AUDIT REPORT

Audit of NRC's Process for Placing Documents
in the ADAMS Public and Non-Public Libraries

OIG-07-A-16 September 6, 2007

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September 6, 2007

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

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

SUBJECT: AUDIT OF NRC'S PROCESS FOR PLACING DOCUMENTS IN THE ADAMS PUBLIC AND NON-PUBLIC LIBRARIES (OIG-07-A-16)

Attached is the Office of the Inspector General's (OIG) audit report titled, *Audit of NRC's Process for Placing Documents in the ADAMS Public and Non-Public Libraries.*

This report presents the results of the subject audit. Agency comments provided at the exit conference on June 1, 2007, have been incorporated, as appropriate, into this report. The agency provided formal comments, which appear in Appendix C of the report.

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 Management Directive 6.1.

We appreciate the cooperation extended to us by members of your staff during the audit. If you have any questions or comments about our report, please contact me at 415-5915, or Beth Serepca, Team Leader, Security and Information Management Team, at 415-5911.

Attachment: As stated

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EXECUTIVE SUMMARY

BACKGROUND

The U.S. Nuclear Regulatory Commission (NRC) relies on an electronic recordkeeping system called the Agencywide Documents Access and Management System (ADAMS) to maintain its public and non-public official agency records. NRC staff decide whether official agency records should be publicly or non-publicly available based on agency criteria regarding document content. NRC historically has strived for openness with the public. Since the events of September 11, 2001, however, the agency has become more restrictive in what it makes available to the public.

ADAMS has four libraries. Two libraries, the ADAMS Main Library and the Legacy Library, are accessible to NRC staff but not to the public. These libraries contain both public and non-public records. The other two libraries, the Publicly Available Records System and the Public Legacy Library, contain public records only.

PURPOSE

The audit objective was to determine the effectiveness and consistency by which documents are profiled[1] and processed for entry into the public or non-public ADAMS libraries.

RESULTS IN BRIEF

NRC profiles most documents appropriately for inclusion in public versus non-public ADAMS libraries; however:

- The rationale for public versus non-public placements is not always clearly articulated in the agency's guidance, and documents are sometimes miscategorized.
- NRC needs to improve its quality control approach to ensure proper profiling of ADAMS records as public or non-public.

[1] Profile information is descriptive information about the record, such as document title, sensitivity, availability (public or non-public), document date, ADAMS accession number, and number of pages.

Rationale for Public Versus Non-Public Placements Is Not Always Clearly Articulated in Guidance

NRC profiles most ADAMS records appropriately as public or non-public. However, the Office of the Inspector General (OIG) found that agency guidance did not explain the basis for placing documents in the public or non-public libraries. The rationale for placing about 14 percent of the non-public documents and about 17 percent of the public documents was not clearly articulated in the guidance, and OIG also identified several specific instances of miscategorized documents. This lack of clear rationale in the public versus non-public profiling process occurs because agency guidance on the subject is not consolidated and, in some cases, is outdated. Furthermore, NRC does not offer training on making public versus non-public determinations. As a result, NRC risks releasing sensitive information to the public, which can impact public safety. The agency also risks unnecessarily withholding non-sensitive information, which can undermine public confidence in NRC as a fair and unbiased regulator.

Improved Quality Control Approach Is Needed To Ensure Proper Profiling of ADAMS Records

NRC needs to improve its quality control approach to ensure proper profiling of ADAMS records as public or non-public. Specifically, (1) the agency does not conduct regular reviews of all documents placed in ADAMS to ensure proper placement in either the public or non-public ADAMS libraries; (2) document originators do not always complete NRC Form 665, an agency requirement; and (3) some offices – which have instructed the Office of Information Services (OIS) to intercept their incoming mail, determine availability, and add it to ADAMS – do not routinely review whether OIS has made the appropriate availability determination or follow up on items designated non-public pending review.[2]

These conditions exist because the agency does not require documentation explaining why ADAMS documents were designated as public versus non-public and has not clearly communicated quality control expectations to staff. As a result, NRC cannot assess if it is meeting its criteria for ADAMS document profiling and risks both inappropriate release of information to the public and unnecessary withholding of information that should be publicly available.

[2] Non-public pending review is the category NRC uses to designate items as non-public until the responsible office reviews it and makes a final determination concerning public or non-public availability.

RECOMMENDATIONS

This report makes eight recommendations to support the public versus non-public profiling process for ADAMS records. A consolidated list of recommendations appears in Section V of this report.

AGENCY COMMENTS

At an exit conference held on June 1, 2007, agency managers provided comments concerning the draft report. We modified the report in response to the comments, as we deemed appropriate. NRC reviewed these modifications and opted to submit formal comments, which appear in Appendix C of this report.

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ABBREVIATIONS AND ACRONYMS

ADAMS	Agencywide Documents Access and Management System
E-RIDS	Electronic Regulatory Information Distribution System
MD	Management Directive and Handbook
NRC	U.S. Nuclear Regulatory Commission
OIG	Office of the Inspector General (NRC)
OIS	Office of Information Services
PII	Personally Identifiable Information
SUNSI	Sensitive Unclassified Non-Safeguards Information

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I. BACKGROUND

NRC has relied, since April 2000, on an electronic recordkeeping system called ADAMS to maintain its public and non-public official agency records.[3] As of March 2007, ADAMS held about 821,000 records. During the 6-month period from mid-September 2006 through mid-March 2007, an average of 5,883 new records were added to ADAMS each month, and about 50 percent of these were made public.[4]

ADAMS holds records generated both externally and internally. The term externally generated records refers to materials that are developed outside of the agency and sent to NRC. These items include correspondence from licensees, the public, other Federal agencies, research laboratories, and foreign governments. Internally generated records are materials developed within NRC such as correspondence to licensees or to the public, policy papers, bulletins, and inspection reports.

Public and Non-Public Records

NRC staff decide whether official agency records should be publicly or non-publicly available based on agency criteria regarding document content. NRC historically has strived for openness with the public. Since the events of September 11, 2001, however, the agency has become more restrictive in what it makes available to the public. Prior to September 11, the agency's policy was to automatically make information publicly available that was anticipated to be of interest to the public without anyone having to file a Freedom of Information Act request. Following September 11, the agency revised its standard for withholding information from the public to include information that "could reasonably be expected to be useful to terrorists in planning or executing an attack." Now,

[3] Official agency records are all books, papers, maps, photographs, and other documentary materials made or received by a Government agency in connection with the transaction of public business and preserved by that agency as evidence of the organization, functions, policies, decisions, procedures, operations, or other Government activities or because of the informational value of data they contain.

[4] ADAMS does not hold records containing classified, safeguards, or allegations information, and does not hold most Office of Investigations or Office of the Inspector General records or records on personnel matters. (Safeguards information specifically identifies the detailed security measures of a licensee or an applicant for the physical protection of special nuclear material; or security measures for the physical protection and location of certain plant equipment vital to the safety of production or utilization facilities.)

certain items that were once publicly available, such as information on plant configurations or conditions that could be useful to an adversary, are considered sensitive and are routinely designated as non-public.

ADAMS has four libraries. Two libraries, the ADAMS Main Library and the Legacy Library, are accessible to NRC staff but not to the public. These libraries contain both public and non-public records. The other two libraries, the Publicly Available Records System and the Public Legacy Library, contain public records only. NRC staff can access all ADAMS libraries via the agency's Intranet. Members of the public can access the public libraries via NRC's Website using a standard Web browser, but cannot access the non-public libraries.

OIS estimates it will spend $705,000 in FY 2007 to maintain and operate ADAMS, $730,000 to enhance the system, and $3 million for OIS activities related to processing documents into ADAMS records. There are currently 18 staff assigned to support system operations, enhancements, and program management and 2 staff working on the activities necessary to prepare a business case for replacing the current ADAMS system with new technology.

II. PURPOSE

The audit objective was to determine the effectiveness and consistency by which documents are profiled and processed for entry into the public or non-public ADAMS libraries. The audit was initiated in response to a letter sent to NRC's Inspector General by a public interest group. The letter reported several specific instances of NRC miscoding documents as non-publicly available when the items should have been publicly available. Appendix A contains information on the audit scope and methodology.

III. FINDINGS

NRC profiles most documents appropriately for inclusion in public versus non-public ADAMS libraries; however:

- The rationale for public versus non-public placements is not always clearly articulated in the agency's guidance, and documents are sometimes miscategorized.
- NRC needs to improve its quality control approach to ensure proper profiling of ADAMS records as public or non-public.

By consolidating agency guidance and improving agencywide quality control expectations, NRC will better assure that its records are designated public and non-public in accordance with agency guidance while protecting sensitive information from improper disclosure.

A. Rationale for Public Versus Non-Public Placements Is Not Always Clearly Articulated in Guidance

NRC profiles most ADAMS records appropriately as public or non-public. However, the Office of the Inspector General (OIG) found that agency guidance did not explain the basis for placing documents in the public or non-public libraries. The rationale for placing about 14 percent of the non-public documents and about 17 percent of the public documents was not clearly articulated in the guidance, and OIG also identified several specific instances of miscategorized documents. This lack of clear rationale in the public versus non-public profiling process occurs because agency guidance on the subject is not consolidated and, in some cases, is outdated. Furthermore, NRC does not offer training on making public versus non-public determinations. As a result, NRC risks releasing sensitive information to the public, which can impact public safety. The agency also risks unnecessarily withholding non-sensitive information, which can undermine public confidence in NRC as a fair and unbiased regulator.

Agency Guidance

NRC guidance to staff on what agency information should be publicly and non-publicly available is contained in Management Directive and Handbook (MD) 3.4, *Release of Information to the Public*; Yellow Announcement 2005-077, *Policy Revision: NRC Policy and Procedures for Handling, Marking, and Protecting Sensitive Unclassified Non-Safeguards Information (SUNSI)*; Yellow Announcement 2006-069, *Protection of Personally*

Identifiable Information; SECY-04-0191, *Withholding Sensitive Unclassified Information Concerning Nuclear Power Reactors from Public Disclosure*; and Attachment 2 to RIS 2005-31, *Control of Security-Related Sensitive Unclassified Non-Safeguards Information Handled by Individuals, Firms, and Entities Subject to NRC Regulation of the Use of Source, Byproduct, and Special Nuclear Material.*

Last revised in December 1999, MD 3.4 states that it is NRC's policy to make available to the public as much as possible of its health and safety mission-related information. MD 3.4 includes a 53-page listing of office-specific products that should be routinely released to the public and several pages of materials that are not routinely released to the public. Products routinely released, according to MD 3.4, include inspection reports, correspondence related to license amendments, NRC bulletins and licensee responses, and Commission meeting transcripts. Products not routinely released, according to MD 3.4, include records sent to or received from foreign governments, correspondence with other Federal agencies, predecisional information, and routine administrative records.

The agency's SUNSI policy, issued in October 2005, focuses on seven categories of information that should not be released publicly. These categories are allegation information; investigation information; security-related information; proprietary information; Privacy Act information; Federal, State, Foreign Government, and International Agency Controlled Information; and sensitive internal information. SUNSI is defined as, "any information of which the loss, misuse, modification, or unauthorized access can reasonably be foreseen to harm the public interest, the commercial or financial interests of the entity or individual to whom the information pertains, the conduct of NRC and Federal programs, or the personal privacy of individuals."

NRC also directs employees to protect personally identifiable information from public release, in accordance with Office of Management and Budget guidance. According to Yellow Announcement 2006-069, personally identifiable information is information that can be used to identify or contact a person uniquely or can be traced back to a specific individual (i.e., a person's name in combination with other information such as relatives' names, postal address, home e-mail address, home or

cellular telephone number, social security number, date or place of birth, mother's maiden name, driver's license number, credit card information, or any information that would make the individual's identity easily traceable).

Inconsistencies and Miscategorizations Occur

NRC profiles most ADAMS records appropriately as public or non-public; however, some inconsistencies and miscategorizations occur.

Random Sample

Auditors randomly sampled 10 percent of the 6,559[5] public and non-public official agency records added to ADAMS in December 2006 to assess whether their public or non-public designation was in accordance with agency guidance.[6] This review found that the rationale for designating about 14 percent of the non-public documents and about 17 percent of the public documents as such was not clearly articulated in MD 3.4, SUNSI, or Personally Identifiable Information (PII) guidance. Auditors did not consider these items to be misplaced in either the public or non-public libraries, but instead focused on the absence of clear, criteria-based justification for making the documents publicly versus non-publicly available. The non-public placements were questioned by auditors because (1) similar items were available in public ADAMS, (2) the items were addressed to a public interest group, or (3) the item corresponded to an MD 3.4 category, suggesting it ought to be public. The public placements were questioned in most cases because (1) MD 3.4 did not mention the product type reviewed or (2) the submitting office was not listed in MD 3.4.

Examples of questionable non-public placements included an NRC letter to a Michigan public interest group which included the handwritten notation, "public," at the bottom or the page, non-sensitive inspection reports, and a county's emergency response plan, which the county considers public information. Examples of questionable public placements included materials corresponding to parts of the Code of Federal Regulations that are not listed in MD 3.4, such as correspondence related to license renewal or early site applications, information concerning a licensee's credit report, and

[5] The 6,559 figure includes both new records added to ADAMS and old "retrofit" records that predate ADAMS and which NRC has recently approved for scanning and inclusion in ADAMS.
[6] To conduct the review, auditors located the sampled documents in ADAMS, examined the content, and attempted to find criteria within MD 3.4, SUNSI, and PII guidance that would justify its placement in public or non-public ADAMS.

instrument calibration records for thermometers and gauges. Auditors did not perceive any risk associated with these public placements, but noted that the agency's criteria for making public placements did not explain why these placements would be proper.

Non-Random Examples

Auditors also learned of specific documents incorrectly profiled for public or non-public availability in ADAMS. In August 2006, a public interest group contacted OIG to relay two specific examples of documents miscoded as non-publicly available in ADAMS when they should have been publicly available. The representative said that this has happened before and that whenever it does, he contacts NRC to ask for a correction. In his experience, the agency always reviews and corrects the matter promptly; however, the errors caused him to question how many other documents are miscoded but not caught.

Auditors also identified examples of document types that were treated inconsistently in terms of the public or non-public designation. These included safety inspection reports, staff trip reports, and delegations of authority. Auditors could not determine any difference between these items that would justify this different treatment in terms of availability.

Another example of inconsistent treatment pertains to emergency preparedness exercise materials, which are sometimes placed into non-public ADAMS and sometimes not placed into ADAMS at all, depending on how the licensee submits them to NRC. In January 2007, a power plant licensee mailed information it deemed sensitive concerning an upcoming emergency preparedness exercise to NRC in accordance with agency requirements. The licensee requested that the document be non-public and, furthermore, that it not be provided to NRC exercise participants until after the exercise, which was to occur in April. This precaution was intended to enhance the integrity of the emergency preparedness exercise. While the letter was placed in non-public ADAMS in accordance with the licensee's request, it was also made available to all NRC staff without restriction, including those who would be exercise participants.

An NRC emergency preparedness inspector acknowledged that the agency is inconsistent in handling emergency preparedness exercise information submitted by licensees. He said that when a licensee provides this information in hard copy to an emergency preparedness inspector, it will not be placed in ADAMS at all, but

that when the licensee mails it to headquarters, it is placed in ADAMS. The inspector said that he and other inspectors have sought instruction from headquarters on how to handle emergency preparedness exercise materials, but it was never provided.

Guidance and Training Are Needed

Inconsistent and incorrect public and non-public designations are made because NRC has not provided consolidated, up-to-date guidance to staff on what items should be public or non-public and NRC does not offer training on the public versus non-public decisionmaking process.

Outdated Guidance

NRC guidance on making public versus non-public determinations is not consolidated and MD 3.4 is outdated and sometimes inaccurate.

It is essential that staff undertake a hierarchical approach to making public versus non-public determinations in that first, an employee must decide whether an item is sensitive per SUNSI or personally identifiable information criteria. If an item is sensitive it will need to be non-public; however, if it is not sensitive the employee must then apply MD 3.4 criteria to assess whether it should be made public.

Despite the importance of a hierarchical approach, it is not adequately addressed in agency guidance. First, MD 3.4 predates the agency's SUNSI and PII policies and therefore does not mention these sets of screening criteria. Second, neither the agency's guidance on SUNSI nor its guidance on PII fully describes the relationship among the three types of criteria. While PII guidance includes a reference to SUNSI, it does not mention MD 3.4, whereas SUNSI guidance refers to MD 3.4 but not to PII. Finally, NRC Form 665, *ADAMS Document Submission,* requires proof that a SUNSI review occurred for NRC-generated documents or packages being routed for concurrence and for paper documents and packages that contain a mix of paper and electronic documents submitted to ADAMS. However, the form does not require evidence that a personally identifiable information review was

conducted. Appendix B contains copies of two versions of Form 665 used by agency staff; 665P is used for packages[7] of documents added to ADAMS and 665S is used for single documents.

MD 3.4 also contains information that is no longer accurate. For example, this guidance states that power plant fire protection plans, Final Safety Analysis Reports, and emergency plans are routinely made public even though this is no longer the case. Organizational changes that have occurred since the directive's issuance in 1999 mean that office names and record types are not all reflected, and while MD 3.4 strives to be all-inclusive, it is not.

Because MD 3.4 is inaccurate, staff do not use it to make public versus non-public decisions. Instead, based on OIG's staff interviews, staff focus primarily on the need to protect sensitive information. When it comes to deciding what to release to the public, they rely on past practice, on-the-job experience, guidance from co-workers, and the concurrence process to make the right determination.

Agency comments provided subsequent to the exit conference stated that while MD 3.4 does not refer to PII because the directive predated this category of information as a Federal policy issue, MD 3.4 does refer to *personal information* as a screening criteria. In addition, the agency comments stated that MD 3.4 is currently being rewritten to include recent policy developments.

Training

NRC offers six ADAMS training courses, but none on the decisionmaking process for determining public and non-public availability. According to a headquarters training center staff member, the courses focus on the mechanics of ADAMS and not ADAMS related policies.

Impact on Safety and Public Confidence

As a result of document profiling inconsistencies and errors, NRC risks releasing sensitive information to the public, which can impact public safety. The agency also risks unnecessarily withholding non-sensitive information, which can undermine public confidence in NRC as a fair and unbiased regulator. During NRC's 2007

[7] A package stores a group of pointers to related documents. These may include a main document which is a cover letter, and one or more attachments. Large documents may be divided into smaller files that are packaged together to make them easier to work with.

Regulatory Information Conference, public stakeholders reiterated the importance of open communications with NRC, noting that public access to information remains a strong concern.

Recommendations

OIG recommends that the Executive Director for Operations:

1. Update MD 3.4 so it reflects the underlying principles of how to determine whether an official agency record should be public or non-public, and describes the relationship with other agency reviews for information sensitivity (e.g., personally identifiable information, SUNSI).

2. Create a supplemental guidance document that is updated routinely to include, to the extent practicable, categories of information routinely not made public.

3. After MD 3.4 and supporting guidance are updated and consolidated, conduct a training needs analysis and develop appropriate training for staff with responsibilities for determining whether ADAMS records should be publicly or non-publicly available.

B. Improved Quality Control Approach Is Needed To Ensure Proper Profiling of ADAMS Records

NRC needs to improve its quality control approach to ensure proper profiling of ADAMS records as public or non-public. Specifically, (1) the agency does not conduct regular reviews of all documents placed in ADAMS to ensure proper placement in either the public or non-public ADAMS libraries; (2) document originators do not always complete NRC Form 665, an agency requirement; and (3) some offices – which have instructed OIS to intercept their incoming mail, determine availability, and add it to ADAMS – do not routinely review whether OIS has made the appropriate availability determination or follow up on items designated non-public pending review.

These conditions exist because the agency does not require documentation explaining why ADAMS documents were designated as public versus non-public and has not clearly communicated quality control expectations to staff. As a result, NRC cannot assess if it is meeting its criteria for ADAMS document profiling and risks both inappropriate release of information to the public and unnecessary withholding of information that should be publicly available.

Quality Control Expectations

Quality control strategies are essential to ensure that staff follow agency guidance on when to profile ADAMS records as public or non-public. Such strategies include (1) regular reviews of ADAMS documents to determine how well staff are applying NRC's criteria for public and non-public designations, (2) provision of clear instructions to staff who have responsibilities associated with completing the public versus non-public portion of the ADAMS document profile, and (3) office verification and followup in cases where OIS profiles incoming mail as public, non-public, or non-public pending review and adds the document to ADAMS before the office has a chance to see it.

Agency guidance is limited on what quality control measures are needed to ensure that ADAMS documents are profiled correctly for public or non-public availability, although the agency does communicate some expectations in the *ADAMS Desk Reference Guide* and in ADAMS training courses. This guidance states that document originators[8] must complete NRC Form 665 for every

[8] Document originator is the term used to indicate the person who wrote the document and is therefore most familiar with the document content.

record added to ADAMS. This form asks the originator to verify that the SUNSI review occurred and to specify key profiling elements including whether the record is to be publicly or non-publicly available.

In addition, the guidance states that offices, regions, and OIS are jointly responsible for adding documents to ADAMS and ensuring that they are correctly profiled for public or non-public availability. This cooperative approach is particularly important for offices that instruct OIS to intercept their external mail and assign document availability as public, non-public, or non-public pending review. While OIS makes this initial designation based on instructions provided by the addressee office, the addressee office is then expected to review the profiles for appropriateness and make the final determination concerning these items. Until an office makes this final determination, the items will remain inaccessible to the public, even if the ultimate decision is to release them publicly.

Improved Quality Control Measures Are Needed

NRC needs to improve its quality control measures to ensure proper profiling of ADAMS records as public or non-public. Specifically, (1) NRC does not conduct regular reviews of all documents placed in ADAMS to ensure proper placement in either the public or non-public ADAMS libraries; (2) document originators do not always complete NRC Form 665 as required; and (3) some offices do not routinely review their external mail, which OIS profiles and adds to ADAMS, to verify and follow up on OIS's designation of these records as public, non-public, or non-public pending review.

No Regular Review of ADAMS Records

NRC does not conduct regular reviews of ADAMS records to assess whether their designation as public or non-public is appropriate. OIS assigns one full-time employee to perform quality control activities on ADAMS records. This employee reviews ADAMS profiles to ensure they are filled out completely, conducts searches to identify problem areas, and generates reports on the timeliness with which NRC records are made public. However, the employee does not attempt to assess whether agency staff are applying criteria correctly in designating records as public or non-public. According to agency comments provided subsequent to the exit conference, there are also many OIS employees and contractors who perform various ADAMS quality control activities as part of their routine duties.

OIG acknowledges that it would currently be difficult for NRC routinely to review whether ADAMS documents are profiled correctly as public or non-public due to a lack of information available to support such reviews. Document originators are not required to record their rationale for making a document public or non-public; yet, their justification for making items public versus non-public is not always readily apparent. Similar types of records are found in both public and non-public ADAMS, and it is not evident, based on the information in the ADAMS profile, why these placements were made. Other items in the public library do not fit any of the MD 3.4 categories and it is difficult to determine, in some cases, why a document was made public. For example, as part of its random sampling of ADAMS documents, OIG found four instrument calibration records in public ADAMS, but could not identify any MD 3.4 category that suggested this type of information ought to be public. An agency manager noted that calibration records are important in connection with planning for a high-level waste repository, which is an MD 3.4 category. The manager speculated that this could be the underlying rationale for placing the reports in public ADAMS, but was not certain.

Form 665 Not Completed

Despite agency guidance stating that document originators complete a Form 665 for every record added to ADAMS, this does not always occur. OIG interviewed 25 NRC employees in 16 offices who had job responsibilities associated with ADAMS records to assess their usage of Form 665. Staff from only seven offices reported routinely using Form 665 according to agency guidance (document originator completes form for each document submitted to ADAMS), while staff from the other nine offices described less frequent, inappropriate (e.g., Form 665 completed by administrative staff instead of document originator), or no usage of the form at all (see table 1 for a summary of office practices).

Table 1. Office Use of Form 665

Office Routinely Uses According to Agency Guidance	7
Office Sometimes Uses	4
Office Uses Alternative	2
Office Secretary Completes With Verbal Instruction From Document Originator	1
Office Secretary Completes With No Instruction From Document Originator	1
Office Does Not Use Form 665 or Alternative	1
TOTAL OFFICES ASSESSED	**16**

Profiles Not Reviewed

Although the process by which OIS profiles external mail depends on offices to review the profiles to verify they are correct and finalize items marked non-public pending review, a number of offices do not perform this review. After OIS assigns availability to intercepted mail based on office instructions, a notice is sent to the addressee and/or a predefined distribution list of NRC employees and organizations via the Electronic Regulatory Information Distribution System (E-RIDS) that the record is in ADAMS.

NRC recently discovered a backlog of approximately 16,000 documents assigned non-public pending review status, indicating that offices were not routinely reviewing their E-RIDS mailboxes to make final determinations on items marked non-pending public review.[9] OIS subsequently sent an e-mail to all offices asking them to take action concerning these documents. Offices were also reminded that to avoid future backlogs, E-RIDS mailboxes should be routinely checked so that items marked non-public pending review can be assigned final availability status. OIS could not provide a breakdown of how long the 16,000 documents had been awaiting this type of review, but an OIS employee said that some of the documents have been in that category since 2005.

[9] The OIS employee also explained that not all of the 16,000 documents represented incoming mail that OIS had screened and designated as non-public pending review. A portion of these are records created by staff and profiled as non-public pending review in order to flag these documents as still needing a final availability determination.

OIG interviewed staff from three headquarters offices that have OIS profile their external mail and found a lack of clarity concerning the E-RIDS review process:

- One individual reported regularly reviewing the E-RIDS mailbox and forwarding any E-RIDS notifications to the subject matter expert for review.

- Another reported that while the E-RIDS mailbox is checked several times daily, the notifications are not reviewed for non-public pending review status. Instead, the subject line is scanned and the item is forwarded to the office director who has an interest in the subject matter.

- Only one individual was aware of the E-RIDS review requirement; this was because her office had recently received the OIS e-mail reporting the backlog and she had been assigned to clear it up.

Agency Needs To Document and Maintain Rationale for Making Records Public and Non-Public and Better Communicate Expectations

NRC does not routinely assess whether NRC staff are correctly applying the agency's criteria for making records public or non-public because document originators are not required to record their rationale for designating a document as public or non-public. In addition, there is no tool to facilitate such a review. While Form 665 could serve as a useful tool on which to record the basis for why an item is designated as public or non-public, the form does not request this type of information. Finally, there is no requirement to retain the form.

In addition, NRC has not clearly communicated quality control expectations to staff. Although the *ADAMS Desk Reference Guide* and ADAMS training courses describe the importance of using Form 665, these materials do not convey requirements and there is no assurance that staff will be exposed to this information.

Also not clearly conveyed is the requirement for offices to review their E-RIDS mail to verify that OIS availability profiling is correct or make final determinations on incoming mail profiled as non-public, pending review. While this expectation was recently conveyed in the e-mail to staff describing the backlog of 16,000 documents in non-public pending review status, the E-RIDS notices themselves do not instruct the recipient that such a step is needed.

Essentially, there is no red flag alerting staff that a document is in need of further review prior to being assigned a permanent availability.

Agency Cannot Assess Its Practice

Because NRC does not routinely review its records to ensure that they are properly profiled as public or non-public, it cannot gauge how successfully the criteria are applied or identify trends in miscategorization. Furthermore, by not following up on documents profiled in ADAMS as non-public pending review, NRC risks leaving documents that should be made public in a non-public status for an indefinite period of time.

Recommendations

OIG recommends that the Executive Director for Operations:

4. Develop a mechanism to indicate the rationale for a public or non-public designation. This rationale should be sufficiently detailed to allow for an assessment of whether agency criteria are being applied correctly.

5. Require offices to use the mechanism developed in response to recommendation 4 to provide the rationale for public or non-public designation of official agency records.

6. Conduct periodic assessments of the accuracy with which NRC staff are applying the agency's criteria for designating records as public or non-public by assessing a random sample of records against the agency's criteria for making these determinations.

7. Inform NRC office directors of the number of non-public pending review documents that have been awaiting review by their office for at least 30 days.

8. Add a non-public pending review category to E-RIDS notifications and clarify the language in the notifications to convey the need to finalize the document availability as either public or non-public.

IV. AGENCY COMMENTS

At an exit conference held on June 1, 2007, agency managers provided comments concerning the draft report. We modified the report in response to the comments, as we deemed appropriate. NRC reviewed these modifications and opted to submit formal comments, which appear in Appendix C of this report.

V. CONSOLIDATED LIST OF RECOMMENDATIONS

OIG recommends that the Executive Director for Operations:

1. Update MD 3.4 so it reflects the underlying principles of how to determine whether an official agency record should be public or non-public, and describes the relationship with other agency reviews for information sensitivity (e.g., personally identifiable information, SUNSI).

2. Create a supplemental guidance document that is updated routinely to include, to the extent practicable, categories of information routinely not made public.

3. After MD 3.4 and supporting guidance are updated and consolidated, conduct a training needs analysis and develop appropriate training for staff with responsibilities for determining whether ADAMS records should be publicly or non-publicly available.

4. Develop a mechanism to indicate the rationale for a public or non-public designation. This rationale should be sufficiently detailed to allow for an assessment of whether agency criteria are being applied correctly.

5. Require offices to use the mechanism developed in response to recommendation 4 to provide the rationale for public or non-public designation of official agency records.

6. Conduct periodic assessments of the accuracy with which NRC staff are applying the agency's criteria for designating records as public or non-public by assessing a random sample of records against the agency's criteria for making these determinations.

7. Inform NRC office directors of the number of non-public pending review documents that have been awaiting review by their office for at least 30 days.

8. Add a non-public pending review category to E-RIDS notifications and clarify the language in the notifications to convey the need to finalize the document availability as either public or non-public.

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Appendix A

SCOPE AND METHODOLOGY

Auditors reviewed the ADAMS profiling process to determine the effectiveness and consistency by which documents are profiled and processed for entry into the public or non-public ADAMS libraries. This audit was initiated in response to a letter sent to NRC's Inspector General reporting two specific instances of NRC miscoding documents as non-publicly available when the items should have been publicly available.

The OIG audit team reviewed relevant criteria, including the ADAMS *Desk Reference Guide*; Management Directive 3.4, *Release of Information to the Public*; Yellow Announcement 2005-077, *Policy Revision: NRC Policy and Procedures for Handling, Marking, and Protecting Sensitive Unclassified Non-Safeguards Information (SUNSI)*; and Yellow Announcement 2006-069, *Protection of Personally Identifiable Information.*

Auditors interviewed OIS staff and document originators and administrative staff from 18 NRC offices, including the 4 NRC regional offices. Auditors also interviewed a public interest group representative and attended sessions addressing communications issues at the agency's 2007 Regulatory Information Conference.

Auditors analyzed a 10-percent random sample of all agency records added to ADAMS during December 2006 to determine the consistency by which documents are designated public and non-public according to current agency guidance. Auditors compared MD 3.4, SUNSI, and personally identifiable information criteria to each document to determine whether the agency's categorization seemed appropriate.

This work was conducted from December 2006 through March 2007, in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The work was conducted by Beth Serepca, Team Leader; Judy Gordon, Audit Manager; and Jaclyn Storch, Management Analyst.

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Appendix B.

Forms 665S and 665P

NRC FORM 665S (2-2005) U.S. NUCLEAR REGULATORY COMMISSION

ADAMS DOCUMENT SUBMISSION

Single Document

Originated By	Telephone	Mail Stop	LAN ID	Date

_____ Document No.
Document Title or Accession No.

☐ Is this a brief title that can be changed by DPC according to template instructions?
☐ Is this an exact title formatted according to template instructions that **should not be** changed by DPC?

Document AVAILABILITY *(select one)*
☐ **Publicly Available**
(Indicate release date)
☐ Immediate Release
☐ Normal Release
☐ Delay Release Until
_____ Date
☐ **Non-Publicly Available**

Document SENSITIVITY *(select one)*
☐ Sensitive ☐ Non-Sensitive
☐ Sensitive-Copyright ☐ Non-Sensitive Copyright

Document SECURITY ACCESS LEVEL
☒ Document Processing Center = Owner
☐ NRC Users = Viewer
☐ Limited Document Security *(Defined by User)*
_____ = Viewer
_____ = Viewer
_____ = Viewer

ADAMS Template No.	RIDS Code *(if applicable)*	Other Identifiers

SUNSI Review for Publicly Available Documents ONLY

COMPLETED BY ORIGINATOR:

☐ SUNSI Review has been completed. Initials _____
☐ Availability and Sensitivity on this Form 665 are correct. Initials _____
☐ SUNSI Review has **NOT** been completed (document is temporarily profiled as Non-Public). Initials _____

COMPLETED BY PERSON ADDING THE DOCUMENT TO ADAMS

☐ "SUNSI Review Complete" has been entered into Profile under Keyword Initials _____

OR

☐ SUNSI Review has **NOT** been completed "Non-Public Pending Review" has been entered into the Profile under Keyword Initials _____

Special Instructions

Submitted By:	Telephone	Mail Stop	LAN ID	Date submitted to DPC

Accession No. ML020170261

NRC FORM 665P (12-2006) U.S. NUCLEAR REGULATORY COMMISSION

ADAMS DOCUMENT SUBMISSION

If you have more than two documents in your package, copy this page as needed.

PACKAGE (Multiple Documents)

Originated By	Telephone	Mail Stop	LAN ID	Date

List below the Document Titles or Accession Numbers in the exact order they should be in the ADAMS Package

_____ Document No.
Document Title or Accession No.

☐ Is this a brief title that can be changed by DPC according to template instructions?
☐ Is this an exact title formatted according to template instructions that should not be changed by DPC?

Document **AVAILABILITY** *(select one)*
☐ Publicly Available
(Indicate release date)

Document **SENSITIVITY** *(select one)*
☐ Sensitive ☐ Non-Sensitive
☐ Sensitive-Copyright ☐ Non-Sensitive Copyright

☐ **SUNSI Review has been completed** (for Publicly Available Documents)

☐ Immediate Release
☐ Normal Release
☐ Delay Release Until

_____ Date

☐ Non-Publicly Available

Document **SECURITY ACCESS LEVEL**
☒ Document Processing Center = Owner
☐ NRC Users = Viewer
☐ Limited Document Security *(Defined by User)*
_____ = Viewer
_____ = Viewer
_____ = Viewer

Package Accession No.	ADAMS Template No.	RIDS Code *(if applicable)*	Other Identifiers

_____ Document No.
Document Title or Accession No.

☐ Is this a brief title that can be changed by DPC according to template instructions?
☐ Is this an exact title formatted according to template instructions that should not be changed by DPC?

Document **AVAILABILITY** *(select one)*
☐ Publicly Available
(Indicate release date)

Document **SENSITIVITY** *(select one)*
☐ Sensitive ☐ Non-Sensitive
☐ Sensitive-Copyright ☐ Non-Sensitive Copyright

☐ **SUNSI Review has been completed** (for Publicly Available Documents)

☐ Immediate Release
☐ Normal Release
☐ Delay Release Until

_____ Date

☐ Non-Publicly Available

Document **SECURITY ACCESS LEVEL** *(select one)*
☒ Document Processing Center = Owner
☐ NRC Users = Viewer
☐ Limited Document Security *(Defined by User)*
_____ = Viewer
_____ = Viewer
_____ = Viewer

ADAMS Template No.	RIDS Code *(if applicable)*	Other Identifiers

Submitted By	Telephone	Mail Stop	LAN ID	Date submitted to DPC

Accession No. ML020170279

Appendix C

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 20, 2007

MEMORANDUM TO: Stephen D. Dingbaum
Assistant Inspector General for Audits
Office of the Inspector General

FROM: Darren B. Ash
Deputy Executive Director
for Information Services
and Chief Information Officer
Office of the Executive Director for Operations

SUBJECT: AUDIT OF NRC'S PROCESS FOR PLACING DOCUMENTS IN THE ADAMS PUBLIC AND NON-PUBLIC LIBRARIES

The staff has reviewed the revised draft audit report on NRC's process for placing documents in the ADAMS public and non-public libraries and provides the following comments.

The revised Office of the Inspector General (OIG) report incorporates the majority of the staff comments discussed at the June 1, 2007 exit conference. We agree with the OIG's recommendations in the draft audit report and are taking steps to implement those recommendations.

The NRC recognizes the need to revise MD 3.4, "Release of Information to the Public," to enhance and improve the guidance for document classification, which resulted in OIG's findings of 14 percent of the non-public documents and about 17 percent of the public documents identified as misclassified. Staff is confident that had OIG had improved guidance, the percent of miscategorized documents identified in their audit would have been significantly lower.

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(301) 415-7545