OFFICE OF THE INSPECTOR GENERAL

U.S. NUCLEAR REGULATORY COMMISSION
DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Audit of NRC's Task Interface Agreement Process

OIG-15-A-05
November 25, 2014

November 25, 2014

MEMORANDUM TO: Mark A. Satorius
                         Executive Director for Operations

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

SUBJECT: AUDIT OF NRC'S TASK INTERFACE AGREEMENT
                         PROCESS (OIG-15-A-05)

Attached is the Office of the Inspector General's (OIG) audit report titled *Audit of NRC's Task Interface Agreement Process*.

The report presents the results of the subject audit. Following the October 16, 2014, exit conference, the agency provided informal comments, which OIG subsequently incorporated into the draft report, as appropriate. The agency reviewed the changes to the report and provided formal written comments to OIG on November 3, 2014, which OIG subsequently incorporated into the report at Appendix B.

Please provide information on actions taken or planned on the recommendation 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 (301) 415-5915 or Robert K. Wild, Team Leader, at (301) 415-5948.

Attachment: As stated

Office of the Inspector General

U.S. Nuclear Regulatory Commission
Defense Nuclear Facilities Safety Board

OIG-15-A-05

Results in Brief

November 25, 2014

Why We Did This Review

The Nuclear Regulatory Commission (NRC) Office of Nuclear Reactor Regulation (NRR) is responsible for a broad range of regulatory activities in the licensing and oversight of commercial nuclear power reactors to protect public health and safety and the environment. NRR works with the regions and other offices to accomplish its mission, including providing technical assistance to the regions and other offices.

A Task Interface Agreement (TIA) is one such form of technical assistance that NRR provides the regions and other offices. A TIA is a request for NRR technical assistance from other NRC organizations and contains questions on subjects involving regulatory or policy interpretations, specific plant events, or inspection findings.

Ensuring that adequate, appropriate, and timely feedback is provided to the requesting organization is central to the agency's mission to protect public health and safety and the environment.

The objective of this audit was to determine if the agency's TIA process facilitates effective and efficient responses.

Audit of NRC's Task Interface Agreement Process

What We Found

Staff requesting technical assistance from NRR are generally satisfied with the technical content provided through the TIA process. However, there are concerns regarding the efficiency of the process and, conceivably, long overdue TIAs could be regarded as eroding overall effectiveness of the TIA process.

NRC's TIA process should ensure that questions raised by other NRC organizations are resolved and communicated in a timely manner. However, roughly one-third of TIA requests are not resolved and communicated in a timely manner because NRC lacks controls to ensure TIA timeliness performance measures are met. Failure to meet timeliness performance measures degrades the agency's safety oversight mission as well as overall program effectiveness and accountability.

What We Recommend

To strengthen the effectiveness and efficiency of the TIA process, we make a recommendation to develop sufficient internal controls to ensure TIA performance measures for timeliness are met.

Management stated their general agreement with the finding and recommendation in this report.

TABLE OF CONTENTS

APPENDIXES

ABBREVIATIONS AND ACRONYMS

COM-106   NRR Office Instruction COM-106, Revision 4

DPR   Division of Policy and Rulemaking

NRC   Nuclear Regulatory Commission

NRR   Office of Nuclear Reactor Regulation

OIG   Office of the Inspector General

OMB   Office of Management and Budget

TIA   Task Interface Agreement

I. BACKGROUND

The Nuclear Regulatory Commission (NRC) Office of Nuclear Reactor Regulation (NRR) is responsible for a broad range of regulatory activities in the licensing and oversight of commercial nuclear power reactors to protect public health and safety and the environment. NRR works with the regions and other offices to accomplish its mission, including providing technical assistance.

A Task Interface Agreement (TIA) is one such form of technical assistance that NRR provides the regions and other offices. A TIA is a request for NRR technical assistance from other NRC organizations and contains questions on subjects involving regulatory or policy interpretations, specific plant events, or inspection findings. In some instances, the questions can be time-sensitive and related to safety-significant systems. For example, in 2011, NRC regional staff sent a TIA request to headquarters asking several detailed questions regarding the licensee's seismic testing standards for safety-related circuit breakers at Watts Barr nuclear power plant, which NRR answered with a detailed response letter. A TIA could also be used to obtain technical assistance on an allegation-related issue. TIAs contain questions on subjects within the scope of NRR's mission and responsibilities.

The requesting organization[1] may use a TIA to obtain information on specific plant licensing bases, applicable staff positions, regulatory requirements, NRR technical positions, or the safety or risk significance of particular plant configurations or operating practices. Once NRR receives a request, the TIA may involve multiple internal and external stakeholders to assist in the technical review. These other stakeholders may include the TIA program manager, multiple technical branch chiefs and staff, and, for plant-specific inquiries, the cognizant NRR plant project manager, as well as other agency offices such as the Office of Enforcement and the Office of the General Counsel. Ensuring that adequate, appropriate, and timely feedback is provided to the requesting organization is central to the agency's mission to protect public health and safety and the environment.

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[1] Regional Offices (Regions I, II, III, and IV) and other program offices that raise technical questions through the TIA process.

There are two types of TIAs: the letter method and the concurrence method. Letter method TIAs are requested from a regional office or an NRC headquarters office and consist of the requesting office sending to NRR specific questions that the requester wishes to have answered. In a concurrence method TIA, the requesting office documents its technical position on an issue requesting NRR concurrence. Since 2010, the average number of both letter and concurrence method TIAs submitted has been 10 to 12 per year.[2]

NRC Organization Responsible for the TIA Process

NRR's Division of Policy and Rulemaking (DPR) is responsible for the development, documentation, and implementation of policies, procedures, and program management for the TIA process. Additionally, the Licensing Processes Branch within DPR is responsible for facilitating responses to TIA questions. However, the majority of the branch's time is taken up with other activities;[3] therefore, only 0.3 full-time equivalent is budgeted for day-to-day administration of the TIA program. However, NRR staff indicated that, for the past 2 years, 0.8 full time equivalent has been spent on the administration of the program each year.

Although DPR is responsible for overseeing the TIA process, regional offices are also responsible for providing pertinent information to NRR technical staff and concurring with the TIA response received from DPR. For example, a 2012 TIA dealing with fire protection issues was worked on extensively by regional staff between 2012 and 2014 before comments were submitted back to NRR.

In 2013, NRR established a working group to address ongoing regional concerns with the TIA process, including changes to the existing process. The working group, which consisted of representatives from headquarters

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[2] In 2010, there were 10 TIAs initiated; in 2011, there were 12 TIAs initiated; in 2012, there were 14 TIAs initiated; in 2013, there were 8 TIAs initiated; and, as of June 30, 2014, there were 3 TIAs initiated through the TIA process.

[3] Activities include coordinating NRC's review of all topical reports (an industry document on a specific technical topic related to nuclear safety), coordinating meetings with vendors, overseeing the technical specification task for improvement documents, managing NRR's pandemic plan and continuity of operations, and administering the fee waiver program.

and the regions, focused on several issues, to include the following:

- Clarification of what constitutes a TIA.

- Screening of TIAs for generic applicability.

- Earlier coordination with licensees.

A direct outcome of the working group activities was a January 2014 NRR revision to its TIA guidance document—NRR Office Instruction COM-106, Revision 4 (COM-106) "Control of Task Interface Agreements." NRR provided copies to stakeholders at headquarters and in the regions. Among other things, this document provides guidance on how the TIA process works, to include what constitutes a TIA, when to initiate one, and how to communicate and coordinate TIA-related issues.

II. OBJECTIVE

The audit objective was to determine if the agency's TIA process facilitates effective and efficient responses.

III. FINDING

TIA Process Could Be More Effective and Efficient

Staff requesting technical assistance from NRR are generally satisfied with the technical content provided through the TIA process. However, there are concerns regarding the efficiency of the process and, conceivably, long overdue TIAs could be regarded as eroding overall effectiveness of the TIA process.

NRC's TIA process should ensure that questions raised by other NRC organizations are resolved and communicated in a timely manner. However, roughly one-third of TIA requests are not resolved and communicated in a timely manner because NRC lacks controls to ensure TIA timeliness performance measures are met. Failure to meet timeliness performance measures degrades the agency's safety oversight mission as well as overall program effectiveness and accountability.

What Is Required

TIA Process Should Ensure Timely Responses

NRR policy calls for TIA questions raised by other NRC organizations to be resolved in a timely manner and communicated appropriately to the requesting organization. Like previous versions of COM-106, the 2014 update provided performance measures for the TIA process. The guidance states that 100 percent of the open TIA inventory be less than 1-year old. Any TIA closed after 1 year would be out of compliance with this

metric. Also, COM-106 includes a goal of striving to issue a draft TIA response for all TIAs within 90 days of receipt of the TIA request.

Federal guidance also emphasizes timely communications. Office of Management and Budget (OMB) Circular A-123—*Management's Responsibility for Internal Control*—specifies considerations for Federal agencies when creating an environment with internal controls.[4] One such consideration for Federal agencies is that information should be communicated to relevant personnel in a timely manner.
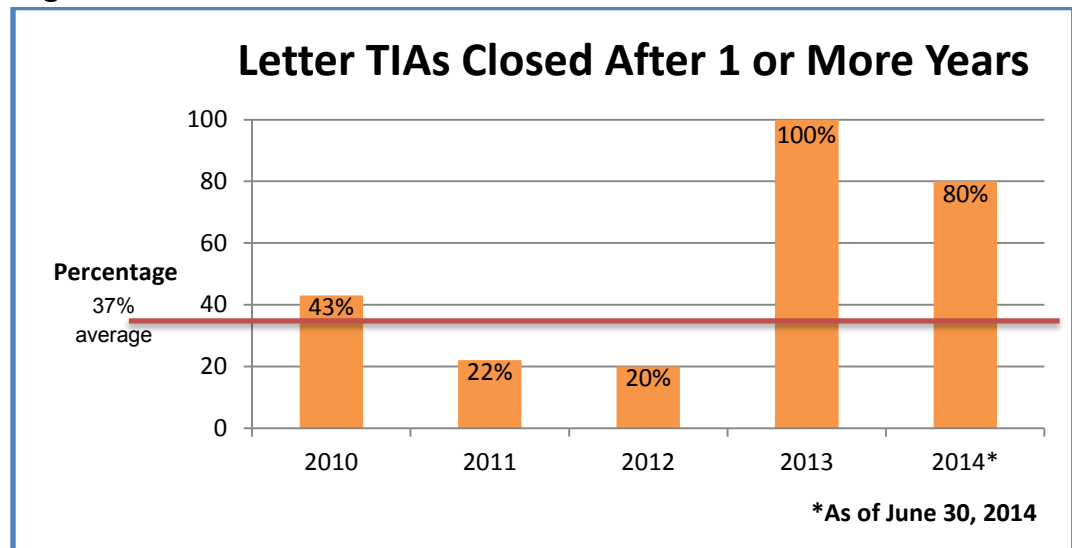
What We Found

TIA Responses Are Not Consistently Resolved and Communicated in a Timely Manner

Between 2010 and June 2014, about one-third of TIA requests were not resolved and communicated in a timely manner as required by both the current and previous versions of COM-106. Since February 2010, NRR has been keeping track of TIAs through a TIA biweekly status report.[5] As shown in the following chart, during the past 4.5 years, 37[6] percent of TIAs have not been completed in less than 1 year, failing to meet NRR's 1-year metric.

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[4] Internal control is an integral component of an organization's management that provides reasonable assurance that the following objectives are being achieved: effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations.

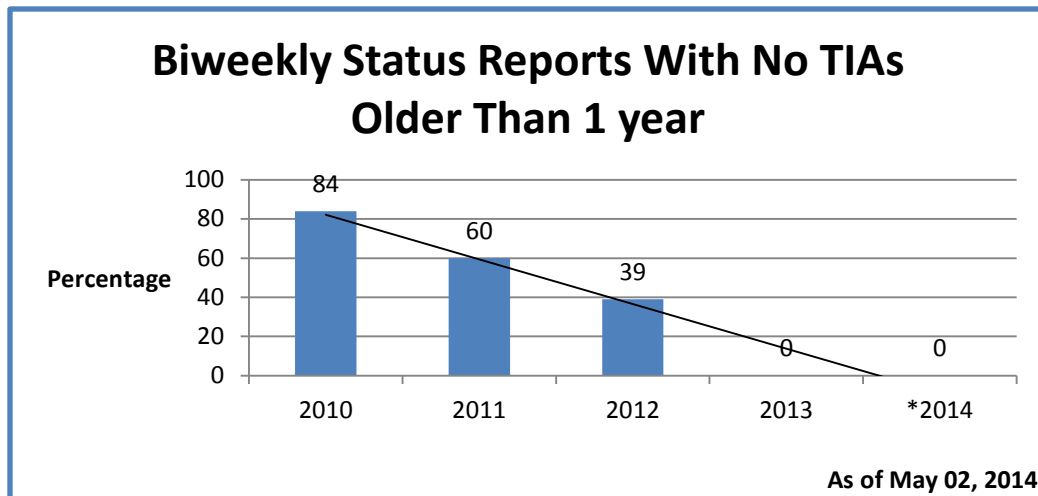[5] The TIA biweekly status report keeps track of open, pending, and closed TIAs.

[6] The total number of letter TIAs closed between 2010 and June 30, 2014 was 32. Twelve (37 percent) were closed after 1 or more years.

Figure 1:

Letter TIAs Closed After 1 or More Years

Source: Office of Inspector General (OIG) analysis of NRR data.

Another way of looking at TIA timeliness is in analyzing the average age of TIAs at closure. In this analysis, the number of TIAs not meeting NRR's 1-year metric has increased. The average age of a TIA at closure was 8.1 months in 2010, 8.1 months in 2011, and 9.2 months in 2012. The average age of TIAs at closure in 2013 was 19 months and during the first 6 months of 2014 was 17.4 months.

Additionally, the TIAs tracked in the biweekly status report can also serve as a measure of the prevalence of overaged TIAs. An OIG analysis of all biweekly status reports for each calendar year between 2010 and May 2, 2014, reveals that the performance indicator specified in COM-106 requiring that all letter TIA inventory be less than 1-year old steadily declined from 84 percent met in 2010 to 0 percent in 2013 and 2014. The next chart shows the steadily declining trend.

6

Figure 2:

**Biweekly Status Reports With No TIAs
Older Than 1 year**

Percentage

| | 2010 | 2011 | 2012 | 2013 | *2014 |

84, 60, 39, 0, 0

As of May 02, 2014

Source: OIG analysis of NRR TIA Status Reports.
* 2014 was not concluded as of the completion of this audit.

Why This Occurred

Agency Lacks Controls To Ensure TIA Performance Measures Are Met

TIAs are not timely because NRR managers do not have controls in place to ensure that TIA performance measures are met. Internal controls provide reasonable assurance of effectiveness and efficiency of operations. The agency lacks formal internal controls for the administration and management of the TIA process. Auditors reviewed several tools that could potentially serve as internal controls, but each has inherent limitations.

One tool available to NRR is the agency's time and attendance system, which captures hours spent on different technical assignments;[7] however, TIA hours recorded in the system appear inconsistent with the actual status of an individual TIA. For example, a recent TIA initiated in 2014 is listed in the TIA status report as having 0 hours assigned but has been open for 6 months. Consequently, there is no clear correlation between

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[7] NRC tracks time and labor hours spent on technical assignments by creating specific Technical Assignment Control numbers.

TIA review time elapsed and number of hours charged in the time and attendance system. OIG found no evidence that NRR managers used time and attendance data to track progress on TIA completion.

Another tool that NRR uses is a biweekly status report. This report is used to track and provide information on the status of TIAs, including the length of time they have been open. The status report could provide information to help ensure that 100 percent of the open TIA inventory is less than 1-year old, but there are weaknesses in using this status report as an internal control. For example, the status report does not contain useful information regarding the number of times the TIA draft response date deadlines were changed. COM-106 has a goal of issuing a draft TIA response within 90 days of receipt of the TIA request. In 2011, the biweekly status report no longer included information that the draft completion date had been changed. At present, only the original draft response completion date is provided. Neither a new, agreed-upon completion date is provided nor interim status dates for completion of draft responses. Further, agency staff told OIG that draft response dates are currently not seen as a very reliable indicator of TIA status given the frequency with which they are changed. Lastly, there are no programmatic steps in management's review of status reports to push TIAs towards completion within the metric timeframe.

A third tool that is at NRR's disposal is the TIA library, which logs completed and active TIAs. The TIA library used to track TIAs could provide information to help ensure that 100 percent of the open TIA inventory is less than 1-year old. However, OIG found that library entries that record start and end times are not consistent across TIA entries. In some cases, dates indicate when the TIA process was initiated, but not necessarily actual hours spent by staff working on the TIA. The following weaknesses were identified in using the TIA library as an Internal Control:

- Library is not up-to-date.

- Library does not note interim steps or milestones.

- Library does not specify which TIAs were withdrawn or cancelled.

- Management does not have programmatic steps in place to review the library to push TIAs towards completion within the metric timeframe.

Additionally, cognizant agency managers stated that meeting the performance measure of having 100 percent of the open TIA inventory to be less than 1-year old was not a high priority, though it was still considered to be important.

Why This Is Important

Impacts of Untimely TIAs

Staff failures to consistently meet metrics established by guidance and approved by agency management results in a variety of TIA-process specific and agencywide impacts. Failure to meet performance metrics could potentially affect the agency's safety oversight mission as well as overall TIA process effectiveness and agency accountability.

TIA responses that take months or years could affect the safe operation of nuclear power plants. For example, regional staff initiated a TIA in 2009 to obtain clarification concerning a licensee's interpretation of a regulation and associated guidance. The TIA was intended to determine if a licensee had appropriately implemented the provisions of 10 CFR Part 21, "Reporting of Defects and Noncompliance," at a nuclear power plant. This TIA was closed in 2012, yet the TIA question was not resolved. One consequence of a regulatory issue remaining unresolved is that the licensee may potentially be out of compliance with the regulation, and this may result in a failure to report important safety problems to NRC.

Additionally, regional staff perception of the TIA process as untimely may dampen use among would-be TIA requesters. Senior agency managers recognize that the perception of untimeliness could affect regional staff's use of the TIA process. One senior manager told OIG that staff are disappointed with the process and do not consider it to be responsive. Another senior manager told OIG that regional staff are concerned that the TIA process takes too long and that it is not coordinated. A significant number of regional managers indicated that they do not consider the TIA

9

process to be timely. Pointedly, a third of regional managers told OIG that they had concerns with the timeliness of TIAs.

Finally, in general, staff failures to consistently meet metrics established by guidance erode the agency's accountability culture. A lack of staff accountability to meet performance measures signals management's acceptance of managing a process without reasonable assurance of the program efficiency or effectiveness. Staff who are not held accountable for metrics in one program area or process are more likely to view other program metrics as optional. Likewise, when metrics are viewed by internal and external stakeholders as meaningless, their willingness to participate in a process or program deteriorates. When controls such as metrics and milestones are not enforced, there can be an overall adverse impact on the agency's ability to effectively and efficiently implement programs.

Recommendation:

OIG recommends that the Executive Director for Operations

1. Develop sufficient internal controls to ensure TIA performance measures for timeliness are met.

VI. AGENCY COMMENTS

A discussion draft of this report was provided to the agency prior to an exit conference held on October 16, 2014. Agency management provided supplemental information that has been incorporated into this report, as appropriate. On November 3, 2014, agency management provided formal comments to the draft report that indicated general agreement with the revised audit report and recommendation. Appendix B contains a copy of the agency's formal comments.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The audit objective was to determine if the agency's TIA process facilitates effective and efficient responses.

Scope and Methodology

This audit focused on evaluating NRC's Task Interface Agreement process. We conducted this performance audit from September 2013 through June 2014 at NRC headquarters in Rockville, MD, and regional offices via telephone and email. This audit focused on the TIA letter method. Internal controls related to the audit objective were reviewed and analyzed. Throughout the audit, auditors were aware of the possibility of fraud, waste, and abuse in the program.

To address the audit objective within the scope of this audit, OIG auditors reviewed the following Federal and agency guidance, and key data and documents:

- OMB Circular A-123, *Management's Responsibility for Internal Control,* December 2004*.*

- NRC Principles of Good Regulation and NRC Organizational Values.

- NRR Office Instruction COM 106, "Control of Task Interface Agreements."

- Task Interface Agreements Biweekly Status Reports.

- NRR Task Interface Agreement Library SharePoint site.

- Task Interface Agreement Working Group Summaries.

- Technical Assignment Control numbers associated with Task Interface Agreements.

Additionally, auditors interviewed staff from the Office of Nuclear Reactor Regulation, the Office of the General Counsel, the Office of Enforcement, regional offices, and industry representatives.

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 work was conducted by RK Wild, Team Leader; Vicki Foster, Audit Manager; Levar Cole, Audit Manager; Kevin Nietmann, Senior Technical Advisor; Avinash Jaigobind, Senior Auditor; Timothy Wilson, Senior Management Analyst; and Meredith Johnson, Student Analyst.
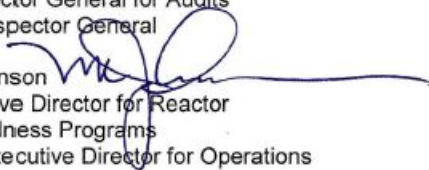
AGENCY FORMAL COMMENTS

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

November 3, 2014

MEMORANDUM TO: Stephen D. Dingbaum
                   Assistant Inspector General for Audits
                   Office of the Inspector General

FROM: Michael R. Johnson
                   Deputy Executive Director for Reactor
                     and Preparedness Programs
                   Office of the Executive Director for Operations

SUBJECT: FORMAL COMMENTS ON THE OFFICE OF THE INSPECTOR
                   GENERAL DRAFT REPORT ON THE U.S. NUCLEAR
                   REGULATORY COMMISSION'S TASK INTERFACE AGREEMENT
                   PROCESS

This memorandum responds to the October 27, 2014, e-mail from Mr. Robert Wild, Team
Leader, Office of the Inspector General (OIG), transmitting the OIG's final draft report, "Audit of
NRC's [U.S. Nuclear Regulatory Commission] Task Interface Agreement [(TIA)] Process." The
report was revised following receipt of the agency's informal written comments of October 14,
2014, verbal comments provided during the October 16, 2014, exit conference, and editorial
comments provided on October 27, 2014.

The NRC staff is pleased with the conduct of the audit, and is in general agreement with the
revised draft report and fully agrees with the recommendation to:

> Develop sufficient internal controls to ensure TIA performance measures for timeliness
> are met.

The NRC staff will address the recommendation above in connection with our previously
discussed ongoing efforts stemming from the revised office instruction (COM-106, "Control of
Task Interface Agreements"). In addition, the NRC staff has reviewed the report and found no
sensitive, proprietary, personally identifiable information, nor classified information or other
information that would necessitate redaction prior to issuing the report as publically available.

Despite the staff's satisfaction with the audit effort and its outcome, the following specific
comments are relevant to various statements noted in the audit report. The NRC staff is
concerned that some of these statements, if taken out of context, could cast an unduly negative
perspective on this important staff function.

CONTACT: Holly D. Cruz, NRR/DPR
          (301) 415-1053

- In the Section entitled "Impacts of Untimely TIAs," Page 9, last paragraph, the OIG report states:

   "Staff failures to consistently meet metrics established by guidance and approved by agency management results in a variety of TIA-process specific and agencywide impacts. Failure to meet performance metrics could potentially affect the agency's safety oversight mission as well as overall TIA process effectiveness and agency accountability."

   The NRC staff would like to provide clarification regarding the NRC staff's dedication regarding safety oversight. The TIA process is one of several important processes utilized by the NRC staff to address safety significant issues. If it is determined that an issue described by the TIA would be more appropriately addressed in an alternate process, the TIA process is exited and the issue referred to the correct process(es). As an example, the NRC staff can address safety issues through 50.109 of the Title 10 of the *Code of Federal Regulations* (10 CFR) (the backfit process). Based on the safety significance of the issue, the NRC will take appropriate regulatory action, up to and including an order to shut down.

- Also discussed under "Impacts of Untimely TIAs," Page 10, last paragraph, the OIG notes:

   "TIA responses that take months or years could affect the safe operation of nuclear power plants. For example, regional staff initiated a TIA in 2009 to obtain clarification of a licensee's interpretation of a regulation and associated guidance. The TIA was intended to determine if a licensee had appropriately implemented the provisions of 10 CFR Part 21, "Reporting of Defects and Noncompliance," at a nuclear power plant. This TIA was closed in 2012, yet the TIA question was not resolved. One consequence of a regulatory issue remaining unresolved is that the licensee may potentially be out of compliance with the regulation, and this may result in a failure to report important safety problems to NRC."

   The NRC staff would like to clarify that this TIA was closed in 2012, and the issues noted in the TIA were directed to a more appropriate process. These issues are currently being addressed by the staff in a revision to NUREG-1022, "Event Reporting Guidelines: 10 CFR 50.72 and 50.73."

- Finally, under "Impacts of Untimely TIAs," Pages 10-11, last paragraph on Page 10. The OIG notes:

   "Finally, in general, staff failures to consistently meet metrics established by guidance erode the agency's accountability culture. A lack of staff accountability to meet performance measures signals management's acceptance of managing a process without reasonable assurance of the program efficiency or effectiveness. Staff who are not held accountable for metrics in one program area or process are more likely to view other program metrics as optional. Likewise, when metrics are viewed by internal and external stakeholders as meaningless, their willingness to participate in a process or program deteriorates. When controls such as metrics and

S. Dingbaum   - 3 -

milestones are not enforced, there can be an overall adverse impact on the agency's ability to effectively and efficiently implement programs."

The NRC staff would like to provide some perspective regarding agency priorities and resources, as they pertain to accountability culture. The NRC management was aware of the issues surrounding the declining metrics, and expended resources to make improvements and revise the process. As the changes to the process are still recent, the benefit of the revisions has not been fully realized. Further, it is important to note the broader context of agency priorities. Specifically, post-Fukushima activities required the redirection of resources within the Office of Nuclear Reactor Regulation during 2011, 2012, and 2013. The redirection of limited resources can be traced, in part, to the declining metrics.

We appreciate your willingness to consider these comments as you finalize your report. If you need additional information, please contact Holly Cruz of my staff at (301) 415-1053.

cc: Chairman Macfarlane
     Commissioner Svinicki
     Commissioner Ostendorff
     Commissioner Baran
     SECY

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                    Rockville, MD 20852

COMMENTS AND SUGGESTIONS

If you wish to provide comments on this report, please email OIG using this [link](#).
In addition, if you have suggestions for future OIG audits, please provide them using this [link](#).