



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

**OFFICE OF THE  
INSPECTOR GENERAL**

April 16, 2012

**MEMORANDUM TO:** R. W. Borchardt  
Executive Director for Operations

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

**SUBJECT:** STATUS OF RECOMMENDATIONS: AUDIT OF NRC'S  
MANAGEMENT OF LICENSEE COMMITMENTS  
(OIG-11-A-17)

**REFERENCE:** DIRECTOR, OFFICE OF NUCLEAR REACTOR  
REGULATION, MEMORANDUM DATED MARCH 1, 2012

Attached is the Office of the Inspector General's (OIG) analysis and status of the recommendations as discussed in the agency's response dated April 5, 2012. Based on this response, recommendations 4 and 5 have changed from unresolved to resolved status and recommendations 1, 2, and 3 remain in resolved status. Please provide an updated status on the resolved recommendations by October 31, 2012.

If you have any questions or concerns, please call me at 415-5915 or RK Wild, Team Leader, at 415-5948.

Attachment: As stated

cc: N. Mamish, OEDO  
K. Brock, OEDO  
J. Arildsen, OEDO  
C. Jaegers, OEDO

## Audit Report

### AUDIT OF NRC'S MANAGEMENT OF LICENSEE COMMITMENTS

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#### Status of Recommendations

Recommendation 1: Revise the section of LIC-105, "Managing Regulatory Commitments Made by Licensees to NRC," on conducting triennial commitment management audits to include detailed sampling direction, such as a checklist of sources to be used in identifying a universe of commitments from which to sample.

Agency Response

Dated March 1, 2012:

The NRC staff responded to Recommendation No. 1 with the following corrective actions:

December 16, 2011: Issue audit sample guidelines memorandum to Division of Operating Reactor Licensing (DORL) project managers (PMs) and branch chiefs (BCs).

September 14, 2012: Revise LIC-105 to add guidance list as an enclosure.

A memorandum was issued to DORL PMs on December 15, 2011, that included guidance regarding regulatory commitment management audit sample selection. This guidance will be incorporated into a future revision of LIC-105.

OIG Analysis:

The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG receives and reviews the final revised LIC-105, "Managing Regulatory Commitments Made by Licensees to NRC," that includes detailed sampling direction in identifying a universe of commitments from which to sample when project managers are developing their audit sample.

Status:

Resolved.

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#### Status of Recommendations

Recommendation 2: Revise LIC-105, "Managing Regulatory Commitments Made by Licensees to NRC," to include well-defined expectations and guidelines regarding the conduct of commitment management audits. The guidelines should include an expectation that audited commitments are reviewed to ensure that they have been appropriately implemented in the plant facility, procedures, program, or other plant documentation.

Agency Response  
Dated March 1, 2012:

The NRC staff responded to Recommendation No. 2 with the following corrective actions:

December 16, 2011: Issue expectations/guidelines memorandum to DORL PMs and BCs.

September 14, 2012: Revise LIC-105 to add management expectations and guidance.

A memorandum was issued to DORL PMs on December 15, 2011, that included guidance and expectations regarding the verification of licensee implementation of regulatory commitments. This guidance will be incorporated into a future revision of LIC-105.

OIG Analysis:

The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG receives and reviews the final revised LIC-105, "Managing Regulatory Commitments Made by Licensees to NRC," that includes expectations and guidelines regarding the process and criteria to be applied to validate appropriate commitment implementation.

**Status:**

Resolved.

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#### Status of Recommendations

Recommendation 3: Develop training that sufficiently addresses the definition and use of commitments and provide it to all agency staff involved in reviewing reactor licensee commitments.

Agency Response  
Dated March 1, 2012:

The NRC staff responded to Recommendation No. 3 with the following corrective actions:

September 28, 2012: Complete interim training for key staff involved in commitment management processes.

September 30, 2013: Implement training module on the use of licensee commitments.

Briefing guides and training slides are in development for use in group, interim training sessions. Just-in-time briefings are also being provided to individual PMs regarding the specific items addressed by Recommendations 1 and 2, as they commence commitment management audits for their assigned plants. To date, just-in-time briefings have been given to 6 individual PMs as well as DORL Plant Licensing Branch III-2.

The briefing guides/slides under development will present a broader spectrum of issues related to the use of licensee commitments in general. In addition, a Human Resources Training and Development Resources Use Request is being completed to request development of a formal, agencywide training module.

OIG Analysis:

The proposed corrective action addresses the intent of OIG's recommendation. This recommendation will be closed when OIG reviews the fully implemented and deployed agencywide training module that sufficiently addresses the definition and use of commitments.

**Status:**

Resolved.

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#### Status of Recommendations

Recommendation 4: Identify actions to determine the extent to which commitments that are considered safety significant and/or necessary for approval of proposed licensing actions exists. This could be accomplished by either: (1) NRR project managers identifying any such commitments as part of the triennial commitment management audits, or (2) conducting a review of all existing commitments and identifying any inappropriately applied commitments. Any such commitments should be identified to NRC management for appropriate action.

#### Agency Response

Dated March 1, 2012:

The NRC staff responded to Recommendation No. 4 with the following corrective actions:

November 30, 2011: Issue a commitment identification memorandum to DORL PMs and BCs that includes the expectation that inappropriately applied commitments that have been misused for issues that are safety significant or may have formed the basis of the NRC staff's reasonable assurance finding on a licensing action, will be identified as part of the triennial commitment management audits.

September 14, 2012: Revise LIC-105 to direct PMs to include the expectation that inappropriately applied commitments that have been misused for issues that are safety significant or may have formed the basis of the NRC staff's reasonable assurance finding on a licensing action, will be identified as part of the triennial commitment management audits.

A memorandum was issued to DORL PMs on November 29, 2011, that included guidance to support PMs in distinguishing legal obligations from regulatory commitments in order to identify misapplied commitments when performing triennial commitment audits. The expectation is not that PMs will evaluate all licensee commitments for misapplied commitments during the audit. Rather, the intention is that PMs will take into consideration the possibility for misapplied

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#### Status of Recommendations

Recommendation 4 (cont.):

commitments to exist when developing and evaluating audit samples. PMs are to notify DORL management of any such commitments identified during the audit for resolution and tracking purposes. The incorporation of these expectations and guidance into a future revision of LIC-105 is in progress.

The NRC staff proposed to implement option (1) with the intention that it would be conducted in the context of triennial audits, as stated in the text of the option. Specifically, the assessment would be applied to the selection and evaluation of an audit sample (minimum of 10 commitments). Determining if a commitment has been misapplied can take a significant amount of time as it cannot be done by merely reviewing the list of licensee commitments. The documentation related to each commitment must be retrieved and evaluated to assess the appropriateness of the commitment. This process can take several hours per commitment, especially for older commitments where documentation is not readily available in ADAMS. The number of man-hours required to complete this process for each of the several hundred commitments associated with each 104 operating reactor facilities cannot be accomplished in the context of a triennial commitment management audit, which typically is scheduled for 60 hours and would require the expenditure of significant, additional resources that are not currently budgeted.

However, to address the OIG's concern, DORL will revise the direction provided in the memorandum issued on December 15, 2011, with regard to sample selection. Guidance will be added that instructs PMs to review the sample sources with a particular intent to identify commitment descriptions that may indicate safety significance or a regulatory requirement. A revision to the second bullet item on page 2 of the December 15, 2011, memorandum will be included to direct DORL PMs to request the licensee's full list of all open commitments, not just commitments related to the last 3 years. This will apply

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#### Status of Recommendations

Recommendation 4 (cont.):

a first level screening to the various sources of licensee commitments including the full scope of all open commitments tracked by the licensee. Specific instruction will be provided to note and consider commitment title listings that appear to be associated with license amendment requests, exemptions and relief requests, as these documents involve regulatory decisions made by the NRC staff.

In addition, direction in the revised DORL memorandum will also be added to expand the evaluation scope to include all license amendment safety evaluations, exemptions and relief request safety evaluations that have been issued for a facility during the previous 3 years. These documents have been issued recently enough that they are readily available in ADAMS and PMs will already be reviewing these documents to identify commitments for the sample selection. The additional effort needed to evaluate the context and use of these commitments, in order to determine if a commitment has been misapplied, makes the best use of limited resources by focusing attention on commitments made in connection with safety and regulatory determinations.

The NRC staff considers that identifying the existence of misapplied commitments within the scope of the triennial audit samples provides a timely assessment of the extent to which such commitments may exist, as stated in Recommendation No. 4. The time delays that would be incurred cataloging and evaluating each of the thousands of commitments currently open for all 104 operating reactor facilities would preclude a determination for years. This is the same principal behind the triennial audits in reviewing a sample of each facility's commitments to determine the effectiveness of the licensee's commitment management program in general. Therefore, the NRC staff proposes to continue to assess the extent of misapplied commitments through the evaluation of triennial commitment management audits with the additional sample selection and commitment

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#### Status of Recommendations

Recommendation 4 (cont.):

evaluation revisions described above. The revised DORL memorandum will be issued by March 30, 2012, and these revisions will also be incorporated into the revision of LIC-105 to be completed by September 14, 2012.

OIG Analysis:

OIG acknowledges the agency's efforts in clarifying the universe of open commitments that will be reviewed by PMs during their triennial commitments audits. The agency's proposed plan to revise the DORL memorandum and LIC-105 on criteria for identifying inappropriately applied commitments through the evaluation of triennial commitment management audits with the additional sample selection and commitment evaluation meets the intent of this recommendation. This recommendation will be closed when OIG receives and reviews the revised office memorandum and the final revised LIC-105, "Managing Regulatory Commitments Made by Licensees to NRC," that includes guidance for assessing commitments during the selection and evaluation of an audit sample to determine the extent to which commitments are safety significant and/or necessary for approval of proposed licensing actions exists.

**Status:**

Resolved.

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#### Status of Recommendations

Recommendation 5: Depending on the outcome of the efforts to meet recommendation 4, develop and utilize a tool for systematically tracking the status of commitments that are deemed safety significant and/or necessary for approval of proposed licensing actions.

#### Agency Response

Dated March 1, 2012:

The NRC staff responded to Recommendation No. 5 with the following corrective action:

September 14, 2012: Issue an action review memorandum to the DORL Division Director that compiles the results of the actions from Recommendation 4 for a period of 9 months after the commitment identification memorandum is issued. Include an assessment of the data and recommendations regarding further actions as needed.

The NRC staff's proposed action to implement Recommendation No. 5 will assess the data gathered from the triennial commitment management audits for the 9-month period following the issuance of the commitment identification memorandum. However, per the changes described in the status update for Recommendation No. 4 above, this 9 month period will be re-set to begin with the issuance of the revised DORL guidance memorandum on March 30, 2012. Accordingly, the completion date for the corrective action associated with Recommendation No. 5 is revised to January 31, 2013, to allow time to assess the acquired data and issue the recommendation memorandum. The assessment will document the extent to which commitments have been misapplied as determined by the corrective actions, with revisions as described previously, to implement Recommendation No. 4, and provide the basis for follow-on recommendations. This approach will facilitate the establishment of future actions for tracking and/or further assessment that will be appropriate for the extent to which misapplied commitments exist.

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#### Status of Recommendations

Recommendation 5 (cont.):

OIG Analysis:

The proposed corrective action addresses the intent of this recommendation; however, the closure of this recommendation depends, in part, on the outcome of recommendation 4. It will be closed upon OIG review of (1) the DORL Division Director's assessment of the data derived and further actions needed based on the agency's actions in response to recommendation 4, and (2) subsequent implementation of the Director's recommendations for additional actions to systematically track the status of commitments that are deemed safety significant and/or necessary for approval of proposed licensing actions, as applicable.

**Status:**

Resolved.