



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

OFFICE OF THE
INSPECTOR GENERAL

July 10, 2009

MEMORANDUM TO: R. William Borchardt
Executive Director for Operations

FROM: Stephen D. Dingbaum */RA/*
Assistant Inspector General for Audits

SUBJECT: AUDIT OF NRC'S ENFORCEMENT PROGRAM
(OIG-08-A-17)

REFERENCE: DIRECTOR, OFFICE OF ENFORCEMENT,
MEMORANDUM DATED JUNE 3, 2009

Attached is the Office of the Inspector General's analysis and status of recommendations as discussed in the agency's response dated June 3, 2009. Based on the response, recommendations 1, 2, and 3 remain resolved. Please provide an updated status of the resolved recommendations 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

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Status of Recommendations

Recommendation 1: Develop comprehensive agencywide guidance to establish (1) expectations for inspectors and managers to independently disposition violations and (2) relevant participants needed for enforcement decisionmaking.

Agency Response Dated
June 3, 2009:

Ongoing. The Office of Enforcement (OE) agreed to complete actions addressing Recommendation 1 by October 31, 2009. Specifically, OE committed to working with the regional and headquarters program offices to more clearly define the minimum required levels of review and concurrence necessary to disposition non-escalated inspection findings, including when it is appropriate to disposition violations onsite. This guidance would then be incorporated into the Enforcement Manual. OE also agreed to work with the program offices to review and revise associated Inspection Manual Chapters (IMCs), if necessary, to make them consistent with the updated Enforcement Manual.

OE has worked with the regions and program offices and determined that the minimum level of review and concurrence for any non-escalated enforcement action will be the inspector and branch chief. This level of review is equivalent to that required by the reactor inspection program, as discussed in IMC 0612, "Power Reactor Inspection Reports," Section 04.03. Similar requirements exist in various IMCs used to document inspection findings originating from the Office of Nuclear Material Safety and Safeguards and the Office of New Reactors. The Office of Federal and State Materials and Environmental Management Programs (FSME) is in the process of revising IMC 2800, "Materials Inspection Program," and will establish this requirement as part of that procedure revision. OE will make similar changes to the Enforcement Manual. FSME management has discussed this proposal with regional material inspection program management and obtained agreement. The use of NRC Form 591s, which can be used

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Status of Recommendations

Recommendation 1 continued:

by inspectors to disposition non-escalated materials enforcement actions, sometimes onsite, will still be allowable. However, they will be considered preliminary until management review is complete. Any substantive changes made during branch chief review will be discussed with the licensee, who will then be provided with a revised NRC Form 591. FSME will revise NRC Form 591 to include a block for branch chief concurrence.

OIG Analysis:

The agency continues to make progress in assessing and revising applicable guidance to more clearly define expectations regarding the dispositioning of non-escalated inspection findings. This recommendation will be closed when OIG receives and reviews the revised guidance to ensure that the recommendation's specific points have been adequately addressed.

Status:

Resolved.

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Status of Recommendations

Recommendation 2: Define systematic data collection requirements for non-escalated enforcement actions.

Agency Response Dated
June 3, 2009:

Ongoing. OE agreed to complete actions addressing Recommendation 2 by October 31, 2009. OE agreed to validate that the Reactor Program System (RPS) database provides sufficient capability to assist staff in making informed enforcement decisions for reactor issues. OE agreed to evaluate whether data associated with non-escalated reactor violations that are licensee-identified and issues of minor significance should be tracked, as well. OE committed to either developing a new data collection system to capture non-escalated materials findings or modifying an existing database to include these items. OE also agreed to develop written guidance for NRC staff to use in entering information into the chosen database.

OE has evaluated the capabilities available with RPS and determined it is a sufficient tool for tracking and trending non-escalated reactor enforcement actions. Adequate data collection requirements and reviews of the data entered into RPS are currently conducted by the inspection staff, as required by IMC 0612 and IMC 0306, "Information Technology Support for the Reactor Oversight Process," so no additional data collection requirements are needed for reactor findings. For the purpose of making informed enforcement decisions, OE has determined that it is not necessary to track violations of minor significance (which, with some exceptions, are not documented in inspection reports) and non-escalated licensee-identified violations.

The staff is continuing to explore options for data collection of non-escalated enforcement actions for non-reactor inspection findings. Options will be discussed and evaluated at the OE Counterpart Meeting in June 2009. Several currently available systems are being considered, including RPS and the Enforcement Action Tracking System, which is currently used to track escalated enforcement actions. A web-based licensing system currently under development by

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Status of Recommendations

Recommendation 2 continued:

FSME is being considered as a future option. The goal is to determine which system will provide the most efficiency and lowest burden to achieve the required results.

OIG Analysis:

OIG acknowledges OE's determination that RPS is a sufficient tool for tracking and trending non-escalated reactor enforcement actions. We also note OE's determination that minor and non-escalated licensee-identified violations need not be tracked; however, it is not clear how the agency intends to trend these items if they are not tracked.

OIG understands that the staff is continuing to explore its options for data collection of non-reactor, non-escalated inspection findings and will develop guidance for entering information into the designated system. Therefore, this recommendation will be closed when all of the cited activities are completed and reviewed by OIG to ensure that the recommendation's specific points have been adequately addressed and meet the intent of the recommendation.

Status:

Resolved.

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Status of Recommendations

Recommendation 3: Develop and implement a quality assurance process that ensures that collected enforcement data is accurate and complete.

Agency Response Dated
June 3, 2009:

Ongoing. OE agreed to complete actions addressing Recommendation 3 by October 31, 2009. As discussed in Recommendation 1, OE agreed to provide additional guidance on the review and concurrence of non-escalated enforcement actions. OE committed to developing a quality assurance process to be performed by the originating office. OE also committed to developing an audit program to ensure that all inspection findings and enforcement actions are entered into the chosen data collection system accurately and consistently. OE agreed to develop guidance on roles and responsibilities for these reviews and incorporate that guidance into the Enforcement Manual. Lessons learned from the audit program would be shared with the regions and program offices.

As discussed above, OE, the regional offices, and the program offices are currently evaluating the most appropriate system for collecting non-escalated enforcement actions associated with non-reactor inspection findings. Once that system is identified, staff will develop protocols for capturing enforcement data in this system and procedural guidance will be developed describing the process for entering findings into the system. OE will audit the data in the system against ADAMS periodically to ensure the collected data is accurate and complete. For non-escalated reactor findings, data collection requirements are described in IMC 0306. In accordance with IMC 0306, data is entered into RPS directly from inspection reports, which have been reviewed and approved by NRC management. As such, there is reasonable assurance that complete and accurate data is currently being tracked for reactor issues.

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Recommendation 3 continued:

OE is in the process of conducting an audit of a sample of completed NRC Form 591s and letters documenting non-escalated materials inspection findings from each of the regional offices. The purpose of this audit is to identify areas where either additional guidance should be developed or where training is needed. Once the audit has been completed, OE will share the results with regional and program office enforcement and materials staff. OE will develop training and additional Enforcement Manual guidance, as appropriate, based on the audit and feedback from the staff. The additional review and concurrence required in response to Recommendation 1, in addition to this training, should provide assurance that the data being entered into the chosen system is of high quality.

OIG Analysis:

The agency continues to make progress in evaluating and developing additional guidance and controls to ensure the quality of collected enforcement data. This recommendation will be closed when OIG receives and reviews the revised guidance and proposed controls to ensure that the agency's actions fully satisfy the intent of the recommendation.

Status:

Resolved.