

AUDIT REPORT

Audit of NRC's Management of Import/Export Authorizations

OIG-12-A-13 April 20, 2012



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OFFICE OF THE
INSPECTOR GENERAL

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

April 20, 2012

MEMORANDUM TO: R. William Borchardt
Executive Director for Operations

J. E. Dyer
Chief Financial Officer

Margaret M. Doane
Director, Office of International Programs

FROM: Stephen D. Dingbaum **/RA/**
Assistant Inspector General for Audits

SUBJECT: AUDIT OF NRC'S MANAGEMENT OF IMPORT/EXPORT
AUTHORIZATIONS (OIG-12-A-13)

Attached is the Office of the Inspector General's (OIG) audit report titled, *Audit of NRC's Management of Import/Export Authorizations*.

The report presents the results of the subject audit. Agency comments provided on March 8, 2012, and March 23, 2012, have been incorporated, as appropriate, into this report.

Please provide information on actions taken or planned on each of the recommendations within 30 days of the date of this memorandum. Actions taken or planned are subject to OIG followup as stated in Management Directive 6.1.

We appreciate the cooperation extended to us by members of your staff during the audit. If you have any questions or comments about our report, please contact me at 415-5915 or Kathleen Stetson, Team Leader, Financial and Administrative Audit Team, at 415-8175.

Attachment: As stated

EXECUTIVE SUMMARY

BACKGROUND

The U.S. Nuclear Regulatory Commission's (NRC) mission is to regulate the Nation's civilian use of nuclear materials to ensure protection of public health and safety, promote the common defense and security, and protect the environment. One of the agency's statutorily mandated responsibilities under the Atomic Energy Act of 1954, as amended (AEA), is to license the import and export of nuclear materials and equipment into and from the United States.

NRC issues two types of licenses for the import and export of nuclear material: general licenses and specific licenses. The type of license required depends on the amount and type of nuclear material or equipment and the foreign country involved. A person may use an NRC general license as authority to import or export nuclear material or equipment if the item is covered by the NRC general licenses issued under regulation in Title 10, Code of Federal Regulations (CFR), Part 110. If an import or export is not covered by the general license, a person must file an application with the Commission for a specific license. A specific import/export license is a paper document issued by the NRC on a case-by-case basis to a named person or entity for the proposed transaction(s) described in the license application form.

NRC's Office of International Programs (OIP) is assigned to process specific nuclear import/export licensing actions under 10 CFR Part 110 after receiving any necessary guidance from the Commission. OIP coordinates its license application review, as needed, with the Office of Federal and State Materials and Environmental Management Programs, the Office of Nuclear Security and Incident Response, the Office of Nuclear Material Safety and Safeguards, the Office of the General Counsel, and the Commission.

OIP also coordinates with State government officials and representatives of regional low-level radioactive waste interstate compacts¹ on applications for the import of waste materials. Additionally, OIP coordinates with the Departments of Energy and State on communications with foreign governments related to requirements of the AEA.

From Fiscal Year (FY) 2008 through FY 2010, OIP completed between 123 and 139 licensing actions per year. OIP has nine staff that spend part of their work effort on processing import and export license applications. In FY 2010, according to Human Resources Management System records, OIP staff charged approximately 2,670 staff-hours to billable licensing activities. Other program offices involved in reviewing import/export applications estimated they expended approximately an additional 969 staff-hours in support of billable import/export licensing activities during the same period.

OBJECTIVES

The audit objectives were to determine whether NRC (1) properly reviews and approves import/export authorizations in a timely manner, (2) effectively coordinates this activity with other Federal agencies, and (3) efficiently and effectively coordinates import/export authorizations internally.

RESULTS IN BRIEF

In general, OIP is properly reviewing and approving import/export license authorizations (applications) in a timely fashion and coordinates effectively with external stakeholders. However, the Office of the Inspector General (OIG) identified opportunities for improvement for more efficient and effective internal coordination on import/export authorizations. Specifically,

- A. OIP does not have a systematic approach to biennial fee reviews and adjustments.
- B. OIP does not reconcile import/export license application revenue.

¹ Under the Low-Level Radioactive Waste Policy Amendments Act of 1985, States were given the responsibility for disposal of their low-level radioactive waste. States were encouraged to enter into agreements (compacts) to dispose of waste in common facilities. Currently, there are 10 interstate compacts and 10 unaffiliated States.

- C. OIP does not employ an adequate quality control review process over application files.

Addressing these concerns will strengthen NRC's internal control over import/export licensing.

RECOMMENDATIONS

This report makes recommendations to improve the agency's import/export licensing process. A consolidated list of these recommendations appears on page 25 of this report.

AGENCY COMMENTS

OIG met with NRC management officials and staff during a March 8, 2012, exit conference. Subsequent to the exit conference, the agency provided informal comments. On March 21, 2012, OIG provided a revised draft report to the agency that incorporated changes OIG deemed appropriate after consideration of the agency's informal comments. OIG met with agency management and staff on March 23, 2012, to discuss additional suggested changes to the report; subsequently, OIG incorporated additional informal comments into the draft report as appropriate. NRC staff reviewed the revised draft report and opted not to provide formal comments.

ABBREVIATIONS AND ACRONYMS

AEA	Atomic Energy Act of 1954, as amended
CFO	Chief Financial Officer
CFR	Code of Federal Regulations
DOI NBC	Department of Interior National Business Center
FSME	Office of Federal and State Materials and Environmental Management Programs
FTE	Full-Time Equivalent
FY	Fiscal Year
GAO	Government Accountability Office
HRMS	Human Resources Management System
IAEA	International Atomic Energy Agency
IOAA	Independent Offices Appropriations Act of 1952
MD	Management Directive
NMSS	Office of Nuclear Material Safety and Safeguards
NRC	Nuclear Regulatory Commission (or Commission)
NSIR	Office of Nuclear Security and Incident Response
OBRA	Omnibus Budget Reconciliation Act of 1990, as amended
OCFO	Office of the Chief Financial Officer
OGC	Office of the General Counsel
OIG	Office of the Inspector General
OIP	Office of International Programs
TAC	Technical Assignment Control

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I. BACKGROUND

The U.S. Nuclear Regulatory Commission's (NRC) mission is to regulate the Nation's civilian use of nuclear materials to ensure protection of public health and safety, promote the common defense and security, and protect the environment. One of the agency's statutorily mandated responsibilities under the Atomic Energy Act of 1954, as amended (AEA) is to license the import and export of nuclear materials and equipment into and from the United States.

NRC regulations governing the import/export licensing process are provided in Title 10, Code of Federal Regulations (10 CFR) Part 110, "Export and Import of Nuclear Equipment and Material." 10 CFR Part 110 prescribes licensing, enforcement, and rulemaking procedures for import and export licenses. 10 CFR Sections 110.8, 110.9, and 110.9a list the nuclear facilities, equipment, and materials under NRC import and export licensing authority (e.g., special nuclear,² source,³ and byproduct material,⁴ nuclear reactor components, and equipment).

NRC issues two types of licenses for the import and export of nuclear material: general licenses and specific licenses. The type of license required depends on the amount and type of nuclear material or equipment and the foreign country involved. A person may use an NRC general license as authority to import or export nuclear material or equipment if the item is covered by the NRC general licenses issued under regulation in 10 CFR Part 110. 10 CFR Sections 110.21 through 110.27 list the nuclear materials and equipment authorized for import or export under general license. If an import or export is not covered by the general license, a person must file an application with the Commission for a specific license. A specific import/export license is a paper document issued by NRC on a

² *Special nuclear material* includes plutonium, uranium-233, or uranium enriched above 0.711 percent by weight in the isotope uranium-235.

³ *Source material* includes (1) Natural or depleted uranium, or thorium, other than special nuclear material, or (2) Ores that contain by weight 0.05 percent or more of uranium, thorium, or depleted uranium.

⁴ *Byproduct material* includes any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material.

case-by-case basis to a named person or entity for the proposed transaction(s) described in the license application form.

Specific licenses are categorized as either non-Appendix P or Appendix P licenses. Non-Appendix P licenses refer to material and equipment described in 10 CFR 110 Appendixes A through O. These appendixes were codified into regulation between May 1978 and November 2000 and cover a broad range of nuclear materials and equipment. Appendix P was codified into regulation on July 1, 2005. Appendix P covers 16 specific radionuclides primarily used in industrial gauges and medical testing equipment.

This audit focuses on NRC's processing of applications for new specific import/export licenses, amendments, and renewals—collectively referred to as import/export licensing actions—during Fiscal Year (FY) 2010. The Office of the Inspector General (OIG) previously audited this program in 2004. That audit found that the Office of International Programs (OIP) approved license applications in a timely manner and coordinated effectively with other Federal agencies. However, license processing costs were under-recovered and internal quality control measures required improvement to correct documentation weaknesses. OIP developed written procedures and quality control checklists in response to those findings.

Office of International Programs Coordination Role

OIP is assigned to process specific nuclear import/export licensing actions under 10 CFR Part 110 after receiving any necessary guidance from the Commission. OIP coordinates its license application review, as needed, with the Office of Federal and State Materials and Environmental Management Programs (FSME), the Office of Nuclear Security and Incident Response (NSIR), the Office of Nuclear Material Safety and Safeguards (NMSS), the Office of the General Counsel (OGC), and the Commission, as follows:

- FSME advises on nuclear waste importation and exportation.
- NSIR confirms that physical security measures employed at foreign destinations are at least comparable to the recommendations in international guidance.

- NMSS confirms that export destinations are in compliance with nonproliferation commitments including International Atomic Energy Agency (IAEA) safeguards agreements.
- OGC assists with legal matters pertaining to significant license application issues.
- The Commission reviews certain applications based on criteria enumerated in 10 CFR Part 110.40.

OIP also coordinates with State government officials and representatives of the regional low-level radioactive waste interstate compacts⁵ on applications for the import of waste materials. Additionally, OIP coordinates with the Departments of Energy and State on communications with foreign governments related to requirements of the AEA.

Within NRC, OIP coordinates financial reporting functions with the Office of the Chief Financial Officer (OCFO). This coordination includes determining that fee revenue is received and recorded on NRC's financial records.

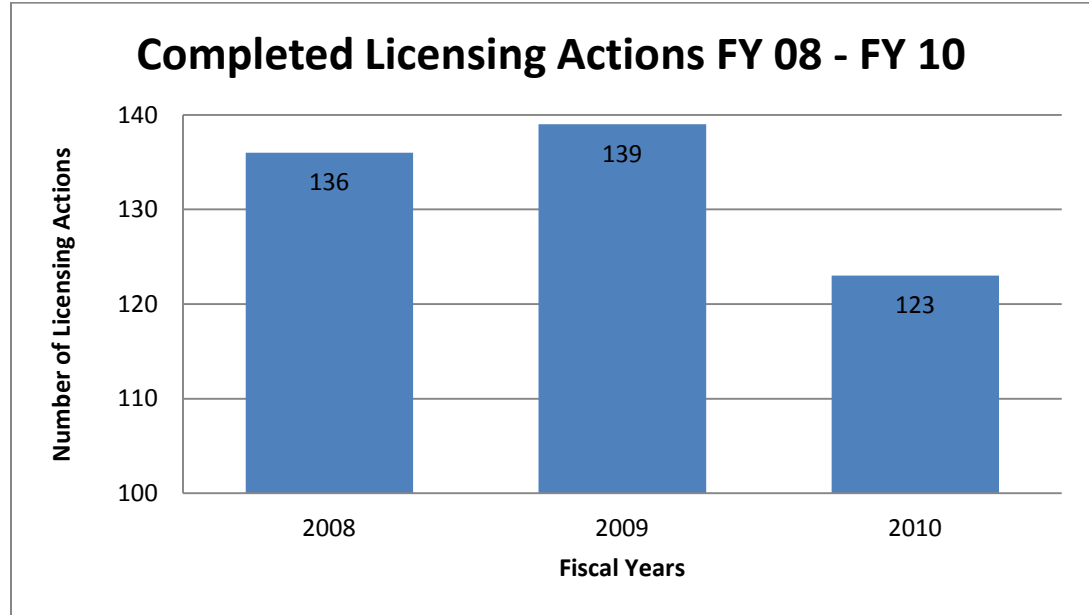
Processing of Import/Export Licensing Actions

To request a specific import/export licensing action, applicants submit a completed NRC Form 7, "Application for NRC Export or Import License, Amendment, Renewal, or Consent Request(s)," and an established application fee to the OIP Deputy Director. Staff in OIP review the application for completeness, including receipt of the correct fee amount, and coordinate with other NRC and Federal agency staff to obtain their views on a proposed licensing action as necessary. Before issuing a license, OIP management is expected to perform a final review of the contents of the import/export file to confirm that all required communications, approvals, and documents are present.

⁵ Under the Low-Level Radioactive Waste Policy Amendments Act of 1985, States were given the responsibility for disposal of their low-level radioactive waste. States were encouraged to enter into agreements (compacts) to dispose of waste in common facilities. Currently, there are 10 interstate compacts and 10 unaffiliated States.

From FY 2008 through FY 2010, OIP completed between 123 and 139 licensing actions per year. (In any given year, some applications may be withdrawn by the applicant or returned by OIP to the applicant without action, and some may take more than a year to process.) Table 1 shows the number of specific import and/or export licensing actions completed according to OIP records for FY 2008 through FY 2010.

Table 1



Source: OIG analysis of OIP data

Fees charged by NRC for a specific import/export license are established in 10 CFR Part 170, "Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services under the Atomic Energy Act of 1954, as amended" and are published annually in the CFR. These fees are intended to correspond to the level of effort required to process the various licenses.

During FY 2010,⁶ there were 11 levels of fees associated with 23 types of import/export licenses; fees ranged from \$780 to process a minor amendment associated with an existing license to \$16,900 to process a license application requiring review by the Commission.

⁶ The audit period covered in this report is FY 2010, the most recent year for which complete data was available at the time of fieldwork.

NRC's authority to collect fees derives from the Independent Offices Appropriations Act of 1952, as amended (IOAA), codified as 31 U.S. Code 9701 and the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA). IOAA states that agency services are to be self-sustaining to the extent possible and that charges for services should be fair and based on cost to the Government. OBRA provides a statutory basis for cost recovery for NRC licensing and regulatory functions, stating, "[A]ny person who receives a service or thing of value from the Commission shall pay fees to cover the Commission's costs in providing any such service or thing of value."

Biennial Fee Review

In accordance with the Chief Financial Officers Act of 1990 (CFO Act), NRC is required, every 2 years, to review the fees it charges for services. Management Directive (MD) 4.6, *License Fee Management Program*, implements this legislative requirement and directs (1) the OCFO to biennially review fees and (2) office directors to submit "verified staff-hour data" to OCFO in support of the fee review.

With regard to import/export licensing, OCFO establishes the fees based on the estimated average number of hours spent by program office staff processing specific license applications multiplied by the hourly rate established by OCFO.⁷ To support the biennial fee review, OIP estimates the average number of hours per license category spent by its staff processing applications and collects the same type of data from NSIR, NMSS, FSME, and OGC. These average hourly estimates are derived from analysis of Technical Assignment Control (TAC) codes that NRC staff use to capture their work activities in the agency's time reporting system (the Human Resources Management System, or HRMS) and augmented by individuals' recall of time spent on specific import/export licensing activities. OIP submits aggregated agency-wide hourly averages per license category to OCFO with any recommendations concerning fee adjustments. OCFO multiplies OIP's recommended average hours per license category by the OCFO-calculated professional hourly rate to establish fees for the coming year.

⁷ OCFO's calculation of the hourly rate is outside the scope of this audit.

Budget

OIP has nine staff who spend part of their work effort on processing import and export license applications. In FY 2010, OIP budgeted six full-time equivalents (FTE) for license-related activities. Of the six FTEs, four are billable⁸ for the review and processing of import/export license applications. The two non-billable FTEs are used for generic licensing activities such as research and answering general questions from licensees.

In FY 2010, according to HRMS records, OIP staff charged approximately 2,670 staff-hours to billable licensing activities. Other program offices involved in reviewing import/export applications estimated they expended approximately an additional 969 staff-hours in support of billable import/export licensing activities during the same period.

⁸ Billable FTEs are designed to recover the cost of providing individually identifiable services to specific applicants and holders of licenses.

II. OBJECTIVES

The audit objectives were to determine whether NRC (1) properly reviews and approves import/export authorizations in a timely manner, (2) effectively coordinates this activity with other Federal agencies, and (3) efficiently and effectively coordinates import/export authorizations internally. The Appendix contains information on audit scope and methodology.

III. FINDINGS

In general, OIP is properly reviewing and approving import/export license authorizations (applications) in a timely fashion and coordinates effectively with external stakeholders. However, OIG identified opportunities for improvement for more efficient and effective internal coordination on import/export authorizations. Specifically,

- A. OIP does not have a systematic approach to biennial fee reviews and adjustments.
- B. OIP does not reconcile import/export license application revenue.
- C. OIP does not employ an adequate quality control review process over application files.

Addressing these concerns will strengthen NRC's internal control over import/export licensing.

A. OIP DOES NOT HAVE A SYSTEMATIC APPROACH TO BIENNIAL FEE REVIEWS AND ADJUSTMENTS

OIP employs an ad hoc and inconsistent approach to identifying the hours and license applications to include in the agency's biennial review of costs associated with import/export licensing activities. Specifically, OIP does not use a systematic method to:

- Determine staff hours spent reviewing import/export license applications.
- Determine the number of licensing applications per fee category.
- Adjust the average number of hours assigned per import/export license category as a result of the biennial fee review.

These inconsistencies occur because OIP management does not provide sufficient quality control over data collection, data analysis, and use of biennial fee review results. As a result, OIP is not accurately charging licensees, also known as customers, and not receiving full reimbursement for the cost of providing these services.

NRC Responsibility To Examine Biennial Fee Review Information

NRC has the responsibility to ensure that data used in the mandated biennial fee review process is accurate and adjustments are made in a systematic manner so customers are charged equitable fees that reflect actual costs to the agency.

Biennial Fee Review

In addition to requirements to collect fees, NRC is required at least biennially to evaluate the costs to provide the services for which it charges a fee. The CFO Act lays out the review requirements. The CFO Act states:

§902(a)(8) [NRC shall] review, on a biennial basis, the fees, ... imposed by the agency for services ... and make recommendations on revising those charges to reflect costs incurred by it in providing those services

NRC has included biennial fee review guidance in its MD 4.6, *License Fee Management Program*, which provides direction for both the OCFO and NRC office directors with regard to fee review. Section III D. (4) requires office directors to:

Submit verified staff-hour data on a biennial basis to the CFO to support the determination of “flat” fees used for the assessment of materials license fees under the IOAA and 10 CFR Part 170.

OIP's policies and procedures mirror this requirement regarding the biennial fee review process. OIP has two separate policy documents, one for non-Appendix P applications, “Procedures for Export/Import Licensing” (dated November 2004) and one for Appendix P applications, “Appendix P License Processing Procedures” (undated). Both documents discuss the biennial fee review and, with the exception of specifying the number of fee categories, they are identical.

OIP Employs an Ad Hoc Approach to the Biennial Fee Review Process

OIP employs an ad hoc and inconsistent approach to identifying the hours and license applications to include in the agency's biennial review of costs associated with import/export licensing. Specifically, OIP does not use a systematic method to:

- Determine staff hours spent processing import/export license applications.
- Determine the number of licensing applications per fee category.
- Adjust the number of hours assigned per import/export license category as a result of the biennial fee review.

While OIP staff drafted biennial fee review procedures, they were not implemented in time for the most recent biennial fee review.

Inconsistent Time Tracking

OIP uses unreliable and inconsistent methods to track staff time spent in support of import/export billable tasks in the biennial fee review process. As noted in the background section of this report, OIP supports the agency's biennial fee review by determining the number of hours OIP and other program office staff charged to processing specific import/export license applications in each of the various types of fee-billable licensing activities⁹ during the biennial period under review. The OIP manager responsible for coordinating this effort explained that OIP and program office efforts are determined by compiling hours charged to each of the various HRMS TAC codes related to specific import/export activities and when this data is not available, talking with staff about what they worked on over the 2-year period.

Reliance on existing TAC codes to assess OIP staff time spent on import/export licensing activities has been problematic in that some staff appear to be using incorrect codes to report their time. For example, the codes used to track OIP time spent on import/export licensing activities changed during the biennial review period and new code lists were distributed. The OIP manager recognized that staff needed further training on charging their time to the correct codes. Additionally, OIG's analysis of OIP TAC code usage over the 2-year period found OIP staff charged 185¹⁰ hours of import/export licensing activity to four codes associated with particular license categories but for which no licensing applications were received, worked on, or licenses issued during the period for these categories. The OIP manager tries to compensate for imprecise use of TAC codes by asking OIP staff to convey their recollections of what they worked on, and how much time they spent working on specific import/export cases, over the 2-year period and then making adjustments to the TAC code data. However, OIP staff do not maintain documentation to confirm their recollections of what they worked on and the OIP manager did not document the rationale for

⁹ No fees are charged for certain licenses issued to educational and governmental institutions. A list of fee exemptions may be found in 10 CFR Part 170.11.

¹⁰ These 185 hours include 127 hours that OIP assigned to other licensing activities because of "mischarges" and 58 hours which were not included in the biennial fee review analysis because the activity was "delete[d] w[ith the] 2010 rule change."

any adjustments made to the TAC code data based on the recollections of OIP staff.

The OIP manager also relies on the recollections of non-OIP staff as to what import/export activity they worked on during the review period to compensate for TAC codes that are not specific enough to properly capture time spent on specific categories of import/export activity. For example, some non-OIP offices have import/export TAC codes that include both billable and non-billable activities. Furthermore, some non-OIP staff said they charge time to one of several codes depending on whether time has been charged to the code recently or not, without necessarily always charging the same TAC for the same task. The OIP manager compensates for the TAC code shortfalls by talking with non-OIP staff about what applications they worked on over the past 2 years. However, there is no documentation available to support non-OIP staff estimates of time spent on billable licensing activities, and limited documentation supporting the OIP manager's adjustments to the non-OIP TAC code data.

Inconsistent Categorization of License Applications

OIP staff also use inconsistent methods to determine if a particular type of application will be included in the counts of applications received and licenses issued that are used in the biennial fee review. OIP keeps information on active applications and licenses in two separate Microsoft Access tracking systems. All OIP licensing staff have access to both systems and can update records as information changes. OIP relies on the Access tracking systems to develop two Microsoft Excel spreadsheets to calculate the number of applications received and licensing actions completed during the biennial period. OIG compared the data in Access to the data in Excel and found that some applications listed in Access were not included in Excel. OIP staff provided conflicting answers as to whether certain types of application outcomes, such as those that are withdrawn by the applicant or returned by OIP to the applicant, are included in the biennial fee review count of applications. For example, of four applications listed as withdrawn in OIP's Access tracking systems, two were included in the count of applications for the biennial fee review, and two were not. Five returned applications were shown in OIP's Access tracking systems as completed; however, the Microsoft Excel spreadsheet shows four of these as "in process" and one is not included. OIP could not provide any

documentation to support the varying treatment of these applications for purposes of the biennial review of fees.

Inconsistent Approach to Adjustments

OIP does not have a systematic approach for recommending adjustments in the hours that serve as the basis for the license fees charged to customers. OIG compared the fee hours¹¹ for five major import/export license levels against biennial fee review hours reported for these activities and noted that while trends in biennial fee review data appear to indicate a need to make corresponding changes in customer fees, such adjustments were not consistently made.

Data in Table 2 compares the fee hours (shaded columns reflect fees published annually in CFRs) to biennial fee review hours by license level developed as a result of OIP's biennial fee review (unshaded columns). The dates at the top of the shaded columns are the effective dates for the published CFRs. The dates at the top of the unshaded columns reflect the biennial fee review period. Comparing an unshaded column to the shaded column to its right allows one to see the relationship between the biennial fee review results and the actual published fees.

¹¹ For comparison purposes, OIG converted fee amounts into hours by dividing the fee listed in 10 CFR Part 170.21 by the professional staff hour rate in 10 CFR Part 170.20 to approximate the number of fee hours represented by each fee.

Table 2

Comparison of Fee Hours to Review Hours by License Level							
	04 - 06	04 - 06	06 - 08	06 - 08	08 - 10	08 - 10	2011
	CFRs	Biennial Fee Review	CFRs	Biennial Fee Review	CFRs	Biennial Fee Review	CFRs
	Fee Hours*	Review Hours	Fee Hours	Review Hours	Fee Hours	Review Hours	Fee Hours
Level 1**	65	81.4	65	69	65	76	65
Level 2	38	20.5	38	35	38	33	35
Level 3	12	20.9	16	13	16	15	16
Level 4	8	17.9	10	31	10	12	10
Level 5	1.5	8	3	4	3	16	5

* Fee hours are calculated from rate information in 10 CFR 170.20 and fees in 10 CFR 170.21.

** Levels correspond to the license classes found in 10 CFR 170.20 and 21: Level 1 = K1, 15A; Level 2 = K2, 15B; Level 3 = K3, 15C; Level 4 = K4, 15D; and Level 5 = K5, 15E, 15R.

Source: OIG analysis of OIP and CFR information

Given that the biennial fee review results should be used to inform the fees published in the CFR, one would expect to see, for example, the 2004-2006 study results reflected in 2006-2008 CFR adjustments. However, a comparison of fee hours reflected in the CFR fees to biennial fee review results showing hours spent on these license categories does not indicate a consistent relationship between these two data sets. For example, Table 2 shows that Level 1 biennial fee review hours are consistently higher than fee hours used to calculate license costs in the CFR, but no adjustment has been made since 2004. Conversely, Level 2 biennial fee review hours are consistently lower than fee hours used to calculate license costs but no adjustment was made until 2011, and the fee hours used to calculate the license fee remain above actual hours. [Note: Numbers in bold indicate a change from the previously published information.]

OIP supervisory staff said that they did not recommend adjusting the hours for each license level for various reasons, including staff turnover and the resulting learning curve for new staff assigned to work on the licensing actions, significantly atypical cases that skew the data, and a wish not to introduce price uncertainty for license applicants. OIP supervisory staff also said they are sensitive to the impact of license costs on their customers. Although OIP staff offered these explanations as examples of

considerations taken into account when recommending adjustments in the fee schedule, they provided limited documentation to support their decisions or reflect OIP management discussion of the issues. Furthermore, OIP could only provide limited objective, written criteria used to support a decision whether to change the hours for each fee category.

Insufficient Control Over Biennial Fee Review Data

NRC's approach to the biennial fee review is ad hoc and non-systematic because OIP management does not provide sufficient quality control over data collection, data analysis, and use of biennial fee review results. With regard to data collection within the office, OIP does not have written procedures for the proper charging of license types to specific TACs. Additionally, management changed TAC definitions five times during the latest biennial fee review period. According to OIP management, these changes were not sufficiently communicated to staff, and formal training was not provided. Finally, supervisory staff do not always review the accuracy of import/export TACs charged by staff in HRMS to catch errors in a timely manner.

OIP also has not communicated its requirements for TACs to support specific import/export activities to other program offices. There is no agreement between OIP and program offices as to which TACs should be used to report hours for billable fee activities and which hours should be included in OIP's analysis. Nor is there agreement as to what activities are billable and which should be more properly categorized as overhead or pre-application work.

Furthermore, OIP management does not provide sufficient quality control over data analysis and use of biennial fee review results. OIP staff provided OIG the data used to support the most recent biennial fee review. However, none of the supporting documentation contained a comparison with prior biennial fee review results. The biennial fee review results are reported to the CFO with only limited documentation of assumptions used for adjustments or written analysis to support recommendations. According to OIP managers, they know their caseload and specifics of their small program and thus are able to make judgments and adjustments based on program knowledge without formally documenting their reasoning.

A well-managed biennial fee review process should include the following quality control elements:

- Routine communications with and training for all involved staff in OIP and other program offices regarding requirements of the biennial fee review for billable import/export licensing activities.
- Routine interim reviews and certification of HRMS data to ensure overall internal consistency in time reporting practices.
- Documentation of the TAC number that should be charged for time spent on a particular license application on the checklist attached to the license application file.
- Documentation of criteria on whether and when to include revised, returned without action, withdrawn, and terminated licenses in the count of applications and completed licensing actions.
- Documentation of any assumptions and criteria used in collecting billable import/export licensing activities and their adjustments.
- Documentation of assumptions and criteria used in determining whether to apply biennial fee review results to hours used in fee-setting.

NRC Under Recovered Its Costs

NRC is not accurately charging customers and not receiving full reimbursement for the cost of providing these services. The data in Table 3 compares total hours billed to actual hours worked in the period per HRMS. In no period did the fees charged by OIP fully recover the costs associated with providing these services, as required by law.

Table 3

Cost Recovery Hours Billed to Hours Worked	
Biennial Period 2004 - 2006	2004 - 2006
Hours Billed	2,297.25
Hours Worked	3,202.75
Under Recovery	28.27%
Biennial Period 2006 - 2008	2006 - 2008
Hours Billed	5,641.50
Hours Worked	6,097.00
Under Recovery	7.47%
Biennial Period 2008 - 2010	2008 - 2010
Hours Billed	4,718.50
Hours Worked	5,864.50
Under Recovery	19.54%

Source: OIG analysis of OIP information

The estimated net effect of this ad hoc approach to the biennial fee review and adjustment process is that OIP is consistently not recovering the cost of providing import/export license application review services as required by law.

OIG estimated the under recovery of import/export fees during FY 2010 by comparing (a) hours worked related to import/export application processing multiplied by the professional hourly rate charged for these licensing activities against (b) the fee revenue (\$611,000) reported by Department of the Interior, National Business Center (DOI NBC) for import/export activities

for the same time period. This comparison indicated that NRC under recovered import/export licensing costs by approximately \$325,000.¹²

Recommendation

OIG recommends that the Director, Office of International Programs:

1. Develop, document, and implement a systematic biennial fee review process.

OIG recommends that the Executive Director for Operations together with the Chief Financial Officer:

2. Develop program office TACs to specifically support import/export fee billable licensing activities in all offices which have a role in this licensing process.

¹² 3,638.75 hours as reported in HRMS x \$257.22 professional hourly rate = \$935,959.27 (rounded to \$936,000) - \$611,000 DOI NBC estimated fee revenue = \$325,000 under recovery.

B. OIP DOES NOT RECONCILE IMPORT/EXPORT LICENSE APPLICATION REVENUE

OIP recorded receipt of import/export license fees submitted by at least one applicant in internal office records, but did not forward the funds to NRC's lockbox¹³ as required by OIP policy. This error occurred because OIP procedures describing the fee handling process do not specifically instruct OIP employees on how to deposit revenue and OIP staff thought OCFO personnel were making the deposits. Furthermore, OIP does not have adequate separation of duties related to revenue and does not perform an adequate reconciliation to verify that submitted import/export license fees are, in fact, deposited in the agency's account. As a result, NRC has not recovered all the money owed for services rendered.

Revenue Collection Responsibility

The Director of OIP is responsible for ensuring that import/export license revenue is received and properly tracked in NRC's financial records. NRC's MD 4.1, *Accounting Policies and Practices*, provides direction for both the OCFO and directors of offices that collect revenue. MD section 4.1-03 directs these managers to "Review and verify accounting information in agency accounting system reports for completeness and accuracy." The Government Accountability Office in its *Standards for Internal Control in the Federal Government* emphasizes the need for control activities, including proper segregation of duties (separate personnel with authority to authorize a transaction, process the transaction, and reconcile the transaction); proper authorization; and appropriate documentation of transactions such as revenue collections and deposits.

OIP policies state that the "correct fee [must be] received" for an application to be considered complete. Further, "All applications ... must include the required processing fee. Processing of the request [application] cannot begin without the receipt of such fee."

¹³ OIP policy provides that OIP staff should forward import/export license fee payments to the agency's lockbox located in St. Louis, Missouri.

Not All Fee Revenue Was Deposited

OIG identified several instances where OIP recorded receipt of import/export license fees, but the fee payments were not forwarded to the lockbox and subsequently deposited in NRC's bank account. OIG compared FY 2010 data for one specific vendor from OIP records to DOI NBC records. Of the 15 FY 2010 transactions for this vendor, OIG identified eight instances where OIP recorded a \$4,100 fee received, but DOI NBC did not have a record of the fees being deposited. Each instance concerned a credit card authorization provided by the applicant to NRC that was not forwarded to DOI NBC for processing. This happened over a period of at least 9 months. OIG staff provided OIP staff with information concerning the eight credit card authorizations that did not appear to have been received by DOI NBC. OIP and OCFO further researched these specific instances and NRC subsequently collected \$32,800 for licenses issued, but for which NRC had not deposited the fees.

Inadequate Revenue Receipt and Reconciliation Procedures

This error occurred because OIP procedures describing the fee handling process do not specifically instruct OIP staff on how to process credit card authorizations. Furthermore, OIP employees thought OCFO personnel were forwarding the authorizations to DOI NBC for processing. Similarly, OCFO employees assumed OIP staff were forwarding the authorizations to DOI NBC. OIP does not separate revenue receipt and recordation duties among several staff, so the error was not noticed during routine reviews by other staff. Furthermore, OIP does not perform an adequate reconciliation to verify that submitted import/export license fees are, in fact, deposited in the agency's account and OIP supervisory staff do not conduct a routine year-end revenue reconciliation.

Inadequate Revenue Receipt Procedures

OIP's two policy and procedure documents provide inconsistent guidance related to the receipt of payments by check and neither document discusses how to handle payment by credit card. Non-Appendix P procedures state, "The transmittal form will forward to the **CFO** [emphasis in original] a copy of the application and any check which has been received from the applicant" Appendix P procedures state, "The transmittal form will be forwarded via Express Mail [emphasis in original] to the U.S. Bank,

Government Lockbox ... a copy of the application and any check which has been received from the applicant” In addition to specifying different destinations for OIP to send transmittal forms and checks, the placement of the word “copy” in the Appendix P procedures (“a copy of the application and any check”) does not provide clear guidance on who should receive the original or the copy of the check. Finally, neither procedure addresses credit card authorizations or other means of payment.¹⁴

According to an OCFO manager, it is OIP’s responsibility to send all payments to DOI NBC.

Inadequate Revenue Reconciliation Procedures

OIP does not employ an effective revenue reconciliation process to identify the instances where funds have been received but not deposited. OIP staff receive a monthly report from DOI NBC detailing all deposits made, but they do not use that report to perform a formal revenue reconciliation. MD 4.1 requires the OIP Director to review and verify revenue reports; however, OIP’s internal policies and procedures are silent on the issue of funds reconciliation and separation of duties related to revenue receipt and recordation. Furthermore, there is no office performance evaluation metric related to revenue reconciliation.

NRC Is Owed Money for Licenses

Prior to this audit, NRC had not deposited at least \$32,800 for import/export licenses issued. Accordingly, NRC was not in compliance with OBRA because the import/export license revenue did not cover the Commission’s costs in providing their services.

In addition, OIP employees have not performed a reconciliation to confirm whether there are any other instances of undeposited revenue.

¹⁴ Other methods can include money orders and Intragovernmental Payment and Collection System transfers.

Recommendations

OIG recommends that the Director, Office of International Programs:

3. Develop one or more import/export licensing-related performance evaluation metric(s) related to revenue reconciliation.
4. Develop policies and procedures related to fee revenue which include effective internal control. Specifically,
 - Separation of duties related to fee revenue handling.
 - Monthly reconciliations of receipts to deposits.
 - Routine management review of fee revenue reconciliations.
5. Review and reconcile prior fee revenue receipts to licensing actions completed for which a fee was owed from 2008 – 2011 to verify that all revenue for import/export licenses has been collected and deposited.

C. OIP DOES NOT EMPLOY AN ADEQUATE QUALITY CONTROL REVIEW PROCESS OVER APPLICATION FILES

Internal control standards require that all transactions be clearly documented and the documentation should be readily available for examination. However, OIP application files do not always contain required information to support the issuance of the license. Sixty-three percent of completed import/export files reviewed by OIG contained checklists that were incompletely filled out or were missing one or more items identified in OIP's policies and procedures as required documentation. Files were incomplete because OIP does not employ an effective quality control process over file documentation and management's review and approval process is inadequate. Incomplete file documentation and inadequate management review has resulted in instances where licenses were issued without proof that all required documentation was included. Without an adequate quality control process for compiling and reviewing import/export files prior to completion, there is an increased chance that NRC could erroneously issue a license. Such action would be contrary to NRC's mission to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment.

Internal Control Standards

GAO's *Standards for Internal Control in the Federal Government* provide detailed guidance to all Federal agencies on the importance of internal control and a description of the elements of an effective control system. The standards highlight the importance of control activities, specifically "proper execution of transactions and events," and "accurate and timely recording of transactions and events." Furthermore, "[i]nternal control and all transactions and other significant events need to be clearly documented, and the documentation should be readily available for examination." When applied to the import/export licensing process, this standard means that all significant events in the licensing process should be documented and this documentation is to be accurate and accessible.

Checklists help ensure consistency and completeness in documenting all significant events. They are also a risk management tool to help OIP staff meet NRC's mission objectives. OIP uses import/export file checklists which are attached to each application file and include many of the required steps to complete an application. These checklists vary based on the application type and not all steps are required for all applications. Checklists provide a place for OIP staff to indicate whether the application is complete. The checklists provide areas to note coordination with other NRC offices and Federal agencies.

Import/Export License Files Are Incomplete

OIG examined a sample of 19 import/export files from the total population of 164 applications received and/or completed during FY 2010 and found that 12 files (63 percent) were incomplete. Of the 12 incomplete files, 11 were missing one or more items on the checklist (e.g., checklist items left blank altogether, dates missing, and documentation missing from file) and 1 was missing the checklist itself. When checklist items are left blank there is no way to affirmatively determine whether the item is applicable. While the majority of the file omissions appear relatively minor, three were significant. In one case a license was issued without documentation of foreign government consent in the file. In another there was no documentation confirming that substantive issues raised during the review process were resolved before the license was issued. In the third, a license was issued for a combined import/export of an incorrect amount of nuclear material. Additionally, four licenses were issued even though the checklist indicated the application was incomplete.

Ineffective Quality Control

Import/export files were incomplete because OIP does not employ an effective quality control process over file documentation. Additionally, the checklists do not necessarily contain all required steps, and all steps listed are not necessarily required. Although OIP procedures include a requirement for management review of non-Appendix P files before a license is issued, and OIP staff state that management does perform such reviews, those reviews have not resulted in complete files and there was no documented evidence that a management review occurred. The Appendix P procedures do

not provide any requirement for file review in advance of issuing a license.

Licenses Issued Without Required Complete Documentation

Inadequate file review has resulted in quality control weaknesses where licenses were issued without certification that all required documentation had been gathered and reviewed prior to issuance of the license. Without an adequate management control process for compiling and reviewing import/export files prior to completion, there is an increased chance that NRC could erroneously issue a license. Such action would be contrary to NRC's mission to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment.

Recommendations

OIG recommends that the Director, Office of International Programs:

6. Document applicability or non-applicability of all steps on all checklists and the dates the steps were completed.
7. Require that management document review and certification of license application file completeness before issuing an import/export license.

IV. CONSOLIDATED LIST OF RECOMMENDATIONS

OIG recommends that the Director, Office of International Programs:

1. Develop, document, and implement a systematic biennial fee review process.

OIG recommends that the Executive Director for Operations together with the Chief Financial Officer:

2. Develop program office TACs to specifically support import/export fee billable licensing activities in all offices which have a role in this licensing process.

OIG recommends that the Director, Office of International Programs:

3. Develop one or more import/export licensing-related performance evaluation metric(s) related to revenue reconciliation.
4. Develop policies and procedures related to fee revenue which include effective internal control. Specifically,
 - Separation of duties related to fee revenue handling.
 - Monthly reconciliations of receipts to deposits.
 - Routine management review of fee revenue reconciliations.
5. Review and reconcile prior fee revenue receipts to licensing actions completed for which a fee was owed from 2008 – 2011 to verify that all revenue for import/export licenses has been collected and deposited.
6. Document applicability or non-applicability of all steps on all checklists and the dates the steps were completed.
7. Require that management document review and certification of license application file completeness before issuing an import/export license.

V. AGENCY COMMENTS

OIG met with NRC management officials and staff during a March 8, 2012, exit conference. Subsequent to the exit conference the agency provided informal comments. On March 21, 2012, OIG provided a revised draft report to the agency that incorporated changes OIG deemed appropriate after consideration of the agency's informal comments. OIG met with agency management and staff on March 23, 2012, to discuss additional suggested changes to the report; subsequently, OIG incorporated additional informal comments into the draft report as appropriate. NRC staff reviewed the revised draft report and opted not to provide formal comments.

OBJECTIVES, SCOPE, AND METHODOLOGY

OBJECTIVES

The audit objectives were to determine whether NRC (1) properly reviews and approves import/export authorizations in a timely manner, (2) effectively coordinates this activity with other Federal agencies, and (3) efficiently and effectively coordinates import/export authorizations internally.

SCOPE

This audit focused on reviewing the management and internal controls over the import/export licensing program during FY 2010. We conducted this performance audit at NRC headquarters (Rockville, Maryland) from June 2011 through November 2011. Internal controls related to the audit objectives were reviewed and analyzed. Throughout the audit, auditors were aware of the possibility or existence of fraud, waste, or misuse in the program.

METHODOLOGY

OIG reviewed relevant Federal regulations regarding import/export licensing, charging fees, reviewing fees, and coordinating with other NRC offices and Executive Branch agencies. Specifically, we reviewed the Omnibus Budget Reconciliation Act of 1990, as amended; the Chief Financial Officers Act of 1990, as amended, and the Atomic Energy Act of 1954, as amended. OIG also reviewed agency guidance, including management directives and office policies and procedures that pertain to import/export license fees, and a prior NRC OIG audit report related to this topic. A sample of license files for FY 2010 was also examined.

Additionally, OIG reviewed and analyzed data related to the import/export licensing process. Specifically, OIG reviewed the supporting documentation and data for five biennial fee reviews conducted from 2004 – 2010. OIG also reviewed import/export license fee revenue data from OCFO and DOI NBC.

OIG interviewed staff at the Departments of Energy and State regarding NRC's coordination with other Federal agencies. OIG also interviewed staff at headquarters in Rockville, Maryland, who participate in activities related to the management of import/export license application processing. These interviews were conducted to obtain staff insights into the oversight and implementation of the import/export license fee process.

We conducted this performance audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit work was conducted by Kathleen M. Stetson, Team Leader; Terri L. Cooper, Audit Manager; Mary W. Meier, Senior Auditor; and Harluxsh S. Gill, Student Intern.