



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

**OFFICE OF THE  
INSPECTOR GENERAL**

April 12, 2017

**MEMORANDUM TO:** Victor M. McCree  
Executive Director for Operations

**FROM:** Dr. Brett M. Baker */RA/*  
Assistant Inspector General for Audits

**SUBJECT:** STATUS OF RECOMMENDATIONS: AUDIT OF NRC'S  
OVERSIGHT OF SECURITY AT DECOMMISSIONING  
REACTORS (OIG-17-A-09)

**REFERENCE:** DEPUTY EXECUTIVE DIRECTOR FOR REACTOR AND  
PREPAREDNESS PROGRAMS, MEMORANDUM DATED  
MARCH 23, 2017

Attached is the Office of the Inspector General's (OIG) analysis and status of recommendations as discussed in the agency's response dated March 23, 2017. Based on this response, recommendations 1, 2, and 3 are resolved. Please provide an updated status of the resolved recommendations by November 13, 2017.

If you have any questions or concerns, please call me at (301) 415-5915, or Beth Serepca, Team Leader at (301) 415-5911.

Attachment: As stated

cc: R. Lewis, OEDO  
H. Rasouli, OEDO  
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## Audit Report

### AUDIT OF NRC'S OVERSIGHT OF SECURITY AT DECOMMISSIONING REACTORS

OIG-17-A-09

#### Status of Recommendations

Recommendation 1: Clarify the fitness-for-duty elements that are necessary to comply with Title 10 of the *Code of Federal Regulations* (10 CFR) 73.55(b)(9)(ii), insider mitigation program (IMP).

Agency Response

Dated March 23, 2017:

The NRC agrees with this recommendation. Insider threats present a unique challenge to a physical protection system. Insiders could take advantage of their access rights, position authority, and/or knowledge of a facility, to understand, bypass, or defeat dedicated physical and cyber protection elements or other provisions (such as measures for safety or material control and accounting, including operating measures and procedures). The IMP is intended to mitigate the risk of these insider actions. A licensee's IMP must contain elements from the licensee's fitness-for-duty (FFD) program. However, the regulations do not specify what elements of the FFD program should be included in the licensee's IMP.

The NRC is in the process of updating Regulatory Guide (RG) 5.77, "Insider Mitigation Program", in order to clarify the 10 CFR Part 26 elements that the NRC finds necessary for an effective licensee IMP under 10 CFR 73.55(b)(9). The staff expects that this action should satisfy this recommendation. The updated RG 5.77 is due to be provided to the Commission for review and approval by September 2017.

The staff expects this recommendation to be closed with the approval and publication of the updated RG 5.77.

OIG Analysis:

The proposed actions meet the intent of the recommendation. OIG will close this recommendation when OIG receives verification that the Regulatory Guide clarifies the elements that are necessary.

Status:

Resolved.

## Audit Report

### AUDIT OF NRC'S OVERSIGHT OF SECURITY AT DECOMMISSIONING REACTORS

OIG-17-A-09

#### Status of Recommendations

Recommendation 2: Develop rule language in 10 CFR Part 26 that describes the necessary fitness-for-duty requirements for decommissioning licensees.

Agency Response Dated  
March 23, 2017:

Once a licensee has filed the certifications required under 10 CFR 50.82(a) and those certifications have been docketed by the NRC, the licensee is no longer authorized to operate its reactor. In accordance with 10 CFR 26.3, Part 26 does not apply to a Part 50 power reactor licensee that is no longer authorized to operate a nuclear power reactor. The purpose of the FFD program is to help ensure that individuals are not under the influence of any substance or mentally or physically impaired from any cause that could adversely affect their abilities to safely and competently perform their duties. As described in Part 26, FFD programs include drug and alcohol testing, behavioral observation, fatigue management, and employee assistance programs.

In order to satisfy this recommendation, the NRC has proposed options in the draft regulatory basis for the ongoing proposed "Regulatory Improvements for Reactors Transitioning to Decommissioning" rulemaking, seeking public comment on the appropriate approach to address this inconsistency. One of the options presented would modify regulations to clarify which aspects of Part 26 are required to be implemented during decommissioning and when these requirements no longer need to apply. This proposed rulemaking is currently in the draft regulatory basis phase and any changes to the Part 26 applicability will ultimately be addressed as part of the rulemaking process. The draft regulatory basis can be found in the Agencywide Documents Access and Management System (ADAMS) (ADAMS Accession No.: ML15294A490).

The staff expects this recommendation to remain open.

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### AUDIT OF NRC'S OVERSIGHT OF SECURITY AT DECOMMISSIONING REACTORS

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#### Status of Recommendations

Recommendation 2 (cont.):

OIG Analysis: The proposed actions meet the intent of the recommendation. This recommendation will be closed when OIG receives confirmation that the staff developed rule language in 10 CFR Part 26 that describes the necessary fitness-for-duty requirements for decommissioning licensees.

**Status:** Resolved.

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### AUDIT OF NRC'S OVERSIGHT OF SECURITY AT DECOMMISSIONING REACTORS

OIG-17-A-09

#### Status of Recommendations

Recommendation 3: Develop requirements for decommissioning power reactor licensees to implement a fatigue management program commensurate with the security significance of the activities being performed.

Agency Response Dated  
March 23, 2017:

Currently, the requirements of 10 CFR Part 26, Subpart I, "Managing Fatigue," apply to all 10 CFR Part 50 licensees authorized to operate a nuclear power plant and all holders of a combined license under 10 CFR Part 52 after the Commission makes its 10 CFR 52.103(g) finding. However, as noted above, these requirements do not apply to Part 50 licensees once they are no longer authorized to operate. Further, prior to codifying this requirement in the regulations, the NRC issued Order EA-03-038, "Issuance of Order for Compensatory Measures Related to Fitness-for-Duty Enhancements Applicable to Nuclear Facility Security Force Personnel" on April 29, 2003 (ADAMS Accession No. ML030940198). This Order required operating power reactor licensees to implement certain security measures to address issues that may arise from fatigue of security force personnel, including work hour limits, to mitigate cumulative fatigue from prolonged periods of extended work hours. Order EA-03-038 did not apply to licensees with decommissioning reactors.

The NRC staff agrees that we should further evaluate options with respect to managing fatigue for security officers and certified fuel handlers at decommissioning plants. In order to satisfy this recommendation, the NRC staff has proposed options in the draft regulatory basis for the ongoing proposed "Regulatory Improvements for Reactors Transitioning to Decommissioning" rulemaking seeking public comment on the best way to handle this inconsistency. One option would consider voluntary implementation of industry initiatives as an appropriate means of applying reasonably consistent measures for the

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#### Status of Recommendations

Recommendation 3(cont.):

management of personnel fatigue at decommissioning power reactors. Another option would require decommissioning plants to comply with Part 26, Subpart I for these personnel until such time that offsite emergency preparedness requirements are relaxed. The NRC plans to evaluate the comments received and determine which option would be the best solution to resolve this issue. The NRC staff expects this recommendation to remain open until the public comments are dispositioned and a recommendation is made on the appropriate path-forward, which will be documented in the final regulatory basis due to the Commission in October 2017.

OIG Analysis:

The proposed actions meet the intent of the recommendation. This recommendation will be closed when OIG receives confirmation that a path forward has been identified for fatigue management.

Status:

Resolved.