

June 23, 2006

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: Stephen D. Dingbaum */RA/*
Assistant Inspector General for Audits

SUBJECT: MEMORANDUM REPORT: AUDIT OF NMSS'
PROCEDURES FOR PROCESSING INSPECTION
GUIDANCE (OIG-06-A-13)

As part of the Office of Inspector General's (OIG) audit on fuel cycle facilities, auditors identified an issue that warrants your attention. The Office of Nuclear Materials Safety and Safeguards (NMSS) lacks adequate management controls to ensure that new or revised inspection guidance, such as inspection manual chapters, inspection procedures, and temporary instructions are published, noticed, and implemented.

NMSS can ensure that new or revised inspection procedures within its purview are published, noticed, and implemented by (1) revising its policy and procedures letter for processing inspection guidance and (2) reaching a formal agreement on roles, responsibilities, and authorities between NMSS and the Office of Nuclear Reactor Regulation (NRR).

BACKGROUND

Through NMSS, the Nuclear Regulatory Commission (NRC) regulates the uses of nuclear materials in medical, industrial, and academic settings; facilities that produce nuclear fuel; and the transportation, storage, and disposal of nuclear materials and waste. The agency ensures safety in these areas by using a combination of regulatory requirements including inspection, assessment of performance, and enforcement. NRC obtains objective information through its inspection program that permits the agency to assess whether its licensees are operating safely in accordance with NRC regulations.

NRC's inspection manual is a compilation of documents that defines the policies, procedures, and programs for conducting inspections. The inspection manual includes, but is not limited to, the following:

- Inspection Manual Chapters - Documents containing written administrative or inspection program statements of policy. A manual chapter for an inspection program defines the program through a listing of inspection procedures, which is normally appended to the manual chapter.
- Inspection Procedures – Description of the activities to be performed by an inspector, including the inspection requirements, inspection guidance, and estimate of resources needed.
- Temporary Instructions - Temporary inspection procedures focused on current safety issues or concerns. Temporary Instructions are issued to supplement an inspection program and are generally in effect for 12 months, but not longer than 24 months.

PURPOSE

The audit's objective was to determine whether NMSS has assurance that its inspection guidance is effectively and efficiently published, noticed, and implemented.

FINDING

While NMSS has policy and procedures for processing inspection guidance, it lacks the management controls to ensure that new or revised inspection guidance under its purview is published, noticed, and implemented. Because NMSS' procedures are incomplete and dependent on informal understandings, NMSS is dependent on people and not a process. As a result, managers and inspectors risk using outdated or incorrect inspection guidance and not carrying out inspections as expected.

Inspection Guidance Policy and Management Controls

NRC Manual Chapter 0040 (MC 0040), *Preparing, Revising, and Issuing Documents for the NRC Inspection Manual*, is agencywide guidance that establishes the format and basic requirements for preparing and obtaining comments for all NRC inspection manual documents. MC 0040 designates NRR as the overall manual coordinator for updating the inspection manual and assuring the availability of inspection program documents on NRC's website.

NMSS has guidance, Policy and Procedures Letter 1-76 (1-76), *NMSS Procedures for Processing Inspection Manual Chapters and Inspection Procedures*, that specifically designates the Rulemaking and Guidance Branch (RGB), within the Division of Industrial and Medical Nuclear Safety, with coordinating the review and revision of all inspection-related documents under

NMSS purview. Within RGB, a staff member is designated as the coordinator for tracking inspection guidance status, needed reviews, and due dates. More specifically, the RGB coordinator is responsible for 1) initiating and coordinating the review of new and revised inspection-related documents by or for the responsible NMSS technical division, 2) coordinating requests for comment to organizations other than the responsible technical division, and 3) working with the responsible technical division as needed or requested to resolve these comments.

Once all the comments are resolved and the document is reviewed, NMSS is to take the final steps to approve the inspection guidance. The responsible NMSS technical division's management should review, concur, and forward the final draft document to the RGB coordinator. The RGB coordinator should then prepare a package containing a completed Document Issuing Form,¹ the latest redline/strikeout version, and a comment resolution summary. The RGB coordinator is to forward this package to the RGB section and branch chiefs for review and signature before forwarding the completed package to NRR.

To ensure that programs are implemented as intended, agency management has the responsibility for establishing and maintaining internal controls. Internal controls, which are synonymous with management controls, are defined as organization, policies, and procedures and are tools to help program managers achieve results and safeguard the integrity of their programs. Establishing and maintaining management controls to achieve the objectives of effective and efficient operations and compliance with applicable laws and regulations is the goal of the Office of Management and Budget's Circular A-123 (A-123), as revised, *Management's Responsibility for Internal Control*. According to A-123, management should have a clear, organized strategy with well-defined documentation processes, and information should be communicated to relevant personnel at all levels within an organization. Management controls should support the effectiveness and integrity of every step of the process and provide continual feedback to management.

The Inspection Guidance Procedures Lack Adequate Management Controls

NMSS does not have adequate management controls to ensure that inspection guidance is published, noticed, and implemented. NMSS staff do not always follow the procedures set forth in 1-76 for publishing inspection guidance. Furthermore, the procedure for noticing and implementing inspection guidance lacks a consistent method, tracking is not all encompassing, and feedback throughout the process is stymied. In addition, staff are relying on an informal understanding reached by current NMSS and NRR staff regarding roles, responsibilities, and authorities between the two offices.

¹ Document Issuing Form (DIF) – The DIF is the form that submits the final revised document to NRR for incorporation into the NRC inspection manual and eventual posting on the NRC website.

Publishing Inspection Guidance

NMSS staff members do not always follow the policy and procedures set forth in 1-76. While the RGB coordinator is responsible for initiating and coordinating the review of new and revised inspection guidance, staff members sometimes bypass the coordinator and submit documents directly to NRR. Staff gave a variety of reasons for bypassing the RGB coordinator. For example, staff said that sending documents through RGB is a burden and delays issuing the guidance. However, if the RGB coordinator is not aware of inspection guidance documents, the coordinator cannot include the documents in his tracking system thus reducing management's control over such documents.

For example, OIG informed NMSS of an incident involving an inspection manual chapter that appeared to be outside of management's control. According to language in NUREG-1100, Volume 21, *Performance Budget, Fiscal Year 2006*, inspection manual chapter 2600 had been revised in fiscal year 2004. However, during the course of this audit, the updated version of 2600 had not yet been posted to the agency's inspection manual website. The RGB coordinator thought that it was to be posted on the website and had no information as to the status of 2600. The revised inspection manual chapter 2600 had been misplaced for over a year and a half,² with resulting confusion over who actually has responsibility for the document or what is being done to it. Furthermore, all inspectors are not using the same version of inspection manual chapter 2600.

While inspection manual chapters are important, inspectors are more concerned with the inspection procedures. Inspection manual chapters show inspectors how to run a program and contain tables that show the inspection procedures and associated hours. Inspection procedures identify where the inspectors should assign their time. More specifically, inspection procedures identify what inspectors should look at and how long it will take them. According to an NMSS staff member, many inspection procedures associated with inspection manual chapter 2600 are being revised. And, the revisions will follow the same process used for revising inspection manual chapter 2600. While the confusion with 2600 is not critical, NRC's inspection program could be adversely affected by following the same path to revise inspection procedures.

Noticing and Implementing Inspection Guidance

The procedure for noticing and implementing inspection guidance lacks a consistent method. Some staff learn that inspection guidance has been posted to the NRC website because the NRR inspection manual coordinator *usually* sends an e-mail to the RGB coordinator and other NMSS staff advising them of the posting. Other staff noted that they learn inspection guidance has been posted by checking NRC's website. Staff also have differing opinions on when inspection guidance becomes official and should be implemented. Most staff believe that revised inspection guidance is not official until they are informed of

² Effective May 9, 2006, the revised inspection manual chapter 2600 was posted to the agency's inspection manual website.

such by their management and the inspection guidance is posted on NRC's website. However, other staff commented that inspection guidance becomes official once NMSS management approves it.

Lack of Tracking and Feedback

The RGB coordinator's method for tracking inspection guidance is not all encompassing because the database 1) tracks inspection guidance only to the point of forwarding the guidance document to NRR for publication and 2) does not include data on inspection guidance status should NRR reject the document and return it to NMSS for additional work. Moreover, the RGB coordinator's Access-based tracking system presents challenges as it resides only on the RGB coordinator's desktop, making it impossible for anyone but the RGB coordinator to access the database.

Shortcomings in the guidance and tracking system have manifested into a lack of feedback. RGB officials stated that they do not keep the responsible technical division informed after forwarding a document package to NRR, thus making the staff involved in the process unsure as to the status of a document after it has left their control. NMSS staff commented that once they forward a document to RGB, they receive no information regarding status of the draft inspection guidance.

Staff Rely on Informal Understanding Between NMSS and NRR

NRR is not bound by NMSS' 1-76. The 1-76 is a policy and procedure letter for NMSS staff only and does not provide guidance on the respective roles, responsibilities, and authorities between NMSS and NRR. While the NRR inspection manual coordinator has no guidance stating from whom in NMSS he should accept inspection guidance, he has agreed to accept it only from the RGB coordinator. The mutual understanding between the RGB coordinator and the NRR inspection manual coordinator (who is only temporarily in this position) is based on a discussion conducted by the two staff members. Thus, any agreement involving the offices is presently based upon an informal understanding between current personnel in NRR and NMSS and may not be adhered to by the next person filling either of the NMSS or NRR positions.

Recently, the informal understanding was not followed as demonstrated by NRR accepting for publication a temporary instruction directly from an NMSS technical division, by-passing the RGB coordinator.

Inspectors Risk Using Outdated Inspection Guidance

Due to inadequate procedures for processing and tracking inspection guidance and the reliance on informal understandings, NMSS is dependent on people and not a process. While 1-76 identifies the initiation process for creating or revising inspection guidance, it does not provide policy and procedures to the point that inspection guidance should be noticed and implemented by staff. Furthermore,

due to the lack of guidance or a formal agreement between NMSS and NRR, there have been two recent incidents that reduced the effectiveness and efficiency in the system for publishing, noticing, and implementing new and revised inspection guidance. As a result, managers and inspectors risk using outdated or incorrect inspection guidance and not carrying out inspections as management expects.

RECOMMENDATIONS

The Office of Inspector General recommends that the Director, NMSS:

1. Revise the NMSS policy and procedures letter 1-76 for processing inspection guidance to include the full scope of activities and management controls associated with publishing, noticing, and implementing inspection guidance.
2. Formalize an agreement between NMSS and NRR on roles, responsibilities, and authorities regarding the processing of inspection guidance.

AGENCY COMMENTS

At an exit meeting on June 14, 2006, NRC officials agreed with the report's findings and recommendations. NRC provided editorial suggestions for the report, which OIG incorporated as appropriate.

Please provide information on actions taken or planned on each of the recommendations within 30 days of the date of this memorandum. Actions taken or planned are subject to OIG follow-up, as stated in the attached instructions.

SCOPE AND METHODOLOGY

To accomplish the audit's objective, the OIG audit team reviewed NRC Manual Chapter 0040, *Preparing, Revising, and Issuing Documents for the NRC Inspection Manual*; NMSS' Policy and Procedures Letter 1-76, *NMSS Procedures for Processing Inspection Manual Chapters and Inspection Procedures*; and the Office of Management and Budget's Circular A-123, as revised, *Management's Responsibility for Internal Control*. The audit team reviewed other related documentation and interviewed managers and staff (including resident inspectors) in NMSS, NRR, and Region II. This work was conducted from January 2006 through April 2006 in accordance with generally accepted Government auditing standards and included a review of internal controls related to the objective of this audit. The work was conducted by Anthony Lipuma, Team Leader; Sherri Miotla, Audit Manager; James McGaughey, Senior Management Analyst; and Yvette Russell, Senior Auditor.

Attachment: As stated

cc: Chairman Diaz
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Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons

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