



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

April 29, 2019

MEMORANDUM TO: Dr. Brett M. Baker
Assistant Inspector General for Audits
Office of the Inspector General

FROM: John W. Lubinski, Director **/RA/**
Office of Nuclear Material Safety
and Safeguards

SUBJECT: OVERSIGHT FOR ISSUING CERTIFICATES OF COMPLIANCE FOR
RADIOACTIVE MATERIAL PACKAGES (OIG-17-A-21)

Please find enclosed the updated status for Recommendations one through four
contained in the subject report.

Enclosure:
Updated Status of Recommendations

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**OVERSIGHT FOR ISSUING CERTIFICATES OF COMPLIANCE FOR RADIOACTIVE
MATERIAL PACKAGES
OIG-17-A21**

Status of Recommendations

Recommendation 1: Conduct an analysis to develop the regulatory and technical bases for the Part 71 certificates of compliance term.

Agency Response Dated
September 15, 2017 The staff agrees with the recommendation.

The staff, in consultation with the U.S. Department of Transportation (DOT), will conduct a technical and regulatory analysis to develop a basis for the duration of U.S. Nuclear Regulatory Commission (NRC) issued certificates of compliance for radioactive material packages. In developing the basis, staff will consider risk insights from existing studies performed on the transportation risk of spent fuel and solicit stakeholder input, including input from international counterparts. During the effort, staff will look for process efficiencies consistent with the agency's principles of good regulation. Staff will use the developed basis to establish an appropriate term for certificates of compliance for transportation packages.

Target date for completion: September 2018

Agency Response Dated
February 21, 2018 The staff drafted an action plan to address the recommendations in the audit report and began to coordinate with officials at DOT. The staff has initiated the task of gathering and reviewing historical documents related to the term for certificates of compliance along with key studies on transportation risk. These documents will support the staff's technical and regulatory basis. Further, the staff has kept public and industry stakeholders updated on these activities. The staff made a presentation at last year's Division of Spent Fuel Management's (DSFM's) Regulatory Conference discussing the Office of the Inspector General's (OIG's) audit, findings, and the staff's efforts to address the findings. Next steps include further coordination with DOT and consultation with key international counterparts. This will be followed by drafting the regulatory and technical basis.

Target date for completion: September 2018

Agency Response Dated
September 21, 2018 The staff is continuing its work in addressing the OIG recommendation. The staff has 1) met with the DOT, and 2) held a public meeting on April 26, 2018, to discuss the OIG audit and recommendations. In the public meeting, the staff included discussions of risk studies; what factors the agency should consider in establishing the expiration term; impacts; and implementation challenges, including costs. The meeting summary for the public meeting is available in the Agencywide

Documents Access Management System (ADAMS) at ML18184A298.

Additionally, the staff attending the International Atomic Energy Agency's Transportation Safety Committee meeting, known as TRANSSEC, in June, 2018, informally discussed various options with international counterparts on the margins of the meeting. Foreign competent authorities stressed the need for world-wide consistency regarding the expiration term for certificates of compliance for transportation packages. The consistency objective derives from the interest in maintaining the approved safety designs, as transportation packages are used for shipments across national borders. The staff is in the process of developing its regulatory basis.

In determining an appropriate expiration term for the certificates of compliance for transportation packages, the staff is evaluating the information obtained to date from the activities discussed above, as well as evaluating other applications within the agency in which the license or certificate expiration term has been extended. The staff estimates completing these evaluations and providing a final regulatory basis to the OIG no later than January 31, 2019.

Revised target date for completion: January 2019

Agency Response Dated
April 29, 2019

The staff has finalized its work in determining an appropriate expiration term for the certificates of compliance for transportation packages. The staff is finalizing the Basis Document in which the staff discusses its evaluations in determining the appropriate expiration term and documents its findings. The basis document will be publicly available in ADAMS.

The staff estimates completing the Basis Document no later than May 31, 2019.

Revised target date for completion: May 2019

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Recommendation 2:

Document and communicate to stakeholders NRC's analysis results identifying the bases for an appropriate term for Part 71 certificates of compliance.

Agency Response Dated
September 15, 2017

The staff agrees with the recommendation.

Upon completion of the analysis for Recommendation No. 1 above, the NRC will document the results and communicate the results to stakeholders. Staff will update internal guidance documents, as appropriate. Also, staff will use communication tools such as, placement in ADAMS as publicly available, posting

on the NRC public web site, and presentation at the Division of Spent Fuel Management's annual Regulatory Conference to communicate the results to external stakeholders.

Target date for completion: December 2018

Agency Response Dated
February 21, 2018

As discussed above with respect to Recommendation No. 1, the staff is conducting an analysis. Once that analysis is complete, the staff will document its findings and make those findings publicly available in ADAMS. Additionally, the staff will discuss the analysis and its results at the annual regulatory conference related to spent fuel, as well as updating internal guidance document(s) as appropriate, based on the analysis results.

Target date for completion: December 2018

Agency Response Dated
September 21, 2018

Once the staff completes the activities discussed in Recommendation 1, the staff will discuss the regulatory basis and its results at the next DSFM's Annual Regulatory Conference (which is currently scheduled for December 11 – 12, 2018) to communicate the results to external stakeholders. Additionally, the staff will 1) publish a notice in the *Federal Register* informing the public, including stakeholders, of the availability of the regulatory basis, 2) ensure it is publicly available in ADAMS, and 3) update Division of Spent Fuel Management Office Instruction No. SFST-7, Revision 4, "Part 71 Guidance."

Revised target date for completion: April 2019

Agency Response Dated
April 29, 2019

The staff presented its work in evaluating the appropriate expiration term at the DSFM's Annual Regulatory Conference on December 11, 2018. In this presentation, the staff discussed the work staff had done in determining the appropriate expiration term, including conclusions from the staff's analysis. The staff will 1) publish a notice in the *Federal Register* informing the public, including stakeholders, of the availability of the regulatory basis, 2) ensure the basis document is publicly available in ADAMS, and 3) update Division of Spent Fuel Management Office Instruction No. SFST-7, Revision 4, "Part 71 Guidance," to include a discussion of the expiration term and its basis.

Revised target date for completion: July 2019

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Recommendation 3:

Establish sufficient internal controls by updating NRC guidance related to Part 72.48 review procedures.

Agency Response Dated
September 15, 2017

The staff agrees with the recommendation.

The staff is currently revising Division Instruction SFM-18, "Part 72 Guidance." This document provides Part 72 storage system guidance for DSFM project managers and technical reviewers. The procedure is being revised to reorganize and clarify the former guidance and to add new guidance. Included in the revision is a footnote that addresses the 72.48 Task Group Charter and the 72.48 Task Group Objectives. It also incorporates a Steering Committee at the Branch Chief level to provide guidance and direction to the 72.48 Task Group.

Target date for completion: January 2018

Agency Response Dated
February 21, 2018

The staff made major changes to Division Instruction (DI) SFM-18, "10 CFR Part 72 and Spent Fuel Storage Guidance," including the title. The staff added an Appendix C to the subject DI that includes guidance for the review of Certificate of Compliance holder and licensee 72.48 biennial summaries. The staff deleted the footnote that referenced the 72.48 Task Group Charter (Charter) and the 72.48 Task Group Objectives (Objectives). The Steering Committee and Task Group will be sunset and existing division processes will provide for handling 72.48 biennial summaries and 72.48 evaluations. The completion date for this revision has been changed to reflect the completion of the revised DI.

Revised target date for completion: March 2018

Agency Response Dated
September 21, 2018

The staff identified additional references to the licensing Federal Register Notice (FRN) guidance that needs correction to reflect the reorganization in the Office of Administration and the changing of FRN responsibilities to the Office of General Counsel. DI SFM-18 is currently in the concurrence process. The staff expects the guidance to be issued no later than October 28, 2018. The staff proposes that this recommendation be closed. (See ADAMS Accession number ML18026A981)

Revised Target date for completion: October 2018

Agency Response Dated
April 29, 2019

The staff has completed this recommendation. The guidance was issued on October 2, 2018. Division Instruction No. LIC – 18, Revision No. 2, "10 CFR Part 72 and Spent Fuel Storage Guidance," became effective on October 17, 2018 (See ADAMS Accession number ML18026A981). The staff recommends that this action be closed.

Target date for completion: Completed October 17, 2018

Contact: Raynard Wharton, NMSS/DSFM
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<u>Recommendation 4:</u>	Establish sufficient internal controls by developing and implementing training for Part 72.48 review process.
Agency Response Dated September 15, 2017.	<p>The staff agrees with the recommendation.</p> <p>The staff recently updated a training module for the Title 10 of the <i>Code of Federal Regulations</i> (10 CFR) 72.48 review process. This training module was part of an instructor-led training course piloted for Part 72 inspectors in 2012. The staff will use the 10 CFR 72.48 training module from the Part 72 course to provide instructor-led training to applicable project managers, technical reviewers, and inspectors. This instructor-led training is scheduled for completion by the target date.</p> <p>Target date for completion: May 2018</p>
Agency Response Dated February 15, 2018	<p>The staff is currently updating the training module for the 10 CFR 72.48 review process to reflect the latest guidance described in Appendix C of Division Instruction SFM-18. This training module will be used as an instructor-led DSFM training course on the 10 CFR 72.48 process. The course will be applicable to project managers, technical reviewers, and inspectors.</p> <p>Target date for completion: May 2018</p>
Agency Response Dated September 21, 2018	<p>The staff has completed this recommendation. The 10 CFR 72.48 training was conducted on April 16, 2018 and April 26, 2018. (See ADAMS Accession number ML18142A970)</p> <p>Target complete date: Completed</p>
Agency Response Dated April 29, 2019	<p>The staff has completed this recommendation. The 10 CFR 72.48 training was conducted on April 16, 2018, and April 26, 2018. (See ADAMS Accession number ML18142A970). The OIG determined this item was closed in its memorandum dated October 18, 2018, to Margaret M. Doane, Executive Director for Operations.</p> <p>Target complete date: Closed</p>
Contact: Raynard Wharton, NMSS/DSFM 301-415-7497	

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 DATED: April 29, 2019

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