



OFFICE OF THE
INSPECTOR GENERAL

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

September 9, 2019

MEMORANDUM TO: Margaret M. Doane
Executive Director for Operations

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

SUBJECT: AUDIT OF NRC'S USE OF ENFORCEMENT DISCRETION
FOR NUCLEAR POWER LICENSEES (OIG-19-A-18)

The Office of the Inspector General (OIG) conducted this audit to assess Nuclear Regulatory Commission's (NRC) use of enforcement discretion under Section 3.8 of the *NRC Enforcement Policy*, "Notices of Enforcement Discretion for Operating Power Reactors and Gaseous Diffusion Plants," with emphasis on decision bases, documentation, and conditions licensees must meet to achieve regulatory compliance. OIG found that NRC's exercise of enforcement discretion for nuclear power licensees is timely and appropriately documented in accordance with agency policy and guidance. Therefore, OIG makes no recommendations. 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 Paul Rades, Team Leader, at (301) 415-6228.

BACKGROUND

Enforcement discretion is a broad concept that is used in all NRC oversight areas to allow NRC to focus on the most risk significant areas or to recognize a licensee's corrective actions. In a specific type of enforcement discretion, nuclear power licensees *in limited circumstances* may request NRC to grant enforcement discretion for temporary deviation from plant technical specifications or other license conditions. Enforcement discretion is used in situations where compliance with regulatory requirements would require a change that increases safety risk relative to current plant specific conditions. It may also serve as a contingency for severe weather or natural phenomena. No net increase in radiological risk to the public is allowed during periods of enforcement discretion. Net increase in radiological risk is a quantitative assessment. NRC approval of such a request is documented in a Notice of Enforcement Discretion.

OBJECTIVE AND RESULTS

The audit objective was to assess NRC's use of enforcement discretion, with emphasis on decision bases, documentation, and conditions licensees must meet to achieve regulatory compliance.

OIG found that enforcement discretion decisions were timely, conducted in accordance with NRC guidance, and documented with sufficient information to justify the decision. Licensees understand and follow NRC guidance to provide required information to support their requests. Staff also adhered consistently to agency guidance for following up with licensees after enforcement discretion was granted. Specifically, from 2012 to 2018, NRC approved 27 licensee requests for enforcement discretion but rejected 2 requests based on insufficient supporting information. All Notice of Enforcement Discretion letters issued either met existing timeliness metrics or missed them by no more than a day. NRC documented follow-up by resident inspectors in the Replacement Reactor Program System.

NRC focus on risk-informed decisionmaking may reduce future requests for enforcement discretion. Risk-informed licensing actions, such as amendments to technical specifications to adopt risk-informed completion times, combine quantitative risk assessments with deterministic safety analyses. While the enforcement discretion process is infrequently used, it remains a necessary option for safe operation of nuclear power plants.

AGENCY COMMENTS

An exit conference was held with the agency on September 3, 2019. After reviewing a discussion draft, agency management provided comments that have been incorporated into this report, as appropriate. As a result, agency management stated their general agreement with the results of this report.

SCOPE AND METHODOLOGY

The audit focused on NRC's use of enforcement discretion for temporary deviations from nuclear power plant technical specifications from 2012 to 2018. OIG conducted this performance audit from February 2019 to June 2019 at NRC headquarters (Rockville, MD). During that time, internal controls related to the audit objectives were reviewed and analyzed.

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.

Throughout the audit, auditors considered the possibility of fraud, waste, and abuse in the program.

The audit was conducted by Paul Rades, Team Leader; Amy Hardin, Audit Manager; Tim Wilson, Senior Analyst; and Curtis Browne, Auditor.

TO REPORT FRAUD, WASTE, OR ABUSE

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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](#).