



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

OFFICE OF THE  
INSPECTOR GENERAL

May 13, 2009

MEMORANDUM TO: R. William Borchardt  
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: DIRECTOR, OFFICE OF INFORMATION SERVICES,  
MEMORANDA DATED DECEMBER 30, 2008, AND  
MAY 6, 2009

This memorandum provides the Office of the Inspector General's (OIG) analysis and status of Recommendation 1 as discussed in the agency's response dated December 30, 2008, and associated corrected response dated May 6, 2009. Based on the agency's responses, Recommendation 1 remains in a resolved status. Recommendation 2 was previously closed. Please provide an updated status on Recommendation 1 by August 31, 2009.

If you have any questions or concerns, please call me at 415-5915 or Sherri Miotla, Team Leader, at 415-5914.

Attachment: Status of Recommendation

cc: V. Ordaz, OEDO  
J. Arildsen, OEDO  
P. Shea, 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 the Freedom of Information Act's (FOIA) automatic disclosure requirements.

Agency Response Dated  
December 30, 2008:

The Office of Information Services (OIS) has completed a revision of Management Directive (MD) 3.4, "Release of Information to the Public," to address this recommendation. This revision incorporates the necessary information addressing NRC's compliance with FOIA's automatic disclosure requirements, specifically the disclosure provisions of 5 U.S.C. 552 (a) (1) or (a) (2) and reflects the involvement of the Office of General Counsel and OIS in all determinations. During its review of MD 3.4 mentioned in our September 29, 2008, status update, the Chairman's office had questions. OIS has responded to those questions. The revised draft of MD 3.4, is being reviewed by the Office of the Executive Director for Operations and is expected to be sent to the Chairman's office for a final review by the end of December 2008. OIS anticipates publication of MD 3.4 in early 2009.

Agency Corrected  
Response Dated  
May 6, 2009:

The Office of Information Services (OIS) has completed a revision of Management Directive (MD) 3.4, "Release of Information to the Public," to address this recommendation. This revision incorporates the necessary information addressing NRC's compliance with FOIA's automatic disclosure requirements, specifically the disclosure provisions of 5 U.S.C. 552 (a) (1) or (a) (2) and reflects the involvement of the Office of General Counsel and OIS in all determinations. However, MD 3.4 does not require that OGC or OIS must be consulted (OIG-added emphasis to denote new text). OIS has responded to those questions. The revised draft of MD 3.4, is being reviewed by the Office

of the Executive Director for Operations and is expected to be sent to the Chairman's office for a final review by the end of December 2008. OIS anticipates publication of MD 3.4 in early 2009.

**OIG Analysis:**

OIG reviewed the revised MD 3.4, issued on February 6, 2009, and determined that it does not satisfy the intent of this recommendation. In prior audit followup responses to OIG, NRC stated that it would address this recommendation by involving "the Office of General Counsel and OIS in all determinations" regarding the public release of Commission decision documents. OIG agreed with this approach. However, revised MD 3.4 reflects that the SECY will involve OGC on an "as needed" basis and there is no discussion of the SECY involving OIS in the public release determinations. Although the agency's December 30, 2008, and May 6, 2009, responses still refer to the involvement of OGC and OIS in all determinations, this is not described in MD 3.4. Additionally, the corrected followup response, dated May 6, 2009, states that "MD 3.4 does not require that OGC or OIS must be consulted," which contradicts the claim in the preceding sentence that the revision "reflects the involvement of the Office of General Counsel and OIS in all determinations."

Because MD 3.4 does not contain the language the agency proposed to address this recommendation, Recommendation 1 remains unresolved and cannot be closed until the agency accurately describes actions taken and articulates how these actions meet the intent of the recommendation.

**Status:**

Resolved.