



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

OFFICE OF THE
INSPECTOR GENERAL

August 26, 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: SECRETARY OF THE COMMISSION, MEMORANDUM
DATED JULY 17, 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 July 17, 2009. OIG is closing recommendation 1 with a caution that the NRC Secretary's determinations should be periodically reviewed to ensure the accuracy of those decisions in view of the FOIA automatic disclosure requirements. Recommendation 2 was previously closed; therefore, all recommendations in this audit are now closed.

If you have any 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
C. Jaegers, 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
July 17, 2009:

Status

The current version of Management Directive 3.4, "Release of Information to the Public" dated February 6, 2009, is consistent with the Internal Commission Procedures, which were approved by the Commission on October 30, 2006 (COMSECY-06-0050), attached. This procedure was incorporated into the Internal Commission Procedures. The Commission did not require the Secretary (SECY) to consult with OGC and OIS on every Commission decision not made public. Some Commission decisions clearly do not fall within the mandatory disclosure provisions of FOIA, and there is no need for SECY to consult with other offices on those. Examples of some decisions that clearly do not fall within the FOIA automatic disclosure requirements are those related to personnel matters, budget, international cooperation and sharing of information, GAO initiatives, legislative proposals for Congress, or assignments directing further action by the staff before final Commission decision.

On November 1, 2006, SECY established a practice to review Staff Requirements Memoranda (SRMs) not designated for public disclosure against the automatic disclosure provision under FOIA Sections 552(a)(1) and (a)(2). A form is completed on every Commission decision not designated for public disclosure. The form identifies the paper and documents whether the Commission decision fell within any of the categories of documents requiring automatic disclosure (the categories are listed for ready reference), or whether it clearly did not fall within any of those categories. For decisions where the public disclosure requirement is less clear-cut, the documents are referred to OGC for a recommendation about the final determination on public disclosure (see attached form).

Audit Report

AUDIT OF NRC'S PROCESS FOR RELEASING COMMISSION DECISION DOCUMENTS

OIG-06-A-22

Status of Recommendations

Recommendation 1 continued:

With the assistance of OGC, SECY has had more than two and a half years of successful experience with this process. As stated in the EDO's January 8, 2008, memorandum to the OIG, as a result of these reviews, the NRC concluded that an SRM on SECY-07-0146, "Regulatory Options for Licensing New Uranium Conversion and Depleted Uranium Deconversion Facilities," is a policy statement that was required to be disclosed pursuant to 5 U.S.C. 552(a)(2). That document is now publicly available on the NRC's 552(a)(2) website. In that particular case, the NRC staff was also consulted.

We consider these actions to update the Internal Commission Procedures and M.D. 3.4 under this recommendation to be complete. We do not intend to take further action on this matter and recommend that the OIG consider this matter closed.

OIG Analysis:

OIG continues to consider the required involvement of the Office of General Counsel and the Office of Information Services in all automatic disclosure determinations as the best method to assure the agency fully complies with the Freedom of Information Act (FOIA). However, OIG is closing this recommendation with a caution to the agency to periodically review the SECY's determinations to ensure the accuracy of those decisions in view of the FOIA automatic disclosure requirements in 552(a)(2).

Status:

Closed.