

March 19, 2010

The Honorable Thomas R. Carper
Chairman, Subcommittee on Clean Air
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am pleased to provide a summary of actions taken by the NRC in response to recommendations contained in various United States Government Accountability Office (GAO) reports that address NRC activities. The enclosed summary describes the progress made in addressing recommendations remaining open as of, or not included in, our last summary report of April 16, 2009.

Sincerely,

/RA/

Gregory B. Jaczko

Enclosure: Summary of NRC Actions

cc: Senator David Vitter

Identical letters sent to:

The Honorable Thomas R. Carper
Chairman, Subcommittee on Clean Air
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510
cc: Senator David Vitter

The Honorable Edward J. Markey
Chairman, Subcommittee on Energy
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Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515
cc: Representative Fred Upton

The Honorable Peter J. Visclosky
Chairman, Subcommittee on Energy and
Water Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515
cc: Representative Rodney Frelinghuysen

The Honorable Byron Dorgan
Chairman, Subcommittee on Energy
and Water Development
Committee on Appropriations
United States Senate
Washington, D.C. 20510
cc: Senator Robert F. Bennett

The Honorable Edolphus Towns
Chairman, Committee on Oversight
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United States House of Representatives
Washington, D.C. 20515
cc: Representative Darrell Issa

The Honorable Barbara Boxer
Chairman, Committee on Environment
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cc: Senator James M. Inhofe

The Honorable Henry A. Waxman
Chairman, Committee on Energy
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United States House of Representatives
Washington, D.C. 20515
cc: Representative Joe Barton

The Honorable David R. Obey
Chairman, Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515
cc: Representative Jerry Lewis

The Honorable Daniel K. Inouye
Chairman, Committee on Appropriations
United States Senate
Washington, D.C. 20510
cc: Senator Thad Cochran

The Honorable Gene L. Dodaro
Acting Comptroller General of the United States
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548
cc: Mark Gaffigan

The Honorable Peter Orszag
Director, Office of Management and Budget
Washington, D.C. 20503

SUMMARY OF NRC ACTIONS

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GAO Report - Nuclear Security: Federal and State Action Needed to Improve
Security of Sealed Radioactive Sources
August 2003
(GAO-03-804)

The U.S. Government Accountability Office (GAO), in its report “Nuclear Security: Federal and State Action Needed to Improve Security of Sealed Radioactive Sources,” made specific recommendations to strengthen the U.S. Nuclear Regulatory Commission’s (NRC’s) security inspection program. The recommendation that remained open as of the NRC’s last report and a report of progress from 2006 through 2009 are provided below.

Recommendation 2

Determine, in consultation with the Agreement States, the costs and benefits of requiring owners of devices that are now generally licensed to apply for specific licenses and whether the costs are commensurate with the risks these devices present.

Status:

Using a risk-informed, graded approach, the NRC and Agreement States have regulated sources and devices in accordance with the Atomic Energy Act of 1954, as amended, by issuing specific licenses, providing provisions in its regulations for general licenses, and including provisions in its regulations for exemption from licensing (e.g., smoke detectors). The NRC and Agreement States have identified and cataloged the sources of greatest concern; *i.e.*, high-risk sources defined by the International Atomic Energy Agency’s (IAEA’s) Code of Conduct as Category 1 and Category 2. While some generally licensed devices may include radionuclides defined in the Code of Conduct, the quantities are typically orders of magnitude less than the Category 1 and Category 2 threshold quantities. An inventory of radioactive sources above one tenth of the Category 3 threshold was begun in 2006 and was completed in November 2007. The data were analyzed to support the fiscal year (FY) 2007 data collection rulemaking.

In a December 2000 rulemaking regarding registration of generally licensed devices (10 CFR Parts 30, 31, and 32), the NRC decided not to convert certain general licensees to a new category of specific licensees. Instead, the revisions that were made in the rule were designed to improve control and accountability of devices used under the general license (GL) provisions, especially for certain devices that are required to be registered. Devices used under the GL are designed to be inherently safe to use so that a license application process to evaluate the prospective licensee would not be necessary. Requiring all general licensees, which number over 100,000 nationwide, to become specifically licensed would be a major change in the requirements for this group of licensees and would require the significant expenditure of resources by the NRC, Agreement States, and the licensees. The safety and security risks posed by most devices used under the GL would not warrant such an expenditure of resources.

The NRC initiated a rulemaking in FY 2007 to examine the delineation between general licensing and specific licensing for byproduct materials. A rulemaking working group, including State representatives, was formed and prepared a draft proposed rule in spring 2008. A copy of the draft proposed rule was provided to the States in May 2008 so they could have an early opportunity for review and comment. In addition, the GL program was discussed during the August 2008 Organization of Agreement States, Inc., (OAS) annual meeting. The Agreement State concerns and comments were considered and reflected in the proposed rule (SECY-08-0137), which was submitted to the Commission in September 2008. The Commission approved

publication of the proposed rule, and it was published in the *Federal Register* on August 3, 2009 (74 FR 38372). The public comment period ended on October 19, 2009. The working group is in the process of considering and addressing all comments received and is preparing a draft final rule. The draft final rule will be submitted to the Commission in April 2010. If the Commission approves the final rule, the rule would limit the quantity of byproduct material contained in a generally licensed device to below one-tenth (1/10) of the International Atomic Energy Agency (IAEA) Category 3 thresholds. As proposed in the final rule, the GL authorization would no longer exist at or above these threshold values. Individuals possessing devices with byproduct material meeting or exceeding 1/10 of Category 3 threshold values would be required to apply for a specific license (SL) if the Commission approves the final rule.

After 9/11 and the issuance of the Code of Conduct, the NRC performed a review of its Sealed Source and Device (SSD) Registry and determined that all IAEA Category 1 sources are already specifically licensed by the NRC and Agreement States. Additionally, with the exception of one type of generally licensed device, all Category 2 source devices are also specifically licensed. For this single Category 2 exception, the NRC and the Agreement States have identified all devices of this type currently in use under a GL. On a case-by-case basis, the security of these devices is being evaluated and controlled. As the rulemaking discussed above proceeds, the NRC will work with the general licensees and the holders of the SSD certificates.

Furthermore, NRC regulations also require a specific license for all distributors of devices to general licensees. Additionally, NRC regulations under 10 CFR 31.5 require that any person who acquires, receives, possesses, uses, or transfers a generally licensed device must maintain the records of compliance with these requirements; notify the manufacturer and the NRC or Agreement State of any device failure, damage, loss, or theft; not abandon or export the device; and transfer the device only in accordance with specific restriction. The NRC continues to work with the Agreement States to identify sources of concern.

This GAO recommendation remains open.

GAO Report - Nuclear Security: DOE Needs Better Information to Guide Its
Expanded Recovery of Sealed Radiological Sources
September 2005
(GAO-05-967)

The U.S. Government Accountability Office (GAO), in its report, "Nuclear Security: DOE Needs Better Information to Guide Its Expanded Recovery of Sealed Radiological Sources," made recommendations for ensuring the control and safe disposal of sealed radiological sources. The recommendation that remained open as of the U.S. Nuclear Regulatory Commission's (NRC's) last report and a report of progress from 2006 through 2009 are provided below.

Recommendation 4

The Secretary of Energy and the Chairman of the NRC, in collaboration with the Task Force on Radiation Source Protection and Security, should evaluate and report on how a national source tracking system can be designed and implemented to improve the U.S. Department of Energy's (DOE's) ability to identify and track sealed radiological sources that may need DOE recovery and disposal.

Status:

Section 651 of the Energy Policy Act (EPA) of 2005 directs the Task Force on Radiation Source Protection and Security to report to Congress and the President on recommendations for, among other matters:

- "(i) a list of additional radiation sources that should be required to be secured under this Act, based on the potential attractiveness of the sources to terrorists and the extent of the threat to public health and safety of the sources, taking into consideration -
 - (I) radiation source radioactivity levels;
 - (II) radioactive half-life of a radiation source;
 - (III) dispersability;
 - (IV) chemical and material form;
 - (V) for radioactive materials with a medical use, the availability of the sources to physicians and patients for medical treatment; and
 - (VI) any other factor that the Chairperson of the Commission determines to be appropriate;
- (ii) the establishment of, or modifications to, a national system for recovery of lost or stolen radiation sources;
- (iii) the storage of radiation sources that are not used in a safe and secure manner as of the date on which the report is submitted;
- (iv) modifications to the national tracking system for radiation sources;
- (v) the establishment of, or modifications to, a national system (including user fees and other methods) to provide for the proper disposal of radiation sources secured under this Act;"

On August 15, 2006, the NRC forwarded to the President, Vice President, and various members of Congress the report required by the EPA of 2005 documenting the efforts of the interagency Radiation Source Protection and Security Task Force headed by the NRC Chairman. The report includes the Task Force's evaluation of the national system for recovery of lost and stolen sources (Chapter 8), the national system to provide for the proper disposal of radioactive sources (Chapter 9), and the national source tracking system (Chapter 11). The Task Force did

not make any recommendations related to the off-site recovery program. However, it recommended that the U.S. Government further evaluate waste disposal options. The EPA Act of 2005 also requires that the Task Force prepare a supplemental report at least once every 4 years, and the Task Force is currently developing its 2010 report.

The Task Force recommended that a comprehensive analysis be conducted on the inclusion of Category 3 sources in the national source tracking system (NSTS), but did not recommend inclusion at this time. However, in a June 9, 2006 Staff Requirements Memorandum, the Commission directed the NRC staff to conduct a one-time survey of licensees to obtain information on sources that contain more than 1/10th of the threshold amount for Category 3 sources and prepare a proposed rule to include Category 3 data in the tracking system. This survey was conducted as part of the fiscal year (FY) 2007 survey of licensees for the interim database. Subsequently, the NRC issued a proposed rule for public comment on April 11, 2008, that would expand the NSTS beyond Category 2 sources to include sealed sources greater than 1/10th of the Category 3 threshold values. The NRC received numerous stakeholder comments expressing a range of views on expanding the scope of the NSTS. A clear majority of stakeholders opposed expansion of the NSTS below Category 2 values at that time, while several other stakeholders opposed expanding the NSTS scope below Category 2 values at all. One commenter supported expansion as proposed in the draft rule. The common themes expressed by stakeholders who opposed expansion of the NSTS at that time were that the most risk-significant sources will be adequately accounted for in the first deployment of NSTS, that the expansion would be resource intensive, and that operating experience and lessons learned should be evaluated prior to expanding the scope to lower-risk radioactive sources.

Based on its review of the public comments and on consideration of the current status of the NSTS, the staff submitted a paper to the Commission (SECY-09-0011) dated January 15, 2009, "Deferral of Rulemaking, Expansion of National Source Tracking System." In a Staff Requirements Memorandum dated May 28, 2009, the Commission did not approve the proposed options as set forth by the staff in the paper. Subsequently, the staff submitted a draft final rule (SECY-09-0086) to the Commission for approval on June 10, 2009, "Final Rule: Expansion of the National Source Tracking System." By Staff Requirements Memorandum, dated June 30, 2009, the Commission did not approve the final rule for publication in the Federal Register, and therefore, did not approve inclusion of Category 3 sources in NSTS. No rulemaking on the expansion of the NSTS has been planned in the near future.

Based on input provided by DOE during the development of the NSTS, additional data fields that can provide DOE increased ability to identify and track sources that may need DOE recovery and disposal were added to the system requirements. The NSTS was deployed on December 31, 2008, and includes optional data fields for this purpose, including a flag for sources with a greater than Class C (GTCC) waste classification and fields to identify sources in a long term storage condition.

This GAO recommendation remains open.

GAO Report - Enterprise Architecture: Leadership Remains Key to Establishing
and Leveraging Architectures for Organizational Transformation
August 2006
(GAO-06-831)

The U.S. Government Accountability Office (GAO), in its report, "Enterprise Architecture: Leadership Remains Key to Establishing and Leveraging Architectures for Organizational Transformation" (GAO-06-831), provided a recommendation to several government entities, including the U.S. Nuclear Regulatory Commission (NRC), to assist in addressing enterprise architecture challenges, managing architecture programs, and realizing architecture benefit. This recommendation to NRC remained open as of the NRC's last report, and a report of progress during 2009 is provided below.

Recommendation

The NRC develop and implement plans to ensure NRC's enterprise architecture (EA) program fully satisfies each of the conditions in the GAO's enterprise architecture management maturity framework (EAMMF).

Status:

The NRC has taken and continues to take actions to ensure that the NRC's EA program is developing and implementing plans to satisfy the conditions in the GAO's EAMMF. The NRC has made progress in satisfying the remaining two open core elements of Stage 2, Building the EA Management Foundation:

1. *Committee or group representing the enterprise is responsible for directing, overseeing, and approving EA:* This is a Stage 2 element and remains open. The NRC has an information technology (IT) Governance Board structure that uses working groups to support IT modernization activities. These will be enhanced to address changes to the Office of Management and Budget (OMB) guidance issued in 2009.
2. *EA plans call for developing metrics to measure EA progress, quality, compliance, and return on investment (ROI):* ROI is often realized by Offices supported by the EA when they implement an investment versus directly by the EA program. Alternatives for measuring ROI of EA will be explored. The NRC published an IT/IM Strategic Plan that included strategies and measures on EA progress, quality, and compliance.

With respect to Stage 3, Developing EA Products, the NRC has no outstanding core elements remaining.

With respect to Stage 4, Completing EA projects, NRC submitted evidence of progress made to close one of the remaining two elements in this state. One element remains open.

With respect to Stage 5, Leveraging the EA for Managing Change, NRC submitted evidence of progress made to close three of the six remaining open elements. Three elements remain open.

The NRC appreciates the GAO's constructive review of its EA Program and remains dedicated to establishing and utilizing an effective EA Program to improve its IT management practices. The NRC understands the importance of utilizing EA to improve business processes and to

ensure IT investments support the NRC's goals and mission. To realize these benefits, the NRC is committed to utilizing government EA best practices.

This GAO recommendation remains open.

GAO Testimony - Nuclear Security: Actions Taken by NRC to Strengthen Its Licensing Process
for Sealed Radioactive Sources Are Not Effective
July 2007
(GAO-07-1038T)

In its report, "Nuclear Security: Actions Taken by NRC to Strengthen Its Licensing Process for Sealed Radioactive Sources Are Not Effective," the U.S. Government Accountability Office (GAO) made recommendations to correct weaknesses in the U.S. Nuclear Regulatory Commission's (NRC's) materials licensing program that were identified during GAO's testing of the licensing program using covert investigative methods. The recommendation to NRC that remained open as of the NRC's last report and a report of progress during 2009 is provided below.

Recommendation 3

NRC should explore options to prevent individuals from counterfeiting NRC licenses, especially if this allows the purchase of more radioactive materials than they are approved for under the terms of the original license.

Status:

The Materials Program Working Group (MPWG) evaluated options to prevent counterfeiting of radioactive materials licenses and improve license verification. The Working Group concluded that properly implemented measures for license verification and material tracking will render the physical counterfeiting of a paper license ineffective. The Working Group recommended that the NRC and the Agreement States develop mechanisms to verify licensee authorizations and inventory compliance in conjunction with the source tracking capabilities of the National Source Tracking System (NSTS). On December 31, 2008, the NSTS was deployed and made available to NRC and Agreement State licensees for the tracking of risk-significant sources. The NRC is working with the Agreement States to develop a secure nationwide web-based license verification system whereby licensees and other authorized individuals will be able to verify that radioactive material transactions are authorized and do not exceed license limits. Because transactions will be verified against the regulator's licensing data, the NRC does not plan to implement any specific anti-counterfeiting measures for radioactive materials licenses. Additional details on the status of NRC's effort to develop a license verification system are included in the update for GAO-08-598 and GAO-08-839SU.

This GAO recommendation remains open.

GAO Report - Nuclear Security: DOE and NRC Have Different Security Requirements for Protecting Weapons-Grade Material from Terrorist Attacks
September 2007
(GAO-07-1197R)

In its unclassified summary report, "Nuclear Security: DOE and NRC Have Different Security Requirements for Protecting Weapons-Grade Material from Terrorist Attacks," of a classified report about the same topic, the U.S. Government Accountability Office (GAO) made recommendations to address the differences in actions to protect Category I strategic special nuclear material (SSNM) at U.S. Department of Energy (DOE) sites and U.S. Nuclear Regulatory Commission (NRC) licensees. The recommendation that remained open as of the NRC's last report of progress is provided below.

Recommendation 2

NRC should expedite its efforts to ensure that its licensees have the same legal authorities to acquire heavier weaponry and use deadly force as DOE sites currently have to protect such material.

Status:

The Energy Policy Act of 2005 provided the NRC new authority by adding section 161A to the Atomic Energy Act of 1954 (AEA) (42 U.S.C. § 2201a), which permits the use of enhanced weapons by licensees designated by the Commission. The NRC sought this enhanced authority after the September 11, 2001 terrorist attacks and supported the Congressional enactment of the legislation. Since October 2005, the NRC and the U.S. Department of Justice (DOJ) have worked closely on the complex task of developing the firearms guidelines that Congress required the Commission to issue, with the Attorney General's approval, before this statutory provision took effect. The Attorney General approved the firearms guidelines in July 2009, and the NRC published them in the *Federal Register* on September 11, 2009. The NRC plans to publish proposed implementing regulations designating Category I SSNM facilities as appropriate for possession and use of enhanced weapons, along with detailed draft regulatory guidance, for public comment by June 2010.

Regarding GAO's issue on the use of deadly force authority for Category I licensees similar to DOE sites, the NRC cannot revise its regulations to confer upon licensee security personnel the authority to use deadly force that has been conferred upon security personnel at DOE sites. This is because section 161(k) of the AEA (42 U.S.C. § 2201(k)) currently does not provide the NRC such authority. The DOJ has opposed the enactment of legislation that would revise section 161(k). The DOJ has asserted that:

[C]onstitutional separation-of-powers principles would be violated if Congress were to provide licensees of the NRC and their contractors with the statutory authority to use deadly force in the course of protecting nuclear power plants against threats posed by violation of federal law.¹

¹ Letter to the Honorable W. J. Tauzin, Chairman, Committee on Energy and Commerce, U.S. House of Representatives, from William E. Moschella, Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice, dated October 10, 2003.

This same DOJ logic would also apply to NRC-licensed Category 1 facilities. Therefore, the NRC is unable to address GAO's recommendation on deadly force.

NRC issuance of a final rule to establish implementing regulations permitting Category I SSNM licensees to obtain enhanced weapons, and the associated regulatory guidance, is expected approximately one year after the NRC publishes the proposed rule.

This GAO recommendation remains open.

GAO Report - Nuclear Security: NRC and DHS Need to Take Additional Steps to Better Track and Detect Radioactive Materials
June 2008
(GAO-08-598 and GAO-08-839SU)

In its report, "Nuclear Security: NRC and DHS Need to Take Additional Steps to Better Track and Detect Radioactive Materials," the U.S. Government Accountability Office (GAO) assessed the progress the U.S. Nuclear Regulatory Commission (NRC) has made in implementing recommendations from GAO's 2003 report, "Nuclear Security: Federal and State Action Needed to Improve Security of Sealed Radioactive Sources" (GAO-03-804), and other steps NRC has taken to improve its ability to track radioactive materials. GAO provided NRC two recommendations to ensure priority attention is given to implementing new tracking and licensing systems, and to include additional radioactive sources in its tracking systems.

The status of the actions taken by the NRC in response to each GAO recommendation is provided below:

Recommendation 1

The Chairman of the NRC take steps, consistent with sound systems development practices, to ensure that priority attention is given to meeting the current January 2009, and summer 2010 target dates for launching the National Source Tracking System, Web-Based Licensing System, and the new License Verification System, respectively.

Status:

The Commission has placed a high priority on the deployment of these systems. Senior managers from all involved offices meet weekly on these projects to ensure that appropriate focus is maintained, that challenges to success are systematically identified and addressed, that progress is properly communicated throughout the organization, and that tasks and resources are coordinated and prioritized.

In accordance with Office of Management and Budget guidance, the NRC has employed sound system development practices. The NRC has (1) assigned professionally certified project managers to the National Source Tracking System (NSTS), Web-Based Licensing (WBL) System, and License Verification System (LVS) projects; (2) set reasonable performance baselines and integrated project schedules for each of these projects; (3) employed earned value management on the NSTS project; and (4) plans to employ earned value management on the WBL and LVS projects once development contracts are in place.

The NSTS was deployed in January 2009.

The NRC staff completed its evaluation of alternative solutions for the WBL in the 2nd quarter of fiscal year (FY) 2009, and selected a Government-Off-The-Shelf (GOTS) alternative using the State of Ohio Department of Health's web-based RADMAT license management system as a foundation for the NRC's WBL system. The NRC is proceeding with multiple parallel actions to quickly implement the selected alternative. The first phase of this effort will adapt the RADMAT system for NRC use by migrating existing license information from NRC's legacy system to the RADMAT environment. The adapted system is currently undergoing user acceptance testing, and is expected to be placed into production use in the 3rd quarter of FY 2010.

A request for proposals to acquire implementation services for NRC's Integrated Source Management Portfolio (ISMP) was issued in September 2009. This contract will include developing LVS, completing functionality adaptations to the adapted RADMAT system to fulfill remaining WBL requirements, continued maintenance and operation of NSTS, and other related services. Two additional contracting actions were completed in FY 2009 that assisted in the development of the initial architecture design and security categorization of the LVS system. The NRC staff also continues to support and participate in the NRC/Agreement State working group established to identify a process for including Agreement-State license data in a national warehouse for license verification purposes (i.e., WBL). The NRC expects to have an initial operational capability of LVS deployed approximately 12-months following the ISMP contract award, and an expanded WBL operational capability approximately 24-months following the ISMP contract award. A refined project schedule will be established with the selected contractor after award. NRC is currently evaluating the proposals received, and expects to award the ISMP contract in the 2nd quarter of FY 2010.

This GAO recommendation remains open.

Recommendation 2

The NRC complete the steps needed to include all potentially dangerous radioactive sources (Category 3 and the larger Category 4 sources, as well as Categories 1 and 2) in the National Source Tracking System as quickly as is reasonably possible.

Status:

The NRC issued a proposed rule for public comment on April 11, 2008, that would expand the NSTS beyond Category 2 sources to also include Category 3 and 1/10 of the Category 3 threshold values. The NRC received numerous stakeholder comments expressing a range of views on expanding the scope of the NSTS. A clear majority of stakeholders opposed expansion of the NSTS beyond Category 2 at this time, while several other stakeholders opposed expanding the NSTS scope beyond Category 2 at all. One commenter supported expansion as proposed in the draft rule. The common themes expressed by stakeholders who opposed expansion of the NSTS at this time were that the most risk-significant sources will be adequately accounted for in the first deployment of NSTS, that the expansion would be resource intensive, and that operating experience and lessons learned should be evaluated prior to expanding the scope to lower-risk radioactive sources.

Based on its review of the public comments and on consideration of the current status of the NSTS, the staff submitted a Commission paper (SECY-09-0011) to the Commission on January 15, 2009, "Deferral of Rulemaking, Expansion of National Source Tracking System." In a May 28, 2009, Staff Requirements Memorandum, the Commission did not approve the options proposed by the staff in that paper. Subsequently, the staff submitted a draft final rule (SECY-09-0086) to the Commission for approval on June 10, 2009, "Final Rule: Expansion of the National Source Tracking System." In a June 30, 2009, Staff Requirements Memorandum, the Commission disapproved publication of the final rule in the Federal Register, and therefore, did not approve inclusion of Category 3 sources in NSTS. No rulemaking on expansion of the NSTS is planned in the near future.

The NRC considers this GAO recommendation closed.

GAO Report - Nuclear Safety: NRC's Oversight of Fire Protection at U.S. Commercial Nuclear Reactor Units Could Be Strengthened
June 2008
(GAO-08-747)

The U.S. Government Accountability Office (GAO), in its report "Nuclear Safety: NRC's Oversight of Fire Protection at U.S. Commercial Nuclear Reactor Units Could Be Strengthened," made four recommendations to help the U.S. Nuclear Regulatory Commission (NRC) better manage its oversight of fire protection at U.S. commercial nuclear reactors. In response, on September 11, 2008, the Chairman of the NRC informed the Congress about the actions that NRC plans to implement to address GAO's recommendations.

The NRC staff has completed implementing all actions to address the key fire protection issues raised by GAO-08-747 recommendations, within the additional Commission guidance reflected in the Chairman's letter to Congress dated September 11, 2008. Many of these recommendations were addressed and tracked by the Fire Protection Closure Plan as described in SECY-08-0171, "Plan for Stabilizing Fire Protection Regulatory Infrastructure."

The status of the actions taken by the NRC in response to the two GAO report recommendations that remained open as of the NRC's last report is provided below.

Recommendation 1

Develop a central database for tracking the status of exemptions, compensatory measures, and manual actions in place nationwide and at individual commercial nuclear units.

Status:

Licensees track fire protection program deficiencies, exemptions, and deviations, including those involving compensatory measures and manual actions, at their respective nuclear plants. NRC inspectors evaluate a sample of these compensatory measures and manual actions during their routine fire protection inspections. Based on these inspections, the NRC has determined that existing compensatory measures and manual actions are sufficient to ensure adequate fire protection at each nuclear plant.

In response to the GAO's recommendation, in December 2009, the NRC completed the development of a centralized database of fire protection exemptions for operating nuclear reactors.

The NRC considers this GAO recommendation to be closed.

Recommendation 4

Address long-standing concerns by ensuring that nuclear units are able to safeguard against multiple spurious actuations by committing to a specific date for developing guidelines that units should meet to prevent multiple spurious actuations.

Status:

Since the mid-1990s, the NRC has been actively working toward closure of the complex issue of fire-induced circuit failures. This effort has included inspections to ensure plant safety, circuit

testing, interaction with industry, issuance of generic communications, and updated guidance. As part of this effort, on June 30, 2008, the NRC staff presented to the Commission an approach for resolving the issues (SECY-08-0093, "Resolution of Issues Related to Fire-Induced Circuit Failures)". The Commission approved SECY-08-0093 on September 3, 2008. This approach and related actions have been incorporated in the staff's "Plan for Stabilizing Fire Protection Regulatory Infrastructure" (SECY-08-0171).

In accordance with the Commission directives to include milestones and deliverables in the implementation of the Fire Protection Closure Plan (SECY-08-0171), the NRC committed to develop the guidance to address long-standing concerns regarding multiple spurious actuations by the end of fiscal year 2009. The NRC completed and issued this guidance as Revision 2 to Regulatory Guide 1.189, in October 2009.

The NRC considers this GAO recommendation to be closed.

GAO Report - Telecommunications: Agencies Are Generally Following Sound Transition Planning Practices, and GSA Is Taking Action to Resolve Challenges
June 2008
(GAO-08-759)

The U.S. Government Accountability Office (GAO), in its report “Telecommunications: Agencies Are Generally Following Sound Transition Planning Practices, and GSA Is Taking Action to Resolve Challenges,” made two specific recommendations to reduce the risk that transition delays could lead to disruptions in service and increased costs. The status of the actions taken by the U.S. Nuclear Regulatory Commission (NRC) in response to the GAO report recommendation that remained open as of the NRC’s last report is provided below.

Recommendation 1

The Chairman of the U.S. Nuclear Regulatory Commission (NRC) should direct the Chief Information Officer (CIO) to establish measures of success based on the transition objectives that the agency plans to develop.

Status:

As stated in the NRC response to the original recommendation made by the GAO, the transition objectives and their associated measures of success were established. These have not progressed as the initial Fair Opportunity decision has not yet been made. The agency is in the process of making its Fair Opportunity decision with respect to the transition of telecommunications services from the existing Information Technology Services contracts to the new Networkx acquisitions. The NRC expects to make its Fair Opportunity decision by the end of the second quarter fiscal year 2010, at which point the Transition Manager will establish the agency transition teams and begin the process of transitioning the NRC’s telecommunications services.

This GAO recommendation remains open.

GAO Report - Information Technology: Agencies Need to Establish Comprehensive Policies to Address Changes to Projects' Cost, Schedule, and Performance Goals
July 2008
(GAO-08-925)

The U.S. Government Accountability Office (GAO), in its report "Information Technology: Agencies Need to Establish Comprehensive Policies to Address Changes to Projects' Cost, Schedule, and Performance Goals," made a recommendation to address the weaknesses identified with agencies' rebaselining policies. The GAO recommendation was directed to the Director of the Office of Management and Budget (OMB) and to the 24 major agencies. The U.S. Nuclear Regulatory Commission (NRC) progress in addressing this recommendation during 2009 is provided below.

Recommendation

To address the weaknesses identified with agencies' rebaselining policies, we are making recommendations to the Director of OMB and to the 24 major agencies. Specifically, we recommend that:

- the Director of OMB issue guidance for rebaselining policies that would include a minimum set of key elements, taking into consideration the criteria used in this report; and
- each of the heads of the 24 major agencies direct the development of comprehensive rebaselining policies that address weaknesses we identified.

Status:

GAO-08-925 assessed Federal agency conformance with five best practices, set forth in GAO's Cost Assessment Guide (GAO-07-1134SP), that are relevant to the reestablishment of information technology (IT) program and project baselines. The best practices promoted by GAO focus on the process for developing, validating, and reviewing a new performance baseline for a major IT project and require that the re-baselining process be well-documented.

Existing NRC policy guidance, issued as Management Directive (MD) 2.8, "Project Management Methodology," partially addresses these best practices. Under MD 2.8, NRC executives are responsible for managing IT investments to within 10 percent of a performance management baseline that establishes planned cost, schedule, performance, and quality goals. The NRC's Earned Value Management (EVM) Guideline requires that agency project managers use an ANSI/EIA Standard 748-compliant EVM system to manage major IT acquisitions to the performance management baseline. The baseline must be validated within 6 months of its establishment by an integrated baseline review to be conducted by the project manager and the NRC's Office of Information Services (OIS) in accordance with guidance in the National Defense Industrial Association's "Program Manager's Guide to the Integrated Baseline Review Process."

If an investment fails to meet performance standards in the validated baseline, the responsible executive must develop a corrective action plan, which may include a proposal to re-baseline the project. In accordance with MD 2.8 and the EVM Guideline, corrective action plans for major IT investments undergo successive reviews by OIS, the NRC IT Business Council (an IT executive review board), and NRC's Chief Information Officer, and must be approved by the agency's Executive Director for Operations. Both the original and the new baseline are

documented in the NRC's official repository of IT project information, and progress against the new baseline is to be monitored by OIS and periodically reviewed by the IT Business Council.

The NRC continues to examine its current process to ensure that the agency establishes reasonable and achievable baselines for projects and minimizes baseline revisions for future program efforts. The development of an NRC "Project Manager's Guide," already underway, will address the remaining key areas by consolidating and expanding guidance on EVM and the integrated baseline review process. The new guidance will require that project managers clearly justify the need for baseline revisions before they receive agency approval. This guidance will be incorporated by reference in MD 2.8 and is an integral part of the agency's comprehensive response to the GAO report. More detailed comments about the NRC's approach to each of the best practice areas emphasized by GAO follows:

1. *Describe reasons when a re-baseline is warranted.* The NRC's Office of Information Services (OIS) has established a Project Management Services Team (PMST) to define project management tools and techniques that will enable the agency to identify better the costs and value to the NRC mission of major IT projects. The initial version of the "Project Manager's Guide," developed by PMST in May 2009, documented the use of integrated project schedules, and project monitoring and control processes. Version II of the "Project Manager's Guide" scheduled to be issued in Q3 of FY 2010, will document processes and procedures for use of integrated baseline reviews. The policy will also provide consolidated guidance for the use of Earned Value Management (EVM). EVM combines measurement of technical, schedule, and cost performance criteria within a single integrated methodology to show the status of a project. The use of this guide within the overall policy framework will ensure that project managers document reasons for revisions to the baseline already established for their projects. At the same time, the agency is continuing its effort, in collaboration with George Washington University and ESI International, to provide formal training for all project managers toward a "Master Certification in Project Management." The certification program covers major project management tools and techniques, including cost estimating, EVM, and baseline revisions.
2. *Describe the process for developing a new baseline.* Currently, the agency uses an integrated project plan for major projects, with resources allocated on the sub-project level. The new guidance being drafted requires project managers to provide new cost estimates along with a new project plan, which details the scope of the remaining work and includes revised schedule and resource allocations at the sub-project level.
3. *Require validating the new baseline.* The agency uses an Enterprise Change Control Board, an Engineering Review Board, and a Project Specific Control Board to review and validate any changes associated with project execution, including revised project costs associated with requests for a new project baseline. These committees are staffed with the appropriate key project stakeholders and executives from the NRC Program Offices. Revised policy guidance will clarify their roles in the re-baselining process.
4. *Require management review.* Current agency guidance requires management review of corrective action plans for major IT projects. The agency is planning to strengthen its IT governance structure by implementing processes to ensure active management involvement in the review, approval, and monitoring of new or revised baseline plans.
5. *Require that the process is documented.* Guidance underway will standardize the process for documenting decisions surrounding baseline revisions and will mandate that re-

baselining actions be coordinated through the PMST. Project managers will be required to inform the PMST of the reasons for the revised baseline proposal and to provide the new project cost, schedule, and scope to the PMST for management review and approval. The agency expects to complete implementation of the new guidance by the end of the third quarter of Fiscal Year 2010.

This GAO recommendation remains open.

GAO Report - Information Technology: Federal Agencies Need to Strengthen Investment Board Oversight of Poorly Planned and Performing Projects”
June 2009
(GAO-09-566)

The U.S. Government Accountability Office (GAO), in its report, “Information Technology: Federal Agencies Need to Strengthen Investment Board Oversight of Poorly Planned and Performing Projects,” made recommendations for ensuring that information technology (IT) projects are effectively managed. The two recommendations to NRC and a report of progress during 2009 is provided below.

Recommendation 1

The Chairman of the U.S. Nuclear Regulatory Commission direct the Executive Director for Operations to define conditions for elevating issues related to project selection and oversight to its department-level Investment Review Board (IRB).

Status

The NRC currently has in place an Information Technology Business Council (ITBC) made up of senior executives from the NRC’s major offices. The ITBC functions as a department-level investment review board. It recommends the IT capitol investment portfolio and submits it to the Information technology Senior Advisory Committee (ITSAC), which is comprised of senior executives from major NRC offices.

In response to the GAO report, the NRC reviewed and enhanced its existing guidance for project selection and oversight. The NRC refined its process and requires all major investments to receive an annual ITBC review. This control phase review process, in combination with the monthly review of the NRC’s input to the Office of management and Budget IT Dashboard, will ensure that the ITBC is continuously aware of significant changes in investments. In addition, the NRC reviewed the ITBC charter and updated it to strengthen the language addressing its role in project oversight reviews. The update included clarifying the process for referring investments falling outside of predefined parameters to the ITSAC for further action.

The NRC considers this GAO recommendation to be closed.

Recommendation 2

The Chairman of the U.S. Nuclear Regulatory Commission ensure that the projects that are identified in this report as not having received departmental-level IRB selection or oversight reviews receive these reviews.

Status

In response to this GAO report, the ITSAC conducted an oversight review of the National Source Tracking System, previously reviewed by the ITBC, in December 2009.

The NRC considers this GAO recommendation to be closed.