

STATUS OF THE REVISED FUEL CYCLE OVERSIGHT PROCESS (RFCOP) PROJECT PLAN JULY 25, 2013

The following is a status report of the activities associated with Revised Fuel Cycle Oversight Program (RFCOP) Project Plan (ML12167A229) issued in accordance with the Staff Requirements Memorandum (SRM) to SECY-11-0140, Enhancements to the Fuel Cycle Oversight Process (ML120050322).

The RFCOP Project Plan is composed of three phases:

- Phase I - Corrective Action Program, Issue Characterization, and Inspection Program Improvements
- Phase II - RFCOP Framework Development
- Phase III - Pilot, Lessons Learned and Implementation

The following information summarizes activities defined in Phase I of the project plan that were scheduled to be worked during the previous year.

- Activity 1.A, Revised Enforcement Policy
 - This activity permits licensees or certificate holders with a Corrective Action Plan (CAP) approved to meet the criteria established in Activity 1.C, Develop Effective CAP Guidance, to receive a non-cited violation (NCV) for a Severity Level IV violation if they manage the corrective actions in accordance with their approved CAP.
 - The revised NRC Enforcement Policy was issued on January 28, 2013, in the *Federal Register* (78 FR 5838).
- Activity 1.B, Enhanced Core Inspection Program
 - The intent of Activity 1.B is to continue to maintain, update, and enhance the Inspection Procedures (IPs) of the current oversight process.
 - Fifteen existing IPs that are part of Inspection Manual Chapter 2600, Fuel Cycle Facility Operational Safety and Safeguards Inspection Program, were identified as requiring routine modifications to improve guidance based on current lessons learned and observations.¹
 - All 15 IPs have been revised and are currently being reviewed by the NRC staff to assure technical alignment.
 - The revised IPs will be publicly shared prior to implementation.

¹ NMSS-COM-276, Procedures for Processing Inspection Manual Chapters and Inspection Procedures, requires periodic updating of IPs to address lessons learned and evolving insights. New RFCOP concepts were not addressed with these IP revisions.

- Activity 1.C, Develop Enhanced² CAP Guidance
 - Received public comments on draft NUREG-2154, Acceptability of Corrective Action Programs for Fuel Cycle Facilities.
 - Staff has dispositioned the public comments and agreed with a public comment to reissue the NUREG as a Regulatory Guide (RG).
 - In July 2013, the NMSS staff will provide Draft Regulatory Guidance, DG-3044, Corrective Action Programs for Fuel Cycle Facilities, to the RES to be issued for public comment.
- Activity 1.D, Develop Enhanced CAP Inspection Program
 - Draft IP 88XXX, Fuel Cycle Facility Corrective Action Programs describes how the staff will verify conformance of the licensee's enhanced CAP against the RG. In addition, the IP defines inspection criteria for assessing the effectiveness of the licensee's or certificate holder's CAP implementation.
 - Internal review of draft IP 88XXX is in progress.
 - Staff expects to share the IP with external stakeholders during the 4th Quarter of FY 2013.
- Activity 1.E, Enhanced CAP licensing actions
 - After issuance of the revised NRC Enforcement Policy, the staff determined that the MOX facility's CAP, for construction activities only, was adequate to justify use of NCVs for Severity Level IV violations.
 - At this time, one operating facility licensee has submitted a letter requesting approval of their CAP to justify use of NCVs for Severity Level IV violations.
- Activity 1.F, Determine Issue Characterization Term and Develop Definition
 - SRM to SECY-0140, directed staff to engage with stakeholders on a definition of "performance deficiency," including issues associated with licensees failing to meet "self-imposed standards" and report the results to the Commission.
 - During a public meeting in October 2012, the NRC staff proposed that a performance deficiency would be a non-compliance with requirements/regulation. In general, the industry representatives seemed to be in agreement with the position paper's recommendation (meeting summary at ML12313A346). The staff plans to brief the ACRS on this topic during a tentatively scheduled briefing in December 2013.
- Activity 1.G, Develop the "More-than-minor" threshold and issue through IMC
 - "More-than-minor" are criteria used to screen findings that require consideration as part of the Significance Determination Process from those that do not.
 - NMSS is establishing an interoffice working group to develop the "More-than-minor" process. Current plans are for the working group to be operational by August 15, 2013.

² The 2012 RFCOP project plan used the term "Effective" CAP. NMSS plans to revise the term to "Enhanced CAP" to reflect that licensees currently have corrective action programs or processes that are of varying degrees. The term "Enhanced CAP" will be used for a CAP that satisfies the RG criteria, has been inspected for effectiveness, and determined by the NRC to be adequate for purposes of exercising the NCV provision as described under activity 1.A.

As stated in SECY-11-0140, the RFCOP project plan is intended to be a “living” document and will be modified based on interactions with internal and external stakeholders. NMSS is evaluating the RFCOP project schedule in light of events and may recommend adjustments. We expect to have these insights assessed sometime after the staff has briefed the ACRS, which is tentatively scheduled to occur in December 2013.

In implementing the RFCOP project plan, the staff continues to be mindful of the cumulative impacts of regulatory activities on fuel facility operations and security. By letter dated April 3, 2013 on cumulative impact of regulations (ML131071434), the Nuclear Energy Institute stated that the RFCOP project is a regulatory activity that they believed should be delayed or modified, amongst a list of other regulatory activities proposed for interaction with the staff. On June 10, 2013, the staff held a widely attended public meeting on a comprehensive list of fuel facilities related regulatory activities, including the RFCOP. Discussions focused on the drivers, initiators that placed these activities on the NRC’s regulatory development list, plus how regulatory flexibility might be exercised. The staff anticipates additional public meetings on this topic. The staff continues to develop the RFCOP per SRM SECY-11-0140 while assessing the broader scope issue of cumulative regulatory impacts on fuel facilities.