

EVALUATION REPORT

Inspector General's Assessment of the
Most Serious Management and Performance
Challenges Facing NRC

OIG-07-A-20 September 28, 2007



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September 28, 2007

MEMORANDUM TO: Chairman Klein

FROM: Hubert T. Bell **/RA/**
Inspector General

SUBJECT: INSPECTOR GENERAL'S ASSESSMENT OF THE MOST
SERIOUS MANAGEMENT AND PERFORMANCE
CHALLENGES FACING THE NUCLEAR REGULATORY
COMMISSION (OIG-07-A-20)

The *Reports Consolidation Act of 2000* requires the Inspector General of each Federal agency to annually summarize what he or she considers to be the most serious management and performance challenges facing the agency and to assess the agency's progress in addressing those challenges. In accordance with the Act, I identified eight management and performance challenges that I consider to be the most serious. The list of eight challenges reflects the consolidation of the prior challenges 4 and 9 resulting in the following description for new challenge 4: *Ability to modify regulatory processes to meet a changing environment, specifically the potential for a nuclear renaissance.*

We appreciate the cooperation extended to us during this evaluation. The agency provided comments on this report, which have been incorporated, as appropriate. If you have any questions or comments about this report, please feel free to contact Stephen D. Dingbaum, Assistant Inspector General for Audits, at 415-5915 or me at 415-5930.

cc: Commissioner Jaczko
Commissioner Lyons

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EXECUTIVE SUMMARY

BACKGROUND

The *Reports Consolidation Act of 2000* (the Act) requires the Inspector General (IG) of each Federal agency to annually summarize what he or she considers to be the most serious management and performance challenges facing the agency and to assess the agency's progress in addressing those challenges.

PURPOSE

In accordance with the Act, the IG at the Nuclear Regulatory Commission (NRC) updated what he considers to be the most serious management and performance challenges facing NRC. As part of the evaluation, the Office of the Inspector General staff sought input from NRC's Chairman, Commissioners, and NRC management to obtain their views on what challenges the agency is facing and what efforts the agency has taken to address previously identified management challenges.

RESULTS IN BRIEF

The IG identified eight challenges that he considers are the most serious management and performance challenges facing NRC. The challenges identified represent critical areas or difficult tasks that warrant high-level management attention.

In addressing this year's challenges we combined the prior challenge number 4, *Ability to modify regulatory processes to meet a changing environment* and the prior challenge number 9, *Ability to meet the demand for licensing new reactors*. The consolidation of these challenges resulted in the following description for new challenge 4: *Ability to modify regulatory processes to meet a changing environment, specifically the potential for a nuclear renaissance*. We combined the two challenges because the anticipated workload associated with preparing to receive and then review new reactor license applications will strain the agency's current resources and intensify other challenges in NRC's regulatory environment.

The chart that follows provides an overview of the eight most serious management and performance challenges as of September 28, 2007.

Most Serious Management and Performance Challenges Facing the Nuclear Regulatory Commission * As of September 28, 2007 (as identified by the Inspector General)	
Challenge 1	<i>Protection of nuclear material used for civilian purposes.</i>
Challenge 2	<i>Appropriate handling of information.</i>
Challenge 3	<i>Development and implementation of a risk-informed and performance-based regulatory approach.</i>
Challenge 4	<i>Ability to modify regulatory processes to meet a changing environment, specifically the potential for a nuclear renaissance.</i>
Challenge 5	<i>Implementation of information technology.</i>
Challenge 6	<i>Administration of all aspects of financial management.</i>
Challenge 7	<i>Communication with external stakeholders throughout NRC regulatory activities.</i>
Challenge 8	<i>Managing human capital.</i>
<p>* The most serious management and performance challenges are not ranked in any order of importance.</p>	

CONCLUSION

The eight challenges contained in this report are distinct, yet are interdependent to accomplishing NRC's mission. For example, the challenge of managing human capital affects all other management and performance challenges.

The agency's continued progress in taking actions to address the challenges presented should facilitate successfully achieving the agency's mission and goals.

ABBREVIATIONS AND ACRONYMS

CFR	Code of Federal Regulations
CR	continuing resolution
DOE	Department of Energy
FOIA	Freedom of Information Act
HSPD	Homeland Security Presidential Directive
IG	Inspector General
IT	information technology
MC&A	material control and accounting
NMMSS	Nuclear Materials Management and Safeguards System
NRC	Nuclear Regulatory Commission
NSTS	National Source Tracking System
OIG	Office of the Inspector General
PII	personally identifiable information
SGI	safeguards information

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I. BACKGROUND

On January 24, 2000, Congress enacted the *Reports Consolidation Act of 2000*, requiring Federal agencies to provide financial and performance management information in a more meaningful and useful format for Congress, the President, and the public. The Act requires the Inspector General (IG) of each Federal agency to annually summarize what he or she considers to be the most serious management and performance challenges facing the agency and to assess the agency's progress in addressing those challenges.

II. PURPOSE

In accordance with the Act's provisions, the IG at the Nuclear Regulatory Commission (NRC) updated what he considers to be the most serious management and performance challenges facing NRC. The IG evaluated the overall work of the Office of the Inspector General (OIG), the OIG staff's general knowledge of agency operations, and other relevant information to develop and update his list of management and performance challenges.

In addition, OIG sought input from NRC's Chairman, Commissioners, management and staff to obtain their views on what challenges the agency is facing and what current and future efforts the agency has taken to address previously identified management and performance challenges.

III. EVALUATION RESULTS

The NRC's mission is to "License and regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment." Like other Federal agencies, NRC faces management and performance challenges in carrying out its mission.

Determination of Management and Performance Challenges

Congress left the determination and threshold of what constitutes a most serious management and performance challenge to the discretion of the Inspectors General. As a result, the IG applied the following definition in identifying challenges:

Serious management and performance challenges are mission critical areas or programs that have the potential for a perennial weakness or vulnerability that, without substantial management attention, would seriously impact agency operations or strategic goals.

Based on this definition, the IG revised his list of the most serious management and performance challenges facing NRC. The challenges identified represent critical areas or difficult tasks that warrant high-level management attention. The following chart provides an overview of the eight management challenges. The sections that follow the chart provide more detailed descriptions of the challenges, descriptive examples related to the challenges, and examples of efforts the agency has taken or are underway to address the challenges.

Most Serious Management and Performance Challenges Facing the Nuclear Regulatory Commission * As of September 28, 2007 (as identified by the Inspector General)	
Challenge 1	<i>Protection of nuclear material used for civilian purposes.</i>
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Changes to Management Challenges

This year's challenges are essentially the same as last year, with two exceptions.

Description Change - Challenge 2

Last year's challenge 2: *Protection of information* was changed this year to *Appropriate handling of information*. The focus has been broadened to include emphasis on the importance of releasing information that the public has a right to know while protecting sensitive information that should not be released.

Integrating Challenges 4 and 9

Last year's challenge 9¹ and challenge number 4² were combined this year to form challenge number 4 which reads, *Ability to modify regulatory processes to meet a changing environment, specifically the potential for a nuclear renaissance*.

The prior two challenges were combined because the anticipated workload associated with preparing to receive and then review new reactor license applications will strain the agency's current resources and intensify other challenges in NRC's regulatory environment. While responding to the emerging demands associated with regulating new reactors, NRC must also sustain technical quality in carrying out its current regulatory responsibilities.

¹ 2006 Management Challenge 9: *Ability to meet the demand for licensing new reactors*.

² 2006 Management Challenge 4: *Ability to modify regulatory processes to meet a changing environment*.

CHALLENGE 1

Protection of nuclear material used for civilian purposes.

NRC grants licenses for the possession and use of radioactive materials and establishes regulations to govern the possession and use of those materials. NRC's regulations require that certain materials licensees have extensive material control and accounting programs as a condition of their licenses. All other licensees (including those requesting authorization to possess small quantities of special nuclear materials) must develop and implement plans that demonstrate a commitment to accurately control and account for radioactive materials.

The issues related to this challenge and the agency's actions to address each issue include the following:

- **Issue:** Ensure that radioactive material is adequately protected to preclude it from being used for malicious purposes.
 - **Action:** NRC is enhancing its materials licensing processes, which include a new policy that requires on-site visits before NRC issues new material licenses; is examining existing licenses to determine their legitimacy; and is forming a working group to update and revise existing materials guidance.
- **Issue:** Develop and implement a system to ensure the accurate tracking of byproduct material, especially those materials with the greatest potential to impact public health and safety.
 - **Action:** NRC has published its final rulemaking on the National Source Tracking System (NSTS) and is working to develop and implement systems [NSTS and Web-Based Licensing] for tracking materials and licenses.
- **Issue:** Ensure reliable control and accounting of special nuclear materials in the NRC and Department of Energy's (DOE) jointly managed Nuclear Materials Management and Safeguards System (NMMSS).
 - **Action:** NRC has taken steps to ensure that licensees comply with material control and accounting (MC&A) requirements. For example, revisions to Inspection Manual Chapter 2800 and Temporary

Instruction 2515/154 required that NMMSS book balances be compared to actual inventories possessed by reactor licensees as well as licensees holding small amounts of special nuclear materials.

- **Issue:** Provide adequate inspection to verify the control and accountability of special nuclear materials at licensee sites.
 - **Action:** The staff proposed an MC&A rulemaking plan early in 2007 that will enhance MC&A regulations, inspections, and licensing. Among the enhancements are requirements to conduct periodic inspections to verify that material licensees comply with MC&A requirements.

CHALLENGE 2

Appropriate handling of information.

NRC is required to appropriately protect and withhold information from public disclosure for reasons of security, personal privacy, or commercial or trade secrets protection. The agency also has a duty to release information the public has a right to know. NRC's goal is to strike an appropriate balance between a regulatory process that is open to the public and the protection from disclosure of sensitive information, which would be useful to potential adversaries. NRC traditionally has given the public access to a significant amount of information about the facilities and materials the agency regulates.³ The Atomic Energy Act, subsequent legislation, and various NRC regulations have given the public the right to participate in the licensing and oversight process for NRC licensees.

The issues related to this challenge and the agency's actions to address each issue include the following:

- **Issue:** Ensure that information is released to the public that the public has a right to know.
 - **Action:** After receiving congressional criticism, NRC gave the public access to documents associated with a uranium spill that had been previously designated as Official Use Only (not releasable to the public). Further, the Commission is reconsidering its policy and criteria for withholding information from the public.
- **Issue:** Appropriately protect and withhold information from public disclosure, especially information related to personally identifiable information (PII), security related information and safeguards information (SGI).
 - **Action:** NRC has conducted searches and promptly removed all documents containing PII from public availability after inadvertent disclosure. In addition, NRC has established the PII Task Force to identify how PII is used and to develop policies and procedures to

³ Openness has been and remains a cornerstone of NRC's regulatory philosophy.

protect this information while minimizing the impact on agency operations. NRC's PII Task Force also developed a draft breach notification policy as required by the Office of Management and Budget.

- **Action:** NRC issued SGI Fingerprinting Orders that require any person who seeks or obtains access to SGI to undergo a Federal Bureau of Investigation identification and criminal history check based on that individual's fingerprints.

CHALLENGE 3

Development and implementation of a risk-informed and performance-based regulatory approach.

NRC must increase its safety and security focus on licensing and oversight activities through the application of a balanced combination of experience, deterministic models, and probabilistic analysis. This approach is known as risk-informed and performance-based regulation. Incorporating risk analysis into regulatory decisions is intended to improve the regulatory process by focusing NRC and licensee attention and actions on the highest risk areas.

The issues related to this challenge and the agency's actions to address each issue include the following:

- **Issue:** Ensure that the appropriate level of focus on risk-informed and performance-based regulation is maintained.
 - **Action:** NRC is continuing its work to improve the agency's Risk-Informed and Performance-Based Plan,⁴ including a recent expansion of the Plan's objectives to more fully achieve a risk-informed and performance-based regulatory structure.
- **Issue:** Develop and implement risk-informed and performance-based regulation for fuel cycle facilities.
 - **Action:** NRC is preparing a framework for the fuel cycle facility oversight program.
- **Issue:** Ensure that the Reactor Oversight Process meets the agency's regulatory needs.
 - **Action:** NRC uses results of an annual self-assessment of the Reactor Oversight Process to better identify significant performance issues and to ensure that licensees take appropriate actions to maintain acceptable safety and security performance.

⁴ The Risk-Informed and Performance-Based Plan was formerly known as the Risk-Informed Regulation Implementation Plan.

- **Issue:** Ensure that research programs enhance the validity of current risk models, and also develop risk insights for new technologies, including program areas now transitioning to risk-informed regulation (e.g., fire protection).
 - **Action:** NRC is developing and implementing a formal written process for maintaining probabilistic risk assessment models that are sufficiently representative of the as-built, as-operated plants to support model uses.

CHALLENGE 4

Ability to modify regulatory processes to meet a changing environment, specifically the potential for a nuclear renaissance.

While NRC maintains its core regulatory programs, it must adapt to emerging changes in the regulatory environment. Specifically, the agency must maintain the rigor of its regulation of the current fleet of operating reactors while simultaneously preparing for an influx of applications for new reactors. Furthermore, the agency must be ready to regulate facilities using new fuel processing technologies and address issues relating to the disposal of increasing quantities of radioactive waste.

The issues related to this challenge and the agency's actions to address each issue include the following:

- **Issue:** Maintain the ability to review operating reactor licensee applications for license renewals and power uprates submitted by industry in response to the Nation's demand for energy production.
 - **Action:** NRC is continuing its work with operating reactor plant licensees to develop a schedule of anticipated license amendment requests for license renewals and power uprates.

- **Issue:** Develop and create the infrastructure necessary to support the review of new plant licensing applications, to include: reinstating the Construction Inspection Oversight program, developing strong control processes for project management to ensure the agency meets its new reactor review and licensing objectives, developing technical review processes and ensuring that NRC implements a comprehensive standard review plan and adequately documented safety evaluation reports.
 - **Action:** NRC is preparing for the expected receipt of utility applications for new reactor licenses. NRC is issuing reactor design certifications, revising the regulation that governs early site permits, and engaging in ongoing interactions with plant vendors and utilities regarding prospective new reactor applications and licensing activities.

- **Issue:** Ensure that Agreement State programs are adequate and compatible with NRC's program to protect public health and safety and the environment.
 - **Action:** NRC continues to conduct about 10-12 reviews per year of Agreement State radioactive materials programs under NRC's Integrated Materials Performance Evaluation Program.
- **Issue:** Address increasing quantities of radioactive waste requiring interim or permanent disposal sites.
 - **Action:** NRC has conducted a review for dry cask waste storage systems.
 - **Action:** NRC is currently assessing its overall low-level waste program to prioritize ongoing and future staff actions and activities, along with associated schedules and resource estimates.
- **Issue:** Prepare for and respond to delays and uncertainties related to its receipt and review of a DOE license application to construct a high-level radioactive waste repository at Yucca Mountain.
 - **Action:** NRC continues to prepare for receipt of DOE's license application to construct a high-level waste repository, which is expected in July 2008. NRC is focused on pre-licensing activities, issuing interim staff guidance, identifying the application review approach, and identifying review teams.

CHALLENGE 5

Implementation of information technology.

NRC needs to upgrade and modernize its information technology (IT) capabilities both for employees and for public access to the regulatory process. Recognizing the need to modernize, the Office of Information Services established goals to improve the productivity, efficiency, and effectiveness of agency programs and operations, and enhance the use of information for all users inside and outside the agency.

The issues related to this challenge and the agency's actions to address each issue include the following:

- **Issue:** Ensure that information systems are protected.
 - **Action:** NRC has made little progress in correcting the following two significant deficiencies concerning its Information System-wide Security Controls. Annual contingency plan testing is not being performed, and only 2 of 30 systems have been assessed to determine risks to agency operations, agency assets, or individuals, resulting in a failing grade from Congress for computer security. Although the agency is working towards certification and accreditation for all of its systems, the agency does not expect to accomplish this goal until the end of FY 2009. Actions also include awarding a multimillion dollar contract to enhance agencywide information systems security, documenting the process to complete certifications and accreditations of systems and categorizing systems as to sensitivity of the information.
- **Issue:** Upgrade and manage IT activities to improve the productivity, efficiency, and effectiveness of agency programs and operations.
 - **Action:** NRC recognizes that it lags behind many other Federal agencies in terms of its IT infrastructure. For example, the ability to support technologies such as wireless and Microsoft Office suite, which is already the standard software used in the private sector and much of the public sector. In addition, the agency is evaluating options for replacing its aging applications such as the Agencywide Documents Access and

Management System and Human Resources Management System. The agency has developed an information technology/information management strategic plan that addresses infrastructure planning and seeks a single, integrated infrastructure technology roadmap as part of an overall enterprise architecture transition plan.

- **Issue:** Maintain a knowledgeable information technology staff.
 - **Action:** NRC is continuing to upgrade its IT infrastructure to a state of the art level, therefore, NRC must hire and retain staff who possess the required expertise. NRC has initiated new workforce planning strategies to address this, to include offering higher pay grades/salaries for needed proficiencies, keeping vacancy announcements indefinitely open to fill the many vacancies, and paying relocation expenses.

CHALLENGE 6

Administration of all aspects of financial management.

NRC management is responsible for establishing and maintaining effective internal controls and financial management systems that meet the objectives of several statutes including the Federal Managers' Financial Integrity Act. This Act mandates that NRC establish controls that reasonably ensure that (1) obligations and costs comply with applicable law; (2) assets are safeguarded against waste, loss, unauthorized use, or misappropriation; and (3) revenues and expenditures are properly recorded and accounted for. This Act encompasses program operational, and administrative areas, as well as accounting and financial management.

The issues related to this challenge and the agency's actions to address each issue include the following:

- **Issue:** Resolve the material weaknesses⁵ reported in the audit of NRC's financial statements and the issues related to licensee fee reporting.
 - **Action:** NRC is addressing the continuing material weakness by assessing all processes and system interfaces associated with the fee billing process and system to ensure controls are adequate. The agency has implemented a number of new and improved controls including a validation tool which analyzes and reconciles the completeness and accuracy of billing for reactors and materials inspections. As a result, the agency has decreased the risk of potential billing errors and further enhanced the control environment.
 - **Action:** NRC conducted a business process improvement study focused on time and labor and fee billing processes. The study made a number of recommendations for improvement including the need to corporately manage the reporting codes and to reduce the number of reporting codes to improve internal controls. As a result, the agency has

⁵ FY 2006 financial statement internal control reportable conditions include a continuing material weakness regarding the Fee Billing System and a new material weakness regarding lack of required Information System-wide Security Controls. Discussion of the actions taken concerning the latter reportable condition is contained in Challenge 5 - Implementation of information technology.

developed interim guidance for managing reporting codes and expects to reduce the number of codes (currently totaling approximately 9,500) by another 1,000 before year-end.

- **Issue:** Replace NRC's current financial systems which are obsolete, overly complex and inefficient.
 - **Action:** NRC has submitted a business case that recommended the replacement of five aging financial systems⁶ with a single integrated core financial system, expected to be operational in October 2009.

⁶ The five financial systems are Federal Financial System, Fee Billing System, Allotment/Allowance Financial Plan System, Cost Accounting System, and the Capitalized Property System.

CHALLENGE 7

Communication with external stakeholders throughout NRC regulatory activities.

The NRC has stated that nuclear regulation is the public's business and, therefore, it should be transacted in an open and candid manner in order to maintain the public's confidence. The continuing challenge for management is to ensure that there are effective ways of communicating with external stakeholders. Effective communication is vital to the agency's ability to achieve its goals, to include enhancing the public's confidence in NRC's effectiveness as a regulator.

The issues related to this challenge and the agency's actions to address each issue include the following:

- **Issue:** Ensure effective interaction with a diverse group of external stakeholders (e.g., industry, Congress, general public, other Federal agencies, citizen groups) by providing clear, accurate, and timely information about NRC's regulatory activities.
 - **Action:** NRC provides a quarterly report on the status of its licensing and other regulatory activities to the Senate Subcommittee on Clean Air and Nuclear Safety.
 - **Action:** NRC continues to hold public meetings throughout the year, as well as, an annual public Regulatory Information Conference on specific licensing and regulatory activities to share information with stakeholders.
- **Issue:** Ensure compliance with the Freedom of Information Act (FOIA) regarding disclosure of information to the public, through both FOIA requests and FOIA automatic disclosure requirements, and timely responses to FOIA requests.
 - **Action:** NRC is implementing revised Internal Commission Procedures to require a review of Commission decision documents to determine whether these documents should be released, in whole or in part, in accordance with the automatic disclosure provisions of FOIA.

CHALLENGE 8
Managing human capital.

NRC's human capital needs will undergo changes due to the expected receipt of (1) applications to construct and operate the next generation of nuclear reactors, (2) DOE's license application for a nuclear waste repository, and (3) industry applications to increase the number of fuel cycle facilities. By FY 2009, NRC will have hired approximately 1,200 new employees. Moreover, a United States Government Accountability Office report issued January 2007,⁷ found that about 16 percent of NRC employees are eligible to retire, a figure that is expected grow to 33 percent by FY 2010.

The issues related to this challenge and the agency's actions to address each issue include the following:

- **Issue:** Addressing anticipated increased workload demands and retirements.
 - **Action:** NRC is recruiting a skilled workforce that targets the anticipated changes facing the agency.⁸ The agency is on track to exceed its FY 2007 hiring goal of a net gain of approximately 200 staff.
 - **Action:** NRC is enhancing its reactor technology curriculum to meet the demand of its increased and varied workload which includes the review and licensing of the new generation of commercial nuclear reactors.
 - **Action:** NRC is implementing knowledge management⁹ strategies that include mentoring; early replacement hiring; rehiring annuitants with or without

⁷ *Human Capital: Retirements and Anticipated New Reactor Applications Will Challenge NRC's Workforce*, GAO-07-105, January 17, 2007.

⁸ As of the last pay period in July 2007, there were approximately 3,526 NRC staff.

⁹ Knowledge management involves capturing critical information and making the right information available to the right people at the right time to assure that knowledge and experience of the current staff is passed on to the next generation of NRC staff.

use of a pension offset as applicable;¹⁰ and developing a knowledge management website, expressly for the purpose of retaining knowledge before key employees are promoted or retire.

- **Action:** NRC is working with the General Services Administration to acquire additional off-site office space near its headquarters, for up to 300 staff by the late summer of 2008. Furthermore, most NRC regional offices are seeking new office space for additional staff in order to meet increased workload demands.

¹⁰ This flexibility allows NRC to rehire a retiree to fill a position at full pay if the agency has experienced difficulty in filling a position, or if a temporary emergency exists.

IV. CONCLUSION

The eight challenges contained in this report are distinct, yet are interdependent to accomplishing NRC's mission. For example, the challenge of managing human capital affects all other management and performance challenges.

The agency's continued progress in taking actions to address the challenges presented should facilitate successfully achieving the agency's mission and goals.

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SCOPE AND METHODOLOGY

This evaluation focused on the IG's annual assessment of the most serious management and performance challenges facing the NRC. The challenges represent critical areas or difficult tasks that warrant high level management attention. To accomplish this work, the OIG focused on determining (1) current challenges, (2) the agency's efforts to address the challenges during FY 2007, and (3) future agency efforts to address the challenges.

The OIG reviewed and analyzed pertinent laws and authoritative guidance. In addition, OIG conducted interviews with agency officials at NRC Headquarters and conducted interviews by telephone with agency officials in the four NRC regional offices. The purpose of the interviews was to identify current performance and management challenges and steps taken by the agency to address these challenges through planning and in daily operations. Since challenges affect mission critical areas or programs that have the potential to impact agency operations or strategic goals, NRC Commission members, the Executive Director for Operations and the Chief Financial Officer were afforded the opportunity to share any information and insights on this subject.

OIG conducted this evaluation from June through August 2007. The major contributors to this report were Steven Zane, Team Leader, Beth Serepca, Team Leader, Sherri Miotla, Team Leader, Vicki Foster, Audit Manager, Michael Steinberg, Senior Auditor, and Lori Konovitz, Senior Analyst.