



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

**OFFICE OF THE
INSPECTOR GENERAL**

December 11, 2012

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
MANAGEMENT OF LICENSEE COMMITMENTS
(OIG-11-A-17)

REFERENCE: DIRECTOR, OFFICE OF NUCLEAR REACTOR
REGULATION, MEMORANDUM DATED
NOVEMBER 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 November 1, 2012. Based on this response, recommendations 3 and 5 remain in resolved status and recommendations 1, 2, and 4 are closed. Please provide an updated status on the resolved recommendations by March 4, 2013.

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
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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 November 1, 2012: The NRC staff responded to Recommendation 1 with the following corrective actions:

December 16, 2011: Issue audit sample guidelines memorandum to Division of Operating Reactor Licensing (DORL) 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, 2011,¹ that included guidance regarding regulatory commitment management audit sample selection. Subsequently, on March 29, 2012,² a revised memorandum was issued to DORL PMs to incorporate changes in the guidance to address OIG concerns, as described in the NRC staff updated status letter dated March 1, 2012. Specifically, guidance was 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.

The NRC approved Revision 4 of NRR Office Instruction LIC-105 on September 10, 2012.³ Sample selection guidance was added to Section 4.3.1 of LIC-105, Revision 4,

¹ ADAMS Accession No. ML113400148.

² ADAMS Accession No. ML120720345.

³ ADAMS Accession No. ML12251A203.

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Status of Recommendations

Recommendation 1 (cont.):

and a new Enclosure 2, "Triennial Commitment Audit Sample Selection Guidance," also was added. The revised guidance includes a list of NRC sources to be used in determining audit samples, as well as a list of sources to be requested from the licensee. The document also includes an example e-mail for how to request documents and commitment lists from the licensee to promote uniformity and thoroughness in the audit samples that the DORL PMs developed. These revisions to LIC-105 complete NRR's implementation of Recommendation 1.

OIG Analysis:

OIG reviewed Revision 4 of NRR Office Instruction LIC-105, *Managing Regulatory Commitments Made by Licensees to NRC*, as well as the Enclosure 2, "Triennial Commitment Audit Sample Selection Guidance," that was added to LIC-105. The revised guidance provides detailed sampling instructions for project managers to utilize when developing their audit sample. This recommendation is therefore considered closed.

Status:

Closed.

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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 documentations.

Agency Response

Dated November 1, 2012: The NRC staff responded to Recommendation 2 with the following corrective actions:

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

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

The NRC issued a memorandum to DORL PMs on December 15, 2011,⁴ which included guidance and expectations on the verification of licensee implementation of regulatory commitments. Subsequently, on March 29, 2012, the NRC issued a revised memorandum to DORL PMs to incorporate changes in the guidance to address OIG concerns, as described in the NRC staff updated status letter dated March 1, 2012. However, it was not necessary to change guidance on the verification of licensee implementation of regulatory commitments.

Revision 4 of NRR Office Instruction LIC-105 was approved on September 10, 2012. Section 4.3.1 of LIC-105, Revision 4, provides a list of documents to be reviewed to assess the licensee's implementation of a regulatory commitment. Specific direction is included to review the implementation documentation and confirm that all appropriate plant

⁴ Ibid No. 1.

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Status of Recommendations

Recommendation 2 (cont.):

documentation has been revised and that the changes accurately and fully implement the commitment. Additional guidance is provided on fleet and site-specific programs and procedures and physical plant verifications. These revisions to LIC-105 complete NRR's implementation of Recommendation 2.

OIG Analysis:

OIG reviewed Revision 4 of NRR Office Instruction LIC-105, *Managing Regulatory Commitments Made by Licensees to NRC*, and verified that Section 4.3.1, Verification of Licensee's Implementation of NRC Commitments, provides expectations and guidelines regarding the process and criteria to be applied to validate appropriate commitment implementation. Based on OIG's review, this recommendation is considered closed.

Status:

Closed.

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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 November 1, 2012: The NRC staff responded to Recommendation 3 with the following corrective actions:

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

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

Regional staff received training on March 1, 2012 and June 6, 2012. The DORL staff received training on July 17, 2012, and the Division of Engineering technical staff on September 4, 2012. The Office of the General Counsel (OGC) staff requested the regulatory commitment training presentation materials since it plans to consider this information in developing OGC-specific training. The Division of License Renewal (DLR) is also providing DLR-specific regulatory commitment training to its staff based on collaboration with DORL staff. The NRR Executive Management Team received a comprehensive briefing regarding regulatory commitments on September 27, 2012.

Finally, Section 4.1 of Revision 4 of LIC-105, approved on September 10, 2012, includes instructions on the definition and appropriate use of regulatory commitments. LIC-105 was distributed to all NRR staff through a Program Management, Policy Development and Analysis Information Notice on September 14, 2012. Therefore, NRR considers the corrective action that was scheduled for completion by September 28, 2012, associated with Recommendation 3, to be complete.

In addition, NRR submitted Human Resources Training and Development Resources Use Request No. 12R006 on

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Status of Recommendations

Recommendation 3 (cont.):

April 2, 2012, requesting development of a formal, agencywide training module. The disposition of the request was completed on July 25, 2012, and the first project meeting to develop the training module was held on October 4, 2012. Therefore, this corrective action is on track for completion by September 30, 2013.

OIG Analysis:

The proposed corrective action addresses the intent of OIG's recommendation. As noted above, the corrective action is on track for completion by September 30, 2013. 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 November 1, 2012: The NRC staff responded to Recommendation 4 with the following corrective actions:

November 30, 2011: Issue a commitment identification memorandum to DORL PMs and BCs, which includes the expectation that inappropriately applied commitments, which 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, which 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, 2011,⁵ which included guidance to support PMs in distinguishing legal obligations from regulatory commitments, to identify misapplied commitments when performing triennial commitment audits. The expectation is not that PMs will evaluate all licensee commitments for

⁵ ADAMS Accession No. ML113190085.

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Status of Recommendations

Recommendation 4 (cont.):

misapplied commitments during the audit. Rather, PMs will take into consideration the possibility of misapplied commitments, when developing and evaluating audit samples. PMs are to notify DORL management of any such commitments that they identify during the audit for resolution and tracking purposes.

The NRC approved Revision 4 of NRR Office Instruction LIC-105 on September 10, 2012. Section 4.3 of LIC-105, describes and defines misapplied commitments and provides specific guidance to DORL PMs on identifying and addressing misapplied commitments. The newly added Enclosure 2 regarding sample selection also provides guidance to focus the commitment audit on the identification of misapplied commitments.

Specifically, in addition to the 10 or more commitments selected for the audit sample, Section 4.3 requires DORL PMs to identify all license amendment safety evaluations, exemptions and relief request safety evaluations issued for a facility during the previous 3 years. PMs are directed to review all commitments in these documents and identify and evaluate each commitment to determine if it has been misapplied, per the criteria in Section 4.2 of LIC-105.

Enclosure 2 also directs DORL PMs to review the licensee's full list of all open regulatory commitments, noting commitment descriptions that appear to be associated with license amendment requests, exemptions and relief requests, as these documents involve regulatory decisions made by the NRC staff. PMs will consider the item descriptions on this list that may indicate safety significance or a regulatory requirement for inclusion in the audit sample. This effort will apply a first-level screening for potentially misapplied commitments to the full scope of all open commitments that the licensee tracks. These revisions to LIC-105 complete NRR implementation of Recommendation 4.

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Status of Recommendations

Recommendation 4 (cont.):

OIG Analysis:

OIG verified and reviewed LIC-105, *Managing Regulatory Commitments Made by Licensees to NRC*, and Enclosure 2, "Triennial Commitment Audit Sample Selection Guidance." The revised guidance provides criteria for project managers to use in identifying inappropriately applied commitments through the evaluation of triennial commitment management audits with additional sample selection and commitment evaluation. This recommendation is therefore considered closed.

Status:

Closed.

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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 November 1, 2012: The NRC staff responded to Recommendation 5 with the following corrective action:

January 31, 2013: 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 for further actions as needed.

The NRC staff's proposed action to implement Recommendation 5 will assess the data gathered from the triennial commitment management audits for the 9-month period, following the issuance of the revised DORL guidance memorandum on March 30, 2012. Accordingly, the completion date for the corrective action associated with Recommendation 5 was revised from the original due date of September 14, 2012, 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 to implement Recommendation 4, and provide the basis for follow-on recommendations. This approach will facilitate the establishment of commitment tracking or any other alternative actions that will be appropriate to address 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. As noted above, the completion date for the corrective action is January 31, 2013. This recommendation 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.