

April 22, 2008

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
REGULATORY OVERSIGHT OF SPECIAL NUCLEAR MATERIALS
(OIG-03-A-15)

REFERENCE: DIRECTOR, OFFICE OF NUCLEAR MATERIAL SAFETY AND
SAFEGUARDS, MEMORANDUM DATED DECEMBER 7, 2007

Attached is the Office of the Inspector General's analysis and status of report recommendations as discussed in Michael Weber's memorandum dated December 7, 2007.

Based on the agency's response, recommendations 1 and 3 remain in a resolved status. These recommendations will be closed once the agency provides, and OIG verifies, information confirming that corrective actions have been finalized. Recommendation 2 was previously closed.

Additionally, based on the February 7, 2008, Commission approval of *Final Rule: Regulatory Improvements to the Nuclear Materials Management and Safeguards System*, recommendation 4 is closed. OIG commends the agency's effort to meet the intent of this recommendation; specifically, revising the rule to acknowledge the importance of tracking smaller quantities of nuclear materials. However, given the substantial differences between the former and revised reporting requirements, OIG is concerned about the one year delayed implementation of the rule. As a result, we intend to monitor how the agency plans to ensure proper accounting of the smaller quantities of special nuclear materials in the period between the February 2008 approval of the final rule and its January 2009 implementation.

OIG requests that NMSS provide an updated status of these recommendations by September 30, 2008. If you have any questions or concerns, please call me at 415-5915.

Attachment: As stated

cc: V. Ordaz, OEDO
J. Arildsen, OEDO
P. Shea, OEDO

Audit Report
Audit of NRC's Regulatory Oversight of Special Nuclear Materials
OIG-03-A-15

Status of Recommendations

Recommendation 1: Conduct periodic inspections to verify that material licensees comply with MC&A requirements, including, but not limited to, visual inspections of licensees' SNM inventories and validation of report information.

Agency Response
Dated December 7,
2007:

November 2007 Status

In the February 7, 2006, memorandum, OIG stated that two of the three conditions identified by OIG that needed to be met to close this recommendation have been satisfied. The remaining condition is that the agency needs to complete documentation of the basis for risk-informing the MC&A program (and apply it to the program) with respect to conducting periodic inspections. In a subsequent memorandum dated August 24, 2006, OIG requested an estimated completion date for this recommendation.

To enhance NRC oversight of inventories at reactor sites, NRC remains on schedule in its efforts to complete the transitioning of the current MC&A inspection effort from Headquarters oversight to Regional oversight by December 2007, consistent with what was discussed in the September 2006 update.

In SECY-05-0143, the staff recommended that the Commission approve the staff's proposed enhancements to MC&A regulations, inspections, and licensing. As discussed in the previous status report, in response to the associated staff requirements memorandum (SRM) to SECY05-0143 dated November 18, 2005, the staff has begun the development of an MC&A rulemaking plan, including the technical basis. Because of other competing priorities, including the necessary early commencement of rulemaking activities for the Geologic Repository Operations Area, which is a subset of the overall MC&A rulemaking effort, the staff received an extension to the initial scheduled date to provide the rulemaking plan to the Commission by March 2007. The new due date to provide the

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Status of Recommendations

Recommendation 1 (continued)

rulemaking plan is April 18, 2008. **[At the request of NRC management, the last two sentences of this paragraph, which the agency identified as Official Use Only, are redacted.]**

OIG Analysis:

The agency's latest update provides a comprehensive discussion of its plans to complete Condition 1. This detailed status report reflects the staff's on-going progress towards meeting the full intent of this recommendation. However, as previously noted, this recommendation cannot be closed until the proposed actions are completed and applied to the MC&A program. OIG will continue to monitor the agency's progress regarding these planned activities.

Status:

Resolved.

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Status of Recommendations

Recommendation 3: Document the basis of the approach used to risk inform NRC's oversight of MC&A activities for all types of materials licensees.

Agency Response
Dated December 7,
2007:

June 2006 Status

As discussed in Recommendation 1 above, the staff has begun the development of an MC&A rulemaking plan, and the rulemaking plan is scheduled to be provided to the Commission by April 2008. Assuming that the Commission accepts the rulemaking plan, it is anticipated that the final rulemaking plan will be provided to the Commission by approximately April 2009. Therefore, the documentation for the basis of the approach to risk inform NRC's oversight of MC&A activities for all types of materials licensees should be completed by October 2009.

OIG Analysis: The agency's response reflects the staff's continued progress towards completing this recommendation. OIG will close the recommendation when the agency provides the completed documentation of the basis for risk-informing the MC&A-related activities.

Status: **Resolved.**

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Status of Recommendations

Recommendation 4: Revise NRC regulations to require licensees authorized to possess SNM, and not currently required to do so, to conduct annual inventories and submit an annual Material Status Report or Physical Inventory Summary Report to NRC.

Agency Response
Dated December 7,
2007:

June 2006 Status

The staff provided a proposed rule to the Commission in December 2006. This rule change included the requirements that all licensees possessing one gram or more of SNM would submit a completed Material Status Report and Physical Inventory Listing to NRC annually. The final rule remains on schedule to be provided to the Commission by December 2007.

OIG Analysis:

Subsequent to the agency's response, OIG determined that the final rule was approved by the Commission on February 7, 2008. OIG notes that by way of the Commission's approval, NRC agreed to the Department of Energy's request to delay implementation of the final rule for one year rather than the usual 90 days after publication.

OIG commends the agency's actions to meet the intent of this recommendation; specifically, revising the rule to acknowledge the importance of tracking smaller quantities of nuclear materials. Therefore, based on the Commission's approval of the final rule, this recommendation is closed. However, given the substantial differences between the former and revised reporting requirements, OIG is concerned about the one year delayed implementation of the rule. As a result, OIG intends to monitor how the agency plans to ensure proper accounting of the smaller SNM quantities in the period between the Commission's February 2008 approval of the final rule and its January 2009 implementation.

Status:

Closed.