



OFFICE OF THE
INSPECTOR GENERAL

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

May 13, 2019

MEMORANDUM TO: Margaret M. Doane
Executive Director for Operations

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

SUBJECT: STATUS OF RECOMMENDATIONS: AUDIT OF NRC'S
REGULATORY OVERSIGHT OF SPECIAL NUCLEAR
MATERIALS (OIG-03-A-15)

REFERENCE: DIRECTOR, OFFICE OF NUCLEAR MATERIAL SAFETY
AND SAFEGUARDS, MEMORANDUM DATED MARCH 7,
2019

Attached is the Office of the Inspector General's (OIG) analysis and status of report recommendations as discussed in the agency's response dated March 7, 2019, and follow-up information provided by the agency in a Staff Requirements Memorandum (SRM) SECY-18-0104, dated April 3, 2019. Based on this information, recommendations 1 and 3 are now closed. Recommendations 2 and 4 through 8 were previously closed. Therefore, all recommendations from this audit report are now closed.

If you have any questions or concerns, please call me at (301) 415-5915 or Jaclyn Storch Team Leader, at (301) 415-2877.

Attachment: As stated

cc: R. Lewis, OEDO
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EDO_ACS_Distribution Resource

Audit Report

AUDIT OF NRC'S REGULATORY OVERSIGHT OF SPECIAL NUCLEAR MATERIALS

OIG-03-A-15

Status of Recommendations

Recommendation 1: Conduct periodic inspections to verify that material licensees comply with material control and accounting (MC&A) requirements, including, but not limited to, visual inspections of licensees' special nuclear material (SNM) inventories and validation of report information.

Agency Responses
Dated March 7, 2019
and April 3, 2019:

March 2019 Status:

In its February 7, 2006, memorandum, the Office of the Inspector General (OIG) stated that two of the three conditions identified by OIG that needed to be met to close this recommendation have been satisfied. The remaining condition is completion of the documentation of the basis for risk informing the MC&A program (and apply it to the program) with respect to conducting periodic inspections. In response to the staff's status report dated December 29, 2017, the OIG requested an updated status of this recommendation.

In SECY-05-0143, "Proposed Changes to the Material Control and Accounting Program," the staff recommended that the Commission approve the staff's proposed enhancements to the MC&A regulations, inspection program, and licensing process. This was further delineated in the MC&A rulemaking plan (SECY-08-0059, "rulemaking Plan: part 74 – Material Control and Accounting of Special Nuclear Material") dated April 25, 2008. The staff requirements memorandum for SECY-08-0059 was issued on February 5, 2009, and the Commission approved the staff's rulemaking Option 4, directing the staff to only revise and consolidate current MC&A regulations into Title 10 of the *Code of Federal Regulations Part 74*. The Commission chose not to proceed with a more fully risk-informed option presented in SECY-08-0059. In accordance with Commission direction, the staff developed revisions that consolidated and clarified the regulations, and a proposed rule [NRC-2009-0096], titled "Amendments to Material Control and Accounting Regulations," and associated

Audit Report

AUDIT OF NRC'S REGULATORY OVERSIGHT OF SPECIAL NUCLEAR MATERIALS

OIG-03-A-15

Status of Recommendations

Recommendation 1 (cont):

guidance documents [NRC-2013-0195] were completed and published in the Federal Register (FR) on November 08, 2013.

Completion of this rulemaking has been delayed due to limited resources, but significant progress has been made in the past year. The staff delivered the draft final rule package to the Commission on October 15, 2018. This rule package is documented as SECY-18-0104 in the Agencywide Documents Access and Management Systems (ADAMS). In developing the draft final rule, the staff engaged the Committee to Review Generic Requirements and received its endorsement on August 30, 2018. The staff also conducted a public meeting to discuss implementation of the rule requirements on August 28, 2018. Comments received at this meeting helped to inform the staff's recommendation for the implementation period of the rule.

In accordance with the direction from the Commission for the rulemaking, the staff completed other activities that risk inform the MC&A program, including revising the U.S. Nuclear Regulatory Commission Inspection Manual Chapter 2683 and associated exhibits detailing MC&A inspection procedures Series 85000 for all category fuel facilities. The revision of Manual Chapter 2683 is documented in ADAMS. This manual chapter establishes the inspection program requirements for MC&A systems for fuel cycle licensees, incorporating graded performance standards that are based on the dominant relative safeguards risks associated with the form, quantity, and enrichment of special nuclear material. Applicable inspection procedures are routinely used by Headquarters and Regional offices inspectors for conducting MC&A inspections of licensed facilities.

In addition, staff revised the following relevant guidance documents to be consistent with the revised draft final rule and to incorporate the graded approach to MC&A programs:

Audit Report

AUDIT OF NRC'S REGULATORY OVERSIGHT OF SPECIAL NUCLEAR MATERIALS

OIG-03-A-15

Status of Recommendations

Recommendation 1 (cont):

- NUREG-1280, Revision 2, "Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Strategic Special Nuclear Material"
- NUREG-2159, "Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Special Nuclear Material of Moderate Strategic Significance"
- NUREG-1065, Revision 3, "Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Special Nuclear Material of Low Strategic Significance"
- NUREG-2158, (formerly NUREG/CR-5734), "Acceptable Standard Format and Content for the Material Control and Accounting (MC&A) Plan Required for Low Enriched Uranium Enrichment Facilities"
- NUREG/BR-0096, Revision 2, "Instructions and Guidance for Completing Physical Inventory Summary Reports" and
- DG- 5057, "Special Nuclear Material Control and Accounting System for Non-Fuel Cycle Facilities"

These draft revised guidance documents were completed and made available at the time the draft final rule package was provided to the Commission via SECY-18-0104.

Target Completion Date:

As noted above, the staff delivered the draft final rule package to the Commission in October 2018. Thereafter, with the Commission's approval, the final rule will be published in the *Federal Register*. The staff recommends that Recommendation 1 be closed following Commission action on the rulemaking.

Audit Report

AUDIT OF NRC'S REGULATORY OVERSIGHT OF SPECIAL NUCLEAR MATERIALS

OIG-03-A-15

Status of Recommendations

Recommendation 1 (cont):

April 2019 Status:

In (SRM) SECY-18-0104, dated April 3, 2019, the Commission disapproved the draft final rule and directed staff to discontinue all rulemaking activity related to Material Control and Accounting Regulations.

OIG Analysis:

This status update recounts the agency's efforts towards meeting the intent of this recommendation. OIG verified information confirming the Commission has disapproved the draft final rule on Staff Requirement – SECY-18-0104 for Amendments to Material Control and Accounting Regulation, which precludes the agency from implementing Recommendation 1. Therefore, this recommendation is considered closed.

Status:

Closed.

Audit Report

AUDIT OF NRC'S REGULATORY OVERSIGHT OF SPECIAL NUCLEAR MATERIALS

OIG-03-A-15

Status of Recommendations

Recommendation 3: Document the basis of the approach used to risk inform NRC's oversight of MC&A activities for all types of materials licensees.

Agency Responses
Dated March 7, 2019
and April 3, 2019:

March 2019 Status:

Because Recommendation 3 also pertains to risk-informing the inspection program, see the discussion above regarding the status of staff activities to address Recommendation 1.

Target Completion Date:

As noted above, the staff delivered the draft final rule package to the Commission in October 2018. Thereafter, with the Commission's approval, the final rule will be published in the FR. The staff recommends that Recommendation 3 be closed following Commission action on the rulemaking.

April 2019 Status:

In (SRM) SECY-18-0104, the Commission disapproved the draft final rule and directed staff to discontinue all rulemaking activity related to Material Control and Accounting Regulations.

OIG Analysis:

This status update recounts the agency's efforts towards meeting the intent of this recommendation. OIG verified information confirming that the Commission has disapproved the draft final rule on Staff Requirement – SECY-18-0104 for Amendments to Material Control and Accounting Regulation, which precludes the agency from implementing Recommendation 3. Therefore, this recommendation is considered closed.

Status:

Closed.