

January 14, 2010

MEMORANDUM TO: Stephen D. Dingbaum
Assistant Inspector General for Audits
Office of the Inspector General

FROM: Roy P. Zimmerman, Director /RA/
Office of Enforcement

SUBJECT: STATUS OF RECOMMENDATIONS RELATED TO THE AUDIT
OF NRC'S ENFORCEMENT PROGRAM (OIG-08-A-17)

This letter provides an update on the status of recommendations in the September 26, 2008 memorandum transmitting the Office of Inspector General's Audit Report, "Audit of NRC's Enforcement Program." With respect to each of the recommendations, I submit the following:

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.

Status

Ongoing. The Office of Enforcement (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. OE agreed to incorporate this guidance 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.

As discussed in OE's July 3, 2009 status memo, 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 already required for all inspection findings, with the exception of materials inspection findings documented on NRC Form 591s. The Office of Federal and State Materials and Environmental Management Programs (FSME) is in the process of revising IMC 2800, "Materials Inspection Program," and has agreed to establish this requirement as part of that procedure revision. FSME management has discussed this proposal with regional materials inspection program management and obtained agreement. FSME will also revise NRC Form 591 to include a block for branch chief concurrence.

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OE originally agreed to complete actions to address Recommendation 1 by October 31, 2009. However, the changes being made to IMC 2800 to address this recommendation are part of a larger revision to IMC 2800 and are now not expected to be completed until April 2010. OE completed an audit of NRC Form 591s in September 2009. The audit identified some issues associated with quality of documentation of enforcement actions, but did not identify any examples where violations appeared to have been mischaracterized. The results of this audit provide reasonable assurance that the overall risk of this finding is low, and corrective actions can be delayed until completion of the revision to IMC 2800. Changes to the Enforcement Manual will be made concurrent with changes to IMC 2800.

Recommendation 2

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

Status

Ongoing. 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.

As discussed in OE's July 3, 2009 status memo, 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, 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 or trend violations of minor significance (which, with some exceptions, are not documented in inspection reports) or non-escalated licensee-identified violations.

The staff has determined that the web-based licensing system (WBL) currently under development by FSME will be used to track non-escalated materials inspection findings. The system requirements for WBL have been modified to enable the system to collect inspection results and to allow users to enter information regarding the disposition of enforcement actions associated with each inspection activity (e.g., requirement violated and type of enforcement action taken). The system requirements have also been modified to allow users to search the database and generate reports associated with non-escalated enforcement actions. Procedures will be developed for entry of data into WBL.

OE originally agreed to complete actions to address Recommendation 2 by October 31, 2009. However, subsequent to OE's original response to OIG-08-A-17 and after significant additional discussion, the staff concluded that WBL would be the most appropriate tool for collecting non-escalated materials enforcement actions and identified that the capability to track non-escalated enforcement actions with WBL could not be made available until late 2011. The staff evaluated use of an interim data collection system, but determined that the level of effort required to develop or adapt a system for this function, develop data entry procedures and train staff, and conduct audits of data entry, was not an efficient use of resources, given the relatively low risk

significance of non-escalated enforcement actions. Therefore, the corrective actions associated with this recommendation will not be implemented until late 2011 through WBL.

Recommendation 3

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

Status

Ongoing. 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, the staff have determined that WBL, currently under development by FSME, is the most appropriate system for collecting non-escalated enforcement actions associated with non-reactor inspection findings. As part of the development of WBL, data entry procedures will be developed describing the process for entering findings into the system. The staff will audit the collected data periodically to ensure it is accurate and complete. As discussed in OE's July 3, 2009 status memo, data collection requirements for non-escalated reactor findings are described in IMC 0306 and there is reasonable assurance that complete and accurate data is currently being tracked for reactor issues.

OE audited 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 was to identify areas where either additional guidance should be developed or where training is needed. The audit identified a number of areas where documentation on NRC Form 591s could be strengthened. Observations from this audit were discussed with regional enforcement staff at the 2009 OE counterpart meeting. Additionally, OE developed training on writing and documenting violations, and made that training available to NRC staff through the OE webpage. A limited number of training sessions for inspectors have also been completed or scheduled. 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. OE plans to conduct a follow-up audit to assess the quality of NRC Form 591s after the completion of changes to IMC 2800 and the Enforcement Manual.

OE originally agreed to complete actions to address Recommendation 3 by October 31, 2009. However, actions associated with development of procedures for data entry and auditing of WBL will not be completed until the actions to address Recommendation 2 are complete in late 2011.

Again, I appreciate your efforts to review our enforcement program and the opportunity for us to provide an update on the status of our corrective actions.

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