



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

**OFFICE OF THE  
INSPECTOR GENERAL**

November 13, 2017

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

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

**SUBJECT:** AUDIT OF THE U.S. NUCLEAR REGULATORY  
COMMISSION'S OVERSIGHT OF SOURCE MATERIAL  
EXPORTS TO FOREIGN COUNTRIES  
(OIG-17-A-08)

**REFERENCE:** DIRECTOR, OFFICE OF INTERNATIONAL PROGRAMS,  
MEMORANDUM DATED OCTOBER 25, 2017

Attached is the Office of the Inspector General's (OIG) analysis and status of recommendations as discussed in the agency's response dated October 25, 2017. Based on this response, recommendation 1 is resolved and recommendations 2, 3, 4, and 5 are now closed. Please provide an updated status of the resolved recommendation by March 1, 2018.

If you have any questions or concerns, please call me at (301) 415-5915, or Sherri Miotla, Team Leader at (301) 415-5914.

Attachment: As stated

cc: R. Lewis, OEDO  
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## Audit Report

# AUDIT OF THE U.S. NUCLEAR REGULATORY COMMISSION'S OVERSIGHT OF SOURCE MATERIAL EXPORTS TO FOREIGN COUNTRIES

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### Status of Recommendations

Recommendation 1: Coordinate among the Office of International Programs (OIP), Office of Nuclear Materials Safety and Safeguards (NMSS), and regional offices, as appropriate, in developing and implementing an export inspection program to include pre-licensing site visits and periodic post-licensing inspections at Part 110 applicant and licensee locations. The pre-licensing visits may only apply to export applicants who do not already possess another NRC license.

Agency Response Dated  
October 25, 2017:

Staff has chartered a working group (WG) to evaluate the resources needed to implement a cost effective export inspection oversight program and to develop options for Commission consideration in a Commission paper. The WG is active and is in the process of developing the Commission Paper. Staff expects the Commission Paper to be submitted no later than the target date, of February 1, 2018. Members of the WG include staff from NMSS, OIP, the Office of Nuclear Reactor Regulation (NRR), the Office of New Reactors, Region I and Region II.

Target Completion Date: February 1, 2018

CONTACT:

Peter Habighorst, OIP/ECNP  
(301) 287-9241 or [peter.habighorst@nrc.gov](mailto:peter.habighorst@nrc.gov).

OIG Analysis:

Based on meetings with senior agency officials, OIG and NRC reached a consensus that prelicensing visits are an important aspect of an inspection program. OIG proposed the solution of conducting "random" prelicensing visits at NRC's discretion. NRC was in agreement with this solution and said it would submit this proposal as part of its

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### Status of Recommendations

Recommendation 1 (cont.):

Commission Paper regarding revisions to the export inspection program. Thus, the proposed actions meet the intent of the recommendation.

OIG will close the recommendation after NRC, with Commission approval, identifies its path forward to strengthen the export inspection program through implementation of random prelicensing visits, as performed at NRC's discretion.

**Status:** Resolved.

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### Status of Recommendations

Recommendation 2: Communicate to export applicants and licensees that U.S. carriers and all other parties to the export, aside from intermediate consignees performing shipping services, are to be listed on future export applications and licenses.

Agency Response Dated  
October 25, 2017:

OIP updated internal guidance documents LIC-01, Appendix P Licensing Agency wide Documents Access and Management System in Section 6.3.13 (f) and LIC-02, Non-Appendix P to 10 CFR 110 Export and Import of Nuclear Equipment and Material, in Section 6.2.10 (f) by adding the following language:

f) Suppliers or Other U.S. Parties to the Export See Blocks #7 or #12 of the application. The functions performed or other services provided will be entered in Block #7a or #12a of the application. The suppliers or other parties on export applications are typically the U.S. entities (e.g., NRC or Agreement State domestic licensees or equipment vendors) that often rely on brokers to obtain NRC export licenses on their behalf.

Note: U.S. transport/shipping service providers and commercial carriers do not need to be listed as "Other Parties" on the application. These entities are not parties-in-interest to an export license. They serve only as transporters of the nuclear material or commodity being exported, and their legal responsibility from a regulatory standpoint is limited to complying with the NRC's and the Department of Transportation's transportation requirements. If applicants list transport/shipping service providers or commercial carriers on their applications, they can be listed on the export license, but that does not convert them into legally responsible formal parties-in-interest to the license. Carriers are not relevant to the NRC's review of an export application to determine whether the statutory nonproliferation criteria have been met.

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**Status of Recommendations**

Recommendation 2 (cont.):

Target Completion Date: Completed

OIG Analysis:                   OIG confirmed the updated language regarding carriers and transport/shipping service providers to LIC-01 and LIC-02; therefore, this recommendation is now closed.

**Status:**                        Closed.

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### Status of Recommendations

Recommendation 3: Update OIP guidance to include the definition of "intermediate consignee."

#### Agency Response Dated

October 25, 2017: OIP updated internal guidance documents LIC-01, Appendix P Licensing in Section 6.3.13 (e) and LIC-02, Non-Appendix P to 10 CFR 110 Export and Import of Nuclear Equipment and Material in Section 6.2.10 (e) by adding the following language:

e) Intermediate Foreign Consignee(s)  
See Block #8 and/or Block #13 of the application. The intermediate end use for the material or equipment is entered in Block #8a and/or Block #13b of the application. An Intermediate Foreign Consignee is an intermediate user of the materials or equipment proposed for export outside of the U.S. who will add value to the materials or equipment by processing, handling, or modifying it in some way before it is received and utilized by the ultimate end user/consignee. There may be multiple intermediate users/consignees in multiple countries and/or within the ultimate destination country who process, handle, or modify the material or equipment before it can be used by the ultimate consignee.

OIP also updated the frequently asked questions on the NRC's external web page on export licensing NRC: Frequently Asked Questions (FAQ) About Export-Import Licensing to clarify "intermediate consignee" as follows:

What is the role of a forwarding agent or freight forwarder?

The person in the U.S. who is authorized by a principal party to perform the services required to facilitate (e.g., transport) the export/import of items from or to the U.S.

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### Status of Recommendations

#### Recommendation 3 (cont.):

Do I need to list transport/shipping service providers and/or commercial carriers either as "Other Parties" or as "Intermediate Foreign Consignees" on the Form 7 application?

No, U.S. transport/shipping service providers and commercial carriers are not required to be listed as "Other Parties" on the Form 7 application. These entities are not parties-in-interest to an export license. They serve only as transporters of the nuclear material or commodity being exported, and their legal responsibility from a regulatory standpoint is limited to complying with the NRC and the U.S. Department of Transportation requirements (including but not limited to those found in 10 CFR §40.12(b) for shipments of natural uranium). Likewise, transport/shipping service providers and commercial carriers utilized in recipient country destinations also do not need to be listed as "Intermediate Foreign Consignees" on Form 7 applications.

What is an Intermediate Foreign Consignee?

An Intermediate Foreign Consignee is an intermediate user of the materials or equipment proposed for export outside of the United States, who will add value to the materials or equipment by processing, handling or modifying it in some way before it is received by the ultimate end user/consignee. There may be multiple intermediate users/consignees in multiple countries and/or within the ultimate destination country who process, handle or modify the material or equipment before it can be used by the ultimate consignee.

Target Completion Date: August 1, 2017

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### Status of Recommendations

Recommendation 3 (cont.):

OIG Analysis:                   OIG confirmed the updates to LIC-01, LIC-02, and the Export-Import Licensing Frequently Asked Questions noted on the external Web site. Therefore, this recommendation is now closed.

**Status:**                        Closed.



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### Status of Recommendations

Recommendation 4: Update OIP internal guidance to refer to Part 40.12(b) and verify that all carriers on export applications have a Part 40 license if exports exceed 500 kilograms of natural uranium.

Agency Response Dated  
October 25, 2017:

OIP updated internal guidance document LIC-02, Non-Appendix P to 10 CFR 110 Export and Import of Nuclear Equipment and Material in Section 6.1.4 (b) (p. 11) by adding the following language:

The Licensing Assistant (LA) notifies the applicant (via e-mail as further discussed in Section 6.2.4) of application acceptance after the adequacy of the application has been verified. For XSOU license applications seeking authorization to export more than 500 kilograms of natural uranium, the LA will add a reminder about the requirements in 10 CFR Part 40.12(b) as follows:

Please refer to the requirements in 10 CFR Part 40.12 – Carriers. The license exemption in Part 40.12(a) for common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service to have a 10 CFR Part 40 possession license, does not apply to a person who possesses an export shipment of natural uranium that exceeds 500 kilograms, unless the shipment for natural uranium is in the form of ore or ore residue.

OIP also added the following language in Section 6.2.4 (e) (p. 15)

#### 6.2.4 E-mail Notification (LA)

After numbers have been assigned to the application, the LA notifies the applicant (via email) of the following:

e) For XSOU license applications seeking authorization to export more than 500 kilograms of natural uranium, the LA will add a reminder about the requirements in 10 CFR Part 40.12(b) as follows:

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### Status of Recommendations

#### Recommendation 4 (cont.):

Please refer to the requirements in 10 CFR Part 40.12 – Carriers. The license exemption in Part 40.12(a) for common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service to have a 10 CFR Part 40 possession license, does not apply to a person who possesses an export shipment of natural uranium that exceeds 500 kilograms, unless the shipment of natural uranium is in the form of ore or ore residue.

OIP also added the following language in Section 6.2.11 (p. 22): 6.2.11 Issuing Licenses:

The AA then conveys the license by hardcopy and e-mails to the licensee. For XSOU licenses authorizing the export of more than 500 kilograms of natural uranium, a reminder about the requirements in 10 CFR Part 40.12(b) will be included in the email transmitting the license to the licensee as follows:

Please refer to the requirements in 10 CFR Part 40.12 – Carriers. The license exemption in Part 40.12(a) common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service to have a 10 CFR Part 40 possession license, does not apply to a person who possesses an export shipment of natural uranium that exceeds 500 kilograms, unless the shipment (of natural uranium) is in the form of ore or ore residue.

Target Completion Date: Completed

#### OIG Analysis:

OIG confirmed OIP's updates regarding Part 40.12 (b) to LIC-02 to address verification that all carriers on export applications have a Part 40 license if exports exceed 500 kilograms of natural uranium. Therefore, this recommendation is now closed.

#### Status:

Closed.

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### Status of Recommendations

Recommendation 5: Develop and implement a qualification program for OIP licensing officers.

Agency Response Dated  
October 25, 2017:

As of June 1, 2017, OIP completed a licensing officer qualification program. The program is found in OIP's share point site under export controls. OIP will administer this qualification program for new licensing officers. For existing licensing officers, the qualification program will be used as necessary to enhance individual development. OIP consulted NRR on the location of the qualification program and concluded that internal office procedures are sufficient instead of NRC's Inspection Manual Chapter. OIP will maintain the qualification program on OIP's share point site and will institute a review of the program every two years for adjustments and modifications.

Target Completion Date: Completed

Please contact Peter Habighorst of my staff if you have any questions. He may be reached at (301) 287-9241 or [peter.habighorst@nrc.gov](mailto:peter.habighorst@nrc.gov).

OIG Analysis: OIG confirmed the existence and implementation of a licensing officer qualification program on OIP's SharePoint site. Therefore, this recommendation is now closed.

**Status:** Closed.