



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

OFFICE OF THE
INSPECTOR GENERAL

May 1, 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 THE NRC
BYPRODUCT MATERIALS LICENSE APPLICATION AND
REVIEW PROCESS (OIG-06-A-11); AND
SUMMARY REPORT AND PERSPECTIVES ON
BYPRODUCT MATERIAL SECURITY AND CONTROL
(OIG-07-A-12)

REFERENCE: DIRECTOR FOR THE OFFICE OF FEDERAL AND STATE
MATERIALS AND ENVIRONMENTAL MANAGEMENT
PROGRAMS MEMORANDUM DATED MARCH 31, 2008

Attached is the Office of the Inspector General (OIG) analysis and status of three recommendations from two OIG reports as discussed in the agency's response dated March 31, 2008. Based on this response, Recommendations 1 and 2 from OIG-06-A-11 and Recommendation 1 from OIG-07-A-12 remain resolved. Please provide an updated response regarding this memo by October 30, 2008.

If you have questions or concerns, please call me at 415-5915 or Tony Lipuma at 415-5910.

Attachment: As stated

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

Audit Report

Audit of the NRC Byproduct Materials License Application and Review Process OIG-06-A-11

Status of Recommendations

Recommendation 1: Conduct a complete vulnerability assessment of the materials program, including of the license application and review process and the methods used by licensees to purchase byproduct material from sellers.

Response Dated
March 31, 2008:

The U.S. Government Accountability Office (GAO) used a covert operation to obtain an U.S. Nuclear Regulatory Commission (NRC) radioactive materials possession license using falsified information. GAO was then able to modify the license to increase the authorized possession limit using commercially-available computer programs. GAO outlined its covert operation in their testimony, "Actions Taken by NRC to Strengthen Its Licensing Process for Sealed Radioactive Sources Are Not Effective (GAO-07-1038T)." In response to the GAO's recommendations, as well as recommendations of the NRC's OIG, NRC staff developed a comprehensive action plan. The action plan, as documented in SECY-07-0147, "Response to U.S. Government Accountability Office Recommendations and Other Recommendations to Address Security Issues in the U.S. Nuclear Regulatory Commission Materials Program," outlined a complete vulnerability assessment of the materials program to be performed by three groups: (1) the Pre-licensing Guidance Working Group, (2) the Independent External Review Panel to Identify Vulnerabilities in NRC's Materials Licensing Program (the Panel), and (3) the Materials Program Working Group (MPWG).

The Pre-licensing Guidance Working Group was reconstituted to revise the NRC's pre-licensing guidance to address the vulnerability demonstrated by the GAO's covert operation. GAO similarly attempted to obtain a radioactive materials license from the Agreement State of Maryland. GAO's attempt was thwarted by Maryland's policy for conducting pre-licensing visits. The revised pre-licensing guidance was issued to the NRC Regional Offices and Agreement States on January 15, 2008. The revised pre-licensing guidance requires pre-licensing site visits for applicants that meet certain criteria. Training on the revised

Audit Report

Audit of the NRC Byproduct Materials License Application and Review Process OIG-06-A-11

Status of Recommendations

Recommendation 1 (continued):

guidance was provided to NRC Regional Offices and Agreement States. Implementation of a 3-month pilot period began on February 11, 2008. The Pre-licensing Guidance Working Group will re-evaluate the revised guidance based on any feedback received as a result of the pilot period. The final pre-licensing guidance is expected to be issued in summer 2008.

The Commission chartered the Panel, a new, short-term advisory committee, on October 2, 2008. The Panel was charged with identifying existing and potential security vulnerabilities related to NRC's import, export, specific, and general license programs. The Panel is discussed in more detail below.

The MPWG was chartered to develop short- and long-term strategies to address existing and potential security vulnerabilities in NRC's materials licensing program. The MPWG was charged with developing short-term strategies to address license verification, counterfeiting, and the general license (GL) program. The MPWG issued its recommendations on improvements to license verification, counterfeiting, and the GL program. FSME is currently developing a strategy to implement the MPWG's recommendations. The MPWG was also tasked with reviewing the Panel's final report and suggesting actions to implement the Panel's recommendations. The MPWG is also performing a comprehensive assessment of NRC's materials licensing program. The MPWG's final report, detailing its comprehensive assessment, will be issued by the end of NRC Fiscal Year 2008.

We believe that the aggregation of each of these groups' independent assessments will provide a complete and comprehensive vulnerability assessment of the NRC's materials licensing program. This recommendation should remain open, pending completion of the three groups' independent assessments.

Audit Report

Audit of the NRC Byproduct Materials License Application and Review Process OIG-06-A-11

Status of Recommendations

Recommendation 1 (continued):

OIG Analysis: The actions taken to date and the remaining actions proposed by the agency continue to meet the intent of the recommendation. OIG will monitor the actions taken and will close the recommendation when the agency has issued final pre-licensing guidance, developed a plan to address the vulnerabilities identified by the Commission-chartered Panel, developed a strategy to implement the MPWG recommendations, and issues a final MPWG report.

Status: Resolved.

Audit Report

Audit of the NRC Byproduct Materials License Application and Review Process OIG-06-A-11

Status of Recommendations

Recommendation 2: Modify the license application and review process to mitigate the risks identified in the vulnerability assessment.

Response Dated
March 31, 2008:

As described above, the NRC has already implemented a number of actions that will address vulnerabilities in the materials licensing program. The NRC is developing a strategy to implement various other actions. The vulnerabilities are being addressed in a risk-informed manner. As additional recommendations are made, the licensing program will be enhanced accordingly. The length of time required to implement all of the enhancements will depend on the number and scope of the recommendations. This recommendation should remain open, pending resolution of the recommendations of the Panel and the MPWG.

OIG Analysis:

The actions proposed by the agency meet the intent of the recommendation. OIG will monitor the actions taken and will close the recommendation when the agency has: (1) implemented its plan to address the vulnerabilities identified by the Commission-chartered Panel, (2) issued a final MPWG report, and (3) implemented its strategy and plan(s) to address the MPWG's current and final recommendations.

Status:

Resolved.

Audit Report

Summary Report and Perspectives on Byproduct Material Security and Control OIG-07-A-12

Status of Recommendations

<u>Recommendation 1:</u>	Convene an independent panel of experts external to the agency to identify agency vulnerabilities concerning NRC's material licensing and tracking programs and validate the agency's ongoing byproduct material security efforts.
Response Dated September 24, 2007:	<p>On October 2, 2007, the NRC chartered the Panel, a new, short-term advisory committee to identify vulnerabilities in the NRC's materials licensing program. The Panel was chaired by a former Agreement State program director and had members from the NRC's Advisory Committee on Nuclear Waste and Materials and the Defense Threat Reduction Agency. Over the course of 6 months, the Panel received briefings on a number of issues related to the NRC's licensing program from NRC staff, an Agreement State representative, and a licensee. The Panel also performed an independent evaluation of the NRC's licensing policies and guidance. With the information gathered, the Panel documented its assessment in a draft report that was publicly released on February 8, 2008. While the Panel continued its assessment, it accepted comments from the public, industry groups, and the Agreement States, as well as comments from the MPWG. The Panel concluded its assessment on March 18, 2008, by briefing the Commission and publicly releasing its final report.</p> <p>The NRC is evaluating the Panel's report and recommendations and will develop an action plan to address the Panel's recommendations. This OIG recommendation should remain open, pending completion of a plan to address the Panel's recommendations.</p>
OIG Analysis:	The actions taken to date and the remaining actions proposed by the agency meet the intent of the recommendation. OIG will monitor the actions taken and will close the recommendation when the agency has developed a plan to address the vulnerabilities identified by the Commission-chartered Panel.
Status:	Resolved.