



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

OFFICE OF THE
INSPECTOR GENERAL

July 1, 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
AGREEMENT STATE PROGRAM (OIG-09-A-08)

REFERENCES: DEPUTY EXECUTIVE DIRECTOR OF MATERIALS, WASTE,
RESEARCH, STATE, TRIBAL AND COMPLIANCE
PROGRAMS MEMORANDUM DATED APRIL 14, 2009,
AND E-MAIL DATED JUNE 24, 2009

Attached is the Office of the Inspector General's (OIG) analysis and status of recommendations as discussed in the agency's responses dated April 14, 2009, and June 24, 2009. Based on the responses, recommendations 1, 2, 3, and 5 have been resolved. However, recommendation 4 remains unresolved. Please provide an update for these recommendations by August 28, 2009.

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 Agreement State Program
OIG-09-A-08

Status of Recommendations

Recommendation 1: Develop a mechanism for conducting self-assessments and capturing lessons learned for IMPEP on a regular basis.

Agency Response Dated
April 14, 2009:

Agree. We value periodic self-assessments and capturing of lessons learned. NRC staff will work with Agreement States to develop a self-assessment program consistent with resources and other priorities.

In parallel to the periodic self-assessments, we will continue to use feedback from individual team members, feedback from programs that have been reviewed, the IMPEP Project Manager's participation on teams to evaluate the effectiveness of the program, and management's oversight through the Management Review Board to improve IMPEP. These strategies for continuous improvement help IMPEP adapt to the dynamic regulatory environment on a review-to-review basis and will complement the periodic self-assessments. Identified improvements to the IMPEP process will be incorporated into the appropriate guidance documents as they are periodically revised.

Completion Date: July 2010

Agency Response Dated
June 24, 2009:

Using existing resources, we will perform by July 2010 a self assessment of the Integrated Materials Performance Evaluation Program (IMPEP) using a Management Directive 5.3 chartered working group. After the assessment, we will examine the scope and frequency of an ongoing assessment program, and we will include it within budget requests if it represents a significant fraction of, or increase to, our current Agreement State Program budget (approximately 16 FTE for my division and 26 for the agency).

Audit Report
Audit of NRC's Agreement State Program
OIG-09-A-08

Status of Recommendations

Recommendation 1 continued:

OIG Analysis: The agency's proposed corrective action to perform a self assessment of IMPEP by 2010, and examine the frequency for repeat assessments, meets the intent of the recommendation. This recommendation will be closed when the agency submits, and OIG reviews, the results of the proposed self assessment and the mechanism for conducting an ongoing assessment and capturing lessons learned.

Status: Resolved.

Audit Report
Audit of NRC's Agreement State Program
OIG-09-A-08

Status of Recommendations

Recommendation 2: Develop formal procedural guidance for identifying what information is needed about Agreement State programs and materials licensees in the event that an Agreement State is no longer capable of adequately performing its function of protecting public health and safety for an indeterminate period of time.

Agency Response Dated
April 14, 2009:

Agree. Based on OIG's findings, we recognize the need to identify the information needed about Agreement State programs and their licensees to effectively take over the program under an emergency suspension in the event that an Agreement State is no longer capable of adequately performing its function of protecting public health and safety for an indeterminate period of time. We believe that the most appropriate place for the guidance for identifying and/or collecting the required information is in Office of Federal and State Materials and Environmental Management Programs (FSME) Procedure SA-112, "Emergency Suspension of a Section 274b. Agreement." The next revision to this procedure is scheduled for completion by September 2010.

Completion Date: September 2010

Agency Response Dated
June 24, 2009:

We agreed to identify the information needed to temporarily take back a Section 274b. Agreement and incorporate it into FSME guidance. We may incorporate it into SA-112 procedure or we may incorporate it in another procedure, but it will be documented.

OIG Analysis:

The agency's proposed corrective action to identify the information needed to temporarily take back a Section 274b. Agreement and incorporate it into FSME guidance meets the intent of the recommendation. The recommendation will be closed when the agency submits, and OIG reviews, the FSME guidance used to incorporate the proposed action.

Status:

Resolved.

Audit Report
Audit of NRC's Agreement State Program
OIG-09-A-08

Status of Recommendations

Recommendation 3: Develop a set of procedures that standardizes communications from NRC to the Agreement States.

Agency Response Dated
April 14, 2009:

Agree. On January 3, 2009, we issued FSME Procedure AD-200, "Format for FSME Letters." This procedure will better standardize our formal correspondence with the States on important regulatory issues. The procedure is currently being piloted for a 6-month period and will be re-evaluated at the conclusion of the pilot period. Any revisions to the procedure resulting from the pilot period are expected by October 2009. In addition, we also recently issued a revision to FSME Procedure SA-1101, "Monthly U.S. Nuclear Regulatory Commission, Organization of Agreement States, and Conference of Radiation Control Program Directors, Inc., Teleconference," which will also help standardize our communications with the States. Our process to periodically perform self-assessments and capture lessons learned discussed in our response to recommendation 1 will also identify any additional areas of communication requiring improved standardization including ensuring communications between Regional State Agreements Officers and the States are consistent.

Completion Date: October 2009 (if revisions are needed)

Agency Response Dated
June 24, 2009:

The OIG report recommendation was broader than Regional State Agreement Officer (RSAO) communications, as was our response. As for RSAO communications we will continue to host periodic calls (currently quarterly) with the RSAOs to pass on vital information to ensure a clear and consistent message is transmitted to the States from Headquarters and the Regional offices. We will provide guidance to the RSAOs (e.g., talking points) and define our expectations for key issues that need to be raised with the States. We will also explore establishing an RSAO

**Audit Report
Audit of NRC's Agreement State Program
OIG-09-A-08**

Status of Recommendations

Recommendation 3 continued:

Community of Practice on the Knowledge Center to facilitate information sharing and knowledge management.

OIG Analysis:

The agency's proposed corrective action to revise AD-200 and SA-1101 and strengthen RSAO information sharing and knowledge management meets the intent of the recommendation. The recommendation will be closed when the agency submits, and OIG reviews, the revised guidance and the actions taken to strengthen RSAO communication.

Status:

Resolved.

Audit Report
Audit of NRC's Agreement State Program
OIG-09-A-08

Status of Recommendations

Recommendation 4: Develop a standardized data collection process that can be used as the basis of an information sharing tool on a national level.

Agency Response Dated
April 14, 2009:

Agree. Our response to Recommendation 3 is also applicable to this recommendation. As we standardize our communications with the Agreement States, our data collection processes will also become standardized. With respect to OIG's specific examples of where additional data collection should be explored, we recognize the potential benefits of collecting and sharing this information. However, we believe there may be legal impediments, both at the Federal and State level, to collecting and distributing this information. We expect to engage Agreement States and explore any viable options by October 2009. Implementation of any data collection for this information, whether mandatory or voluntary, could take several years to institute.

Completion Date: October 2009

Agency Response Dated
June 24, 2009:

There is no additional progress or particular status to report at this time; we plan to engage OGC and OAS on this matter and look for possible avenues to gather and share the information.

OIG Analysis:

The proposed corrective action does not fully address the intent of OIG's recommendation. The OIG notes that the agency recognizes the potential benefits of collecting and sharing the types of information described in the audit report. However, the agency did not offer a specific proposal for actually determining the extent of—and addressing—presumed legal impediments and for engaging Agreement States to explore viable options. The recommendation will be considered resolved when NRC provides more details on efforts to comprehend the full extent of legal impediments, provides proposals to address any such impediments, and

**Audit Report
Audit of NRC's Agreement State Program
OIG-09-A-08**

Status of Recommendations

Recommendation 4 continued:

provides details regarding the proposed corrective actions that will be discussed with the Agreement States.

Status: Unresolved.

Audit Report
Audit of NRC's Agreement State Program
OIG-09-A-08

Status of Recommendations

Recommendation 5: Revise the applicable IMPEP procedure(s) to include a review of Agreement State events that are not recorded in the Nuclear Materials Events Database (NMED) for an analysis of whether they should have been included.

Agency Response Dated
April 14, 2009:

Agree. All IMPEP review teams evaluate a sample of events that were not reported to the NRC Operations Center or included in NMED to determine whether or not the State is appropriately reporting all reportable events and appropriately submitting the events for inclusion in NMED, however, we believe that more explicit instructions could be provided to the review teams to help promote consistency between reviews. As a result, we will revise the guidance to team members in SA-105, "Reviewing the Common Performance Indicator, Technical Quality of Incident and Allegation Activities." The next scheduled revision of this procedure is targeted to be completed by June 2010. In the meantime, temporary guidance will be provided to IMPEP review teams during the pre-review conference calls between the teams and the IMPEP Project Manager.

Completion Date: June 2010

OIG Analysis: The agency's proposed corrective action to revise SA-105 to include a review of Agreement State events that are not recorded in NMED for an analysis of whether they should have been included meets the intent of the recommendation. This recommendation will be closed when the agency submits, and OIG reviews, the final revision for SA-105.

Status: Resolved.