

## **The Honorable Jeff Duncan**

1. I understand that the Nuclear Energy Institute recently released a report detailing a problematic trend in NRC reviews for activities such as license renewal and power uprates. The report explained that the more experience the agency has the more costly and time-consuming the reviews become. That approach doesn't work in business and the same goes for the Federal government. Would you elaborate on this and provide your suggestions for how this trend could be reversed.

The road to clean energy runs directly through the NRC. Thus, ensuring U.S. leadership in nuclear energy places the NRC in a central and decisive role. To evaluate the NRC's performance over time, NEI examined public records providing information on the duration and costs associated with NRC's review of applications for power uprates, license renewals, design certifications, and early site permits. We found that, despite the well understood technology of light water reactors used by the commercial nuclear industry during the last 50 years, NRC's processes have become more cumbersome and costly, rather than more efficient.<sup>1</sup> We believe that one important contributing factor to this trend is the agency's penchant for diverting its focus (and consequently the focus of licensees and applicants) from safety significant activities to those that have a negligible effect on safety.

Although the NRC has taken some positive steps to increase efficiency, additional actions are necessary because the NRC's persistent drive toward zero risk—rather than adequate protection of public health and safety—too often stands in the way of nuclear energy making the “maximum contribution to the general welfare.” For example, NEI's review of publicly available information revealed that reviews have doubled, tripled, and even quadrupled in cost and length, not decreased as would be expected. Indeed, the NRC's own data<sup>2</sup> shows that the agency is applying 50 percent more resources for subsequent license renewals than it applied to initial license renewals, despite the scope of subsequent license renewal reviews being only a fraction of the scope of initial license renewal review. And according to the NRC's generic review schedule, even the simplest licensing actions are given a review schedule of one to two years.<sup>3</sup>

These problematic trends must be reversed if we are to deploy a new generation of clean, efficient, and reliable nuclear energy facilities and we very much appreciate the Committee looking into these issues. NEI has identified several specific actions and performance metrics which would result in more efficient NRC reviews. Many of these actions are outlined in our recent responses to requests from this Committee<sup>4</sup> and the Senate Select Committee on Intelligence.<sup>5</sup> Additionally, we were pleased to see the recent proposal<sup>6</sup> by two NRC Commissioners that aims to develop transparent, detailed, and objective performance metrics. We believe developing and publicly tracking such performance metrics will result in a renewed focus on efficiency as the NRC carries out its safety and security mission. This transparency,

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<sup>1</sup> NEI, “Examination of NRC Review Performance” (June 2023), available at <https://www.nei.org/resources/reports-briefs/examples-of-nrc-performance>

<sup>2</sup> NEI, “Examination of NRC Review Performance” (June 2023), available at <https://www.nei.org/resources/reports-briefs/examples-of-nrc-performance> and “Is the NRC Ready to Meet the Moment?” (June 2023), available at <https://www.nei.org/news/2023/is-the-nrc-ready-to-meet-the-moment>

<sup>3</sup> NRC, <https://www.nrc.gov/about-nrc/generic-schedules.html>

<sup>4</sup> Letter from M. Korsnick, NEI, to Chair Rodgers, Chair Duncan, Ranking Member Pallone, and Ranking Member DeGette, House Energy and Commerce (May 4, 2023).

<sup>5</sup> Letter from M. Korsnick, NEI, to Chair Warner, Senate Select Committee on Intelligence (June 2, 2023).

<sup>6</sup> NRC, Commission Paper from Commissioners Wright and Caputo: Measuring NRC Success (August 29, 2023), available at <https://www.nrc.gov/docs/ML2324/ML23241B013.pdf>

along with a focus by the staff and Commission on process efficiency, can enable real progress. It will take tangible progress on each of the actions outlined in our responses to the Congressional committees and the recent NRC Commissioner proposal to enable nuclear power to play a key role in meeting our clean energy and energy security goals.

2. As you reflect on the discussion at the hearing, please provide any additional comments you believe would be useful for improving the proposed legislation or our broader work to improve NRC licensing and oversight of existing and advanced reactors?

We were very encouraged by the proposed legislation discussed in the hearing. As the Committee further considers these proposals, we would encourage members to look for opportunities to integrate some of the specific recommendations that were discussed by the witnesses, as well as recommendations received in response to the Committee's April 17, 2023, request for information from nuclear energy stakeholders. As discussed in our written testimony submitted to support the July 18, 2023, hearing before the Subcommittee on Energy, Climate, and Grid Security NEI urges Congress to address the following critical actions:

- Modernize the NRC regulatory process.
- Establish a secure, reliable, domestic fuel supply.
- Surmount financing obstacles facing domestic plant development.
- Support U.S. competitiveness in the global nuclear market.
- Reauthorize the Price-Anderson Act.
- Establish an integrated approach to used fuel management.

We would be pleased to work with your staff to further discuss these ideas.

One key issue discussed at the hearing and in my written testimony, concerns the NRC's extensive hearing process, which includes the opportunity for *both* a trial-type *contested* hearing on safety and environmental issues, and a mandatory *uncontested* hearing. Notably, the public can participate in the contested hearing, but the mandatory uncontested hearing does not include public participation. It was added to the Atomic Energy Act in 1957 to address concerns about a lack of transparency in early licensing decisions. The mandatory hearing has outlived its useful purpose and unnecessarily adds 4-7 months and several millions of dollars to the licensing process. For example, this unnecessary hearing has delayed the NRC's approval of the construction permit for the Kairos Hermes reactor by several months.

There was clear agreement among both industry and NRC witnesses at the July 18 Subcommittee hearing that the mandatory hearing requirement adds virtually no value to the NRC's licensing process from a safety perspective, and that such a hearing could be eliminated without eroding public confidence. In fact, as the NRC witness at the July 18 Subcommittee hearing acknowledged, on June 9, 2008, the Commission provided then-Speaker of the House Nancy Pelosi with a legislative proposal to amend the Atomic Energy Act and eliminate the mandatory hearing requirement. We also note that the Efficient Nuclear Licensing Hearings Act – legislation referenced in the July 14, 2023, hearing memorandum – also proposes an

amendment to the Atomic Energy Act that would eliminate the mandatory hearing.<sup>7</sup> We support elimination of the mandatory hearing requirement.

3. I'd like to help restore an NRC culture of achievement that, of course, assures adequate safety for the public but with a broader measure on the benefits of nuclear.
  - a. What potential legislative or oversight actions might we consider helping develop at NRC a culture of achievement, in keeping with the Atomic Energy Act goals?

To restore a culture of achievement at the NRC, there must be a broad recognition that NRC's regulatory and licensing processes not only provide adequate protection of public health and safety, but also facilitate achievement of the policy goal announced in the Atomic Energy Act of 1954 that nuclear energy make the "maximum contribution to the general welfare." We believe the NRC can achieve both objectives. We encourage Congress to direct the Commission to update its mission statement to drive more timely and efficient licensing reviews of U.S. advanced nuclear technologies. Doing so would not detract from NRC's focus on safety. Notably, we **do not** believe that providing such direction requires an amendment to the Atomic Energy Act.

In enacting the Atomic Energy Act of 1954, as amended (the Act or AEA), Congress declared it to be "the policy of the United States that . . . the development, use, and control of atomic energy shall be directed so as to make the maximum contribution to the general welfare, subject at all times to the paramount objective of making the maximum contribution to the common defense and security." Although Congress later separated the Atomic Energy Commission's regulatory and promotional functions, that separation did not change the overall U.S. policy with respect to the use of atomic energy.

Today, however, the NRC's mission focuses solely on the safety and security of nuclear plants and omits any commitment to execute that mission efficiently, which is necessary to avoid unnecessarily hindering the broader U.S. energy policy goal of maximizing nuclear energy's contribution to the general welfare. This omission has fostered a drive toward "zero risk" and unnecessarily burdensome regulatory practices. As we look toward the future, it is essential that the NRC staff understand the key role that the agency plays in ensuring nuclear energy's contribution to the general welfare. The core value of efficiency must be reintegrated into the NRC's mission and culture. Now, at a time when nuclear power is essential to national security, electricity reliability, electricity affordability, and our nation's goals for a clean energy economy, it is essential that Congress reinforce these original intentions of the Act. Enclosure 1 of our May 4, 2023 letter to Chair Rodgers, Chair Duncan, Ranking Member Pallone, and Ranking Member DeGette, provides more details on how this can be achieved.

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<sup>7</sup> Memorandum, *Hearing entitled "American Nuclear Energy Expansion: Updating Policies for Efficient, Predictable Licensing and Deployment,"* July 14, 2023.

## **The Honorable Rick W. Allen**

1. The discussion draft for the Nuclear Licensing Efficient Act includes a provision that would amend the Nuclear Energy Innovation and Modernization Act (NEIMA) to require the NRC to review, assess, and revise, as appropriate, licensing performance metrics and milestone schedules required under the NEIMA to provide the most efficient performance metrics and milestone schedules reasonably achievable.
  - a. Could you each explain what implications this could have for the industry, and how this goal of providing the most efficient performance metrics and milestone schedules could best be achieved?

We appreciate Congressional support to streamline regulatory permitting and licensing processes, as proposed in the Nuclear Licensing Efficiency Act. The lack of regulatory efficiency leads to excessive cost, a lack of predictability, and will hinder deployment. Regulatory risk stands in the way of the commitments – and the private investment – that industry needs to meet demand. Establishing efficient performance metrics and milestone schedules will reduce regulatory risk and provide the predictability and timeliness needed for reactor operators and developers. If nothing changes the industry won't be able to meet demand. Since the time of the hearing, we were pleased to see the recent proposal<sup>8</sup> by two NRC Commissioners that aims to develop transparent, detailed, and objective performance metrics. It will take tangible progress on ideas such as these to enable nuclear power to play a key role in meeting our clean energy and energy security goals.

The objectives of this bill are a high priority for the nuclear industry. We believe the timeframes associated with the NRC's review processes provided in the bill could be further improved to be even more efficient.

We believe that further updates to the NRC's processes are appropriate to help achieve the following license review schedules:

With respect to an application that is docketed seeking issuance of a construction permit, operating license, or combined construction permit and operating license for a production facility or utilization facility, the Commission shall include the following improvements which can be modified to be shorter or longer with the consent of the NRC and the applicant:

- Undertake an environmental review process and complete any final environmental impact statement to the maximum extent practicable within 18 months after the application is accepted for docketing. To aid in meeting this deadline, the Commission shall develop procedures to allow use of an applicant's environmental report as a draft environmental impact statement (consistent with section 107(f) of the National Environmental Policy Act).
- Complete the technical review process and issue any safety evaluation report to the maximum extent practicable within 18 months after the application is accepted for docketing.

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<sup>8</sup> NRC, Commission Paper from Commissioners Wright and Caputo: Measuring NRC Success (August 29, 2023), available at <https://www.nrc.gov/docs/ML2324/ML23241B013.pdf>

- Complete the environmental review and technical review processes and issue a decision on the requested permit, license, or certification no later than 24 months after the application is docketed.