

June 6, 2012

The Honorable Mark Udall
United States Senate
Washington, DC 20510

Dear Senator Udall:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of April 27, 2012, forwarding correspondence from your constituent, Mr. J. K. August. Mr. August believes the NRC is not appropriately implementing the National Technology Transfer and Advancement Act of 1995 (NTTAA) and its provisions regarding the use of consensus standards, and he discusses in particular the NRC requirements for a Reliability Assurance Program (RAP), which is part of an application for a license to build new commercial nuclear power plants.

The NRC has a long history of using consensus standards in lieu of government-developed standards in its regulatory regime. In December 2011, the NRC submitted its most recent annual report to the National Institute of Standards and Technology documenting our compliance with NTTAA. The report notes that the NRC uses voluntary consensus standards (VCS) as a key part of our regulatory framework. In addition to standards incorporated by reference into NRC regulations, agency guidance documents endorse numerous standards development organization (SDO) practices, methods, and protocols in lieu of a government-generated standard. In fiscal year (FY) 2011 alone, the agency used 33 VCSs for the first time. In addition, established agency policy encourages NRC staff participation in the development of consensus standards in support of its mission. This involvement encourages SDOs to develop codes, standards, and guides that can be endorsed by the NRC and carried out by industry, and increases the likelihood that the standards SDOs develop meet both public and private sector needs. Agency staff participated in 15 VCS bodies during FY 2011.

The RAP is an important component of a new reactor license application and is intended to provide reasonable assurance that the proposed systems, structures, and components (SSCs) that are significant contributors to plant safety will be designed, constructed, and operated in a manner consistent with the requirements of the RAP. As directed by the Commission, the RAP applies to those SSCs classified as risk-significant, and is built primarily around a number of existing regulatory requirements for SSCs, including the areas of maintenance, quality assurance, testing, and inspection.

In 2007, to support new reactor design certification (DC) and combined license (COL) reviews, the NRC created a section within its Standard Review Plan (SRP), which is a government-developed standard, primarily to provide guidance to agency staff on how to perform safety reviews of the RAP descriptions in DC and COL applications. However, this provision also was designed to improve communication about the RAP review process with representatives of the nuclear power industry and interested members of the public. Applicants are not obligated to meet any criteria of the SRP, and are free to propose an alternative to any aspect of or subject addressed in the SRP.

Based on lessons learned and insights gained from DC and COL application reviews, the agency determined that the 2007 SRP provision regarding RAPs needed to provide clearer guidance. The NRC acted to improve its communication about RAP requirements by developing and publishing for public comment in 2009 an Interim Staff Guidance (ISG) that seeks to further explain how the NRC staff will review RAP descriptions in DC and COL applications. The industry has responded positively to this effort to bring additional clarity to our regulatory requirements. In the coming months, the NRC expects to propose incorporating the ISG into our SRP provision regarding RAPs. At that time, the public will have an additional opportunity to provide comments on the ISG. The NRC believes we have established clear and appropriate guidance for the development and implementation of effective applicant RAPs.

The NRC has worked with Mr. August in the past to address his concerns with the NRC Maintenance Rule, which is a key element of a RAP. In 2006, a staff member reviewed and commented on a draft paper that Mr. August had under development and later met with him to discuss the comments. In 2010, Mr. August contributed a comment regarding RAPs to a pilot citizen engagement program under the agency's Open Government initiative. The NRC's responses to the ideas and suggestions received, including Mr. August's, were published on our Open Government webpage on October 22, 2010. Mr. August also has participated in the Nuclear Energy Standards Coordinating Cooperative (NESCC), a cross-stakeholder forum established to identify and respond to the current standards-related needs of the nuclear industry. Since 2010, Mr. August has interacted with NRC staff as an active participant on the NESCC Standards Database Task Group, which is cataloging standards references in regulations and regulatory guidance, and in the Standards Priority Task Force, a group working to rank nuclear standards development needs.

If you need any additional information, please contact me or Ms. Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA by Michael Johnson for/

R. W. Borchardt
Executive Director
for Operations

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