



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

OFFICE OF THE
INSPECTOR GENERAL

June 22, 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
ALTERNATIVE DISPUTE RESOLUTION PROGRAM
(OIG-08-A-03)

REFERENCE: DIRECTOR, OFFICE OF ENFORCEMENT,
MEMORANDUM DATED MAY 21, 2009

Attached is the Office of the Inspector General's analysis and status of recommendations as discussed in the agency's May 21, 2009, update. Based on this response, recommendation 2 remains resolved. Recommendations 1, 3, and 4 were previously closed. Please provide a status update on recommendation 2 by January 15, 2010.

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

Attachment: As stated

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

Audit Report

AUDIT OF NRC'S ALTERNATIVE DISPUTE RESOLUTION PROGRAM

OIG-08-A-03

Status of Recommendations

Recommendation 2: Incorporate the interim guidance into the Enforcement Policy and Manual revisions.

Agency Response Dated
May 21, 2009:

Ongoing. As documented in the memorandum from the Deputy Executive Director for Material, Waste, Research, State, Tribal and Compliance Programs dated January 14, 2008, (ML080070486), there are commitments from three NRC program offices in addition to the Office of Enforcement (OE) referenced in this recommendation. OE is responsible for incorporating the interim guidance developed in response to Recommendation 1 into the Enforcement Policy and Enforcement Manual. The Office of Nuclear Reactor Regulation (NRR), Office of Federal and State Materials and Environmental Management Programs (FSME), and Office of Nuclear Material Safety and Safeguards (NMSS), are responsible for developing and maintaining procedure guidance on the process for follow-up and closure of alternative dispute resolution (ADR) confirmatory orders falling within their area of responsibility.

- OE committed to submit the revised Enforcement Policy to the Commission, including (enforcement) ADR program guidance, for Commission approval by December 2008 and issue the Enforcement Manual by July 2009 (6 months following Commission approval of Enforcement Policy).

Open. Due to higher priority items and extensive public comments, the revised Enforcement Policy has not yet been submitted to the Commission for approval. The draft Policy was published in the Federal Register in September 2008. The staff expects to re-publish the revised Enforcement Policy Supplements in the Federal Register in June 2009. After staff review and resolution of any comments received, the draft Policy and

Audit Report

AUDIT OF NRC'S ALTERNATIVE DISPUTE RESOLUTION PROGRAM

OIG-08-A-03

Status of Recommendations

Recommendation 2 continued:

Supplements will be forwarded to Commission for approval. This is expected to occur by December 31, 2009.

The ADR program guidance was placed in the Enforcement Manual and was issued to the staff on December 22, 2008. Information contained in the draft Enforcement Policy is adopted in the December 22, 2008, revision to the Enforcement Manual.

- NRR committed to develop inspection procedure guidance on the process for follow-up and closure of ADR confirmatory orders by July 31, 2008.

Completed. NRR revised inspection procedure (IP) 92702, "Follow-up on Traditional Enforcement Actions Including Violations, Deviations, Confirmatory Action letters, Confirmatory Orders, and Alternative Dispute resolution Confirmatory Orders," dated January 10, 2008, (Reference ML072320154). This procedure includes guidance for tracking and follow-up of ADR confirmatory orders by requiring each item in an ADR order to be documented and tracked in the Reactor Program System/Item Reporting (RPS/IR) module. The Director, Division of Inspection and Regional Support, NRR, issued a memorandum dated July 30, 2008, containing interim reactor inspection program office guidance on follow-up and closure of ADR Confirmatory Order items (Reference ML082060675). The interim guidance has been incorporated by reference into a revision of inspection manual chapter (IMC) 0306, "Information Technology Support for the Reactor Oversight Process," which was issued on December 4, 2008.

- FSME committed to develop inspection procedure guidance on the process for follow-up and closure of ADR confirmatory orders by July 31, 2008.

Audit Report

AUDIT OF NRC'S ALTERNATIVE DISPUTE RESOLUTION PROGRAM

OIG-08-A-03

Status of Recommendations

Recommendation 2 continued:

Completed. FSME reviewed the guidance contained in IMC 2800, "Materials Inspection Program," and noted that it addressed follow-up of both Confirmatory Action Letters (CALs) and Orders and thus determined that ADR confirmatory orders were covered under the current IMC guidance. As an enhancement to this basic guidance, FSME revised IP 92703, "Follow-up of Confirmatory Action Letters," to include reference to Orders, in addition to the current reference to CALs (ML091260394, dated May 13, 2009). This procedure provides additional instruction regarding review of commitments made by the licensee or restrictions imposed by NRC as a result of a CAL or an Order issued since the last inspection. These documents (which include ADR Orders) are contained in the appropriate electronic docket file (ADAMS) for the inspectors review.

- NMSS committed to develop inspection procedure guidance on the process for follow-up and closure of ADR confirmatory orders by July 31, 2008.

Completed. NMSS revised IMC 2600, "Fuel Cycle Facility Operational Safety and Safeguards Inspection Program," to (1) specifically draw the inspectors attention to ADR orders during inspection planning, (2) to specifically reference IP 92702 to address action items in orders, and (3) to direct inspectors to create trackable items for use addressing actions that arise outside the inspection program (Reference *ML091120247 dated 5/13/2009*). IP 92702 includes guidance for follow-up and closure of ADR confirmatory orders by requiring each item in an ADR order to be documented and tracked in RPS/IR. IMC 2600 was forwarded to NRR for final processing on May 4, 2009.

Audit Report

AUDIT OF NRC'S ALTERNATIVE DISPUTE RESOLUTION PROGRAM

OIG-08-A-03

Status of Recommendations

Recommendation 2 continued:

OIG Analysis:

OIG acknowledges the progress made in updating agency guidance documents to address the followup and closure of ADR confirmatory orders. In particular, FSME revised IP 92703 to include its applicability to confirmatory orders, and NMSS revised IMC 2600 to draw inspectors' attention to commitments made in ADR confirmatory orders, although we noted that the ADR acronym is not defined in the document.

Moreover, OE does not expect the revised Enforcement Policy to be forwarded for Commission approval before December 31, 2009. Therefore, this recommendation will be closed once the revised Enforcement Policy is issued in final and OIG confirms that the policy's discussion of ADR fully satisfies the intent of this recommendation.

Status:

Resolved.