

September 28, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

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

SUBJECT: STATUS OF RECOMMENDATIONS: AUDIT OF NRC'S
PROCESS FOR RELEASING COMMISSION DECISION
DOCUMENTS (OIG-06-A-22)

REFERENCE: EXECUTIVE DIRECTOR FOR OPERATIONS' MEMORANDA
DATED MARCH 02, 2007, AND MARCH 15, 2007

Attached is the Office of the Inspector General's (OIG) analysis and status of recommendations as discussed in your memoranda dated March 2, 2007, and revised March 15, 2007. Based on your response, recommendation 1 is resolved. Our response to recommendation 2 will be issued after additional analysis and consideration. It will remain unresolved until that time and will be noted as such in OIG's next semi-annual report to Congress.

Please provide an updated status on Recommendation 1 by December 28, 2007. If you have any questions or concerns, please call me at 415-5915.

Attachment: Status of Recommendation

cc: V. Ordaz, OEDO
M. Malloy, OEDO
P. Tressler, OEDO

Audit Report

Audit of NRC's Process for Releasing Commission Decision Documents OIG-06-A-22

Status of Recommendations

Recommendation 1: Develop a program for NRC compliance with FOIA's automatic disclosure requirements.

Revised Agency Response
of March 15, 2007:

The Internal Commission Procedures were updated to include explicit consideration of the disclosure provisions of 5 U.S.C. 552 (a)(1) or (a)(2) (see enclosure). As a matter of practice, the Secretary reviews Staff Requirements Memoranda (SRMs) that have not been designated for public disclosure and the underlying paper to determine whether the documents could fall within the purview of one of the disclosure provisions of 5 U.S.C. 552 (a)(1) or (a)(2), and if they could, consults with the Office of General Counsel. If it is determined that they do fall within the automatic disclosure requirements, additional consultation will take place with the NRC staff regarding the need for any necessary redactions before release. We consider the actions to update the Internal Commission Procedures under this recommendation to be complete. The Office of Information Services is scheduled to complete revision of Management Directive 3.4, Release of Information to the Public by June 30, 2007, to explicitly require screening of Commission Decision Documents for compliance with 5 U.S.C. 552 (a)(1) and (a)(2).

OIG Analysis: OIG acknowledges the agency's continued efforts to address this recommendation – specifically, the revision to the Internal Commission Procedures to “include explicit consideration of the disclosure provisions of 5 U.S.C. 552(a)(1) or (a)(2).” However, designating the SECY as the authority for making FOIA disclosure determinations remains a concern for OIG.

As stated in OIG's response dated December 26, 2006, the SECY has no expertise to act as the authority responsible for identifying the applicability of 552(a)(1) or (a)(2) provisions to

Commission Decision Documents. Therefore, unless and until the SECY develops such expertise, input from OGC and OIS should be required.

Furthermore, it seems more appropriate to place a FOIA-related reference in Chapter II – Release of Documents Under FOIA, rather than in Chapter III – Record of Votes.

OIG will close this recommendation when:

1. Commission procedures are modified to reflect the involvement of OGC and OIS in all determinations; and
2. Management Directive 3.4 is finalized to address how documents will be screened for compliance with 5 U.S.C. 552 (a)(1) and (a)(2).

Status:

Resolved.