EDO Principal Correspondence Control

FROM: DUE: 06/30/10 EDO CONTROL: G20100140
DOC DT: 03/09/10
FINAL REPLY:

Stephen D. Dingbaum, OIG

TO:

Borchardt, EDO

FOR SIGNATURE OF : ** GRN ** CRC NO:

Zimmerman, NSIR

DESC: ROUTING:

Audit of NRC's Enforcement Program (OIG-08-A-17)
(EDATS: OEDO-2010-0190)

Borchardt
Virgilio
Mallett
Ash
Mamish
Burns/Rothschild
Arildsen, OEDO

DATE: 03/10/10

ASSIGNED TO: CONTACT:

NSIR Zimmerman

SPECIAL INSTRUCTIONS OR REMARKS:

Please provide a complete response addressing ALL resolved recommendations. Be sure to include the target completion date for each recommendation.

Template: EDO-001 ERIDS: EDO-01

EDATS

Electronic Document and Action Tracking System

EDATS Number: OEDO-2010-0190 **Source:** OEDO

General Information

Assigned To: OE
OEDO Due Date: 6/30/2010 11:00 PM
Other Assignees:
SECY Due Date: NONE
Subject: Status of Recommendations: Audit of NRC's Enforcement Program (OIG-08-A-17)
Description:

CC Routing: NONE
ADAMS Accession Numbers - Incoming: NONE
Response/Package: NONE

Other Information

Cross Reference Number: G20100140, OIG-08-A-17
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Related Task:
Recurring Item: NO
File Routing: EDATS
Agency Lesson Learned: NO
OEDO Monthly Report Item: NO

Process Information

Action Type: Memo
Priority: Medium
Sensitivity: None
Signature Level: OE
Urgency: NO
Approval Level: No Approval Required
OEDO Concurrence: NO
OCM Concurrence: NO
OCA Concurrence: NO
Special Instructions: Please provide a complete response addressing ALL resolved recommendations. Be sure to include the target completion date for each recommendation.

Document Information

Originator Name: Stephen D. Dingbaum
Date of Incoming: 3/9/2010
Originating Organization: OIG
Document Received by OEDO Date: 3/10/2010
Addressee: R. W. Borchardt, EDO
Date Response Requested by Originator: 6/30/2010
Incoming Task Received: Memo

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

OFFICE OF THE
INSPECTOR GENERAL

March 9, 2010

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 JANUARY 14, 2010

Attached is the Office of the Inspector General's analysis and status of recommendations as discussed in the agency's response dated January 14, 2010. Based on the response, recommendations 1, 2, and 3 remain resolved. Please provide an updated status of the resolved recommendations by June 30, 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: N. Mamish, OEDO
J. Andersen, OEDO
J. Arildsen, OEDO
C. Jaegers, OEDO

EDO --G20100140

Audit Report

AUDIT OF NRC'S ENFORCEMENT PROGRAM

OIG-08-A-17

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 January 14, 2010: 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.

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

Recommendation 1 continued:

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.

OIG Analysis: OIG acknowledges the agency's progress in its efforts to clarify 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 final versions of the revised Enforcement Manual, IMC 2800, and NRC Form 591 to ensure that the recommendation's specific points have been adequately addressed.

Status: Resolved.

Audit Report

AUDIT OF NRC'S ENFORCEMENT PROGRAM

OIG-08-A-17

Status of Recommendations

Recommendation 2:	Define systematic data collection requirements for non-escalated enforcement actions.
Agency Response Dated January 14, 2010:	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

Recommendation 2 continued:

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.

OIG Analysis:

OIG acknowledges the staff now plans to adapt the WBL system to collect and track non-reactor, non-escalated inspection findings with a projected implementation date of late 2011. However, it seems contrary that the agency agrees it is appropriate to collect this data at some point in the future, whether 2011 or beyond, but finds it unnecessary to track the same type of inspection data in the interim period. We acknowledge that this type of enforcement action typically has low risk significance. Yet it is possible that multiple non-escalated enforcement actions could signify a negative performance trend by a licensee(s) which NRC staff could miss if not collecting and tracking this data.

Nonetheless, the agency has defined its collection requirements per the recommendation. Therefore, this recommendation will be closed when all of the cited activities are completed and reviewed by OIG.

Status:

Resolved.

Audit Report

AUDIT OF NRC'S ENFORCEMENT PROGRAM

OIG-08-A-17

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 January 14, 2010: 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

Recommendation 3 continued:

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.

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.