J. Arildsen, OEDO
P. Shea, OEDO

Audit Report

AUDIT OF NRC'S LICENSE RENEWAL PROGRAM

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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
February 25, 2009:

Current Status

The license renewal staff coordinated with the inspection program staff, the Regions, and the Office of the General Counsel (OGC) to develop improved guidance for removal of documents from applicant sites. As a result, on September 30, 2008, the license renewal staff issued Attachment H, "Guidelines for Removing Documents from Applicant Sites" (Accession Number ML082740209), to the License Renewal Project Manager Handbook, "Project Team Guidance for License Renewal Application Safety Reviews." The new guidance clarifies expectations and practices for auditors to remove documents from applicant sites consistent with inspector practices. In summary, the guidance allows auditors to remove documents, if needed, from the applicant's site provided the applicant is given an opportunity to mark them in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.390, and auditors follow the guidance in Inspection Manual Chapter 0620, "Inspection Documents and Records," and NRR Office Instruction (OI) LIC-201, "NRR Support to the Hearing Process." Shortly after its issuance, training was conducted on Attachment H for the project teams. Additionally, this new guidance was coordinated with the development of a new NRR OI LIC-111, "Regulatory Audits" (Accession Number ML082900195) which was subsequently issued on December 29, 2008.

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Status of Recommendations

Recommendation 3 continued:

Based on these actions, NRR considers Recommendation 3 completed.

OIG Analysis:

OIG reviewed the supporting documents referenced in the agency's response. As recommended, the agency's new guidance clarifies the expectations and practices for auditors regarding removal of documents from applicant sites. Specifically, license renewal auditors are now allowed to remove applicant documents, if needed, and if done in accordance with the terms of the new guidance. This revised practice is consistent with the current guidance implemented by the license renewal inspectors. The agency's actions satisfy the intent of this recommendation; therefore, recommendation 3 is now closed.

Status:

Closed.

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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
February 25, 2009:

Current Status

Following receipt of the OIG's September 11, 2008, memorandum the license renewal staff met with OIG staff on December 5, 2008, to better understand concerns related to the remaining open recommendations. During the meeting, the license renewal staff discussed the current audit process which makes a conclusion on acceptability of Generic Aging Lessons Learned (GALL) items. One of the factors in the GALL to be considered in making the staff's conclusion is "Operating Experience". In considering the OIG's recommendation, the license renewal staff determined that it may be better to make the staff's conclusion on acceptability of GALL items after reviewing operating experience in both the audit and regional inspection. The license renewal staff is currently coordinating with the regions to implement this enhancement (i.e. make a final acceptability determination on the operating experience review following both the audit and regional inspection).

The staff plans to update our guidance on use of "Operating Experience" to address this recommendation by June 30, 2009.

OIG Analysis: OIG commends the staff's plan to enhance the guidance regarding the use of operating experience; specifically to delay an acceptance determination until both the audit and inspection are completed. However, as noted in our September 11, 2008, analysis, closure of this recommendation also depends on the guidance being updated to reflect management's expectations that license

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Status of Recommendations

Recommendation 4 continued:

renewal audit teams will independently verify the operating experience information provided by the licensee in its application. Therefore, OIG will close the recommendation once the guidance is finalized and the document is submitted for OIG's review to determine that the revisions fully satisfy the intent of this recommendation.

Status: Resolved.

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Status of Recommendations

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

Agency Response Dated
February 25, 2009:

Current Status

In the June 26, 2008, status update, the staff committed to issue, for public comment, an enhanced guidance to the current LR-ISG Process by September 20, 2008, with an approved LR-ISG Process issued by March 31, 2009. However, while working with OGC staff to address the OIG recommendations, it was determined that significant modifications were needed to the existing LR-ISG Process guidance to clarify its applicability as related to the provisions of 10 CFR 54.37(b). Additionally, the staff also identified the need to clarify references to the requirements of 10 CFR 54.37(b) in Regulatory Issue Summary (RIS) 2007-16, "Implementation of the Requirements of 10 CFR 54.37(b) for Holders of Renewed Licenses". As a result, the staff delayed the issuance of the draft LR-ISG Process revision to implement the LR-ISG Process enhancements and revisions to the RIS.

The enhancement to the proposed LR-ISG Process includes the following:

- The process requires the staff to evaluate all proposed LR-ISGs to determine whether they address "newly identified" systems, structures, and components (SSCs) in accordance with 10 CFR 54.37(b). The process requires early consultation with OGC to support the determination.

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Status of Recommendations

Recommendation 7 continued:

- If the proposed LR-ISG does not address “newly identified” SSCs, then the staff must consider whether the LR-ISG could constitute backfitting for renewed license holders. Again, the process requires early consultation with OGC to determine whether the proposed LR-ISG is a backfit in accordance with 10 CFR 50.109.
- If it is determined that the LR-ISG constitutes backfitting, then the staff will evaluate the LR-ISG in accordance with the existing backfitting processes and procedures before actions are required from renewed license holders.
- The proposed LR-ISG eliminates the terms “clarification” and “compliance” when referring to LR-ISG designations.
- The staff is required to provide adequate justification to support whether a proposed LR-ISG involves “newly identified” SSCs. If the proposed LR-ISG does not involve “newly identified” SSCs, then the staff must adequately document whether the LR-ISG constitutes backfitting. Each LR-ISG is required to include a new “Backfitting Discussion” section to document the staff’s basis as to the applicability of 10 CFR 54.37(b) or 10 CFR 50.109.
- The appropriate license renewal staff will be trained on the revised LR-ISG process. This training will focus on the intent of 10 CFR 54.37(b), on how the backfitting regulations apply to license renewal, and the guidance on development of new and revised generic requirements for power reactor licensees in NRR OI LIC-400.

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Status of Recommendations

Recommendation 7 continued:

The proposed revisions to the LR-ISG Process and RIS 2007-16 are currently in concurrence and will be published in the *Federal Register* for solicitation of public comments. The staff has developed plans to issue the revised LR-ISG Process and RIS for public comment by March 6, 2009, discuss comments with Nuclear Energy Institute during the next license renewal quarterly status meeting scheduled for April 2009, and issued the final LR-ISG Process revision by June 30, 2009.

OIG Analysis:

The agency's response indicates progress in addressing this recommendation. OIG will close the recommendation once the ISG guidance is finalized and submitted for OIG's review to determine that the revisions meet the intent of this recommendation.

Status:

Resolved.