

November 30, 2006

MEMORANDUM TO: Stephen Dingbaum
Assistant Inspector General for Audits

FROM: Charles L. Miller, Director */RA/*
Office of Federal and State Materials
and Environmental Management Programs

SUBJECT: STATUS OF RECOMMENDATIONS: AUDIT OF THE
DEVELOPMENT OF THE NATIONAL SOURCE TRACKING SYSTEM
(OIG-06-A-10)

This memo responds to your memorandum of September 18, 2006.

With respect to the Office of the Inspector General's (OIG's) Recommendation 1, in the "Analysis," OIG finds the U.S. Nuclear Regulatory Commission (NRC) staff action insufficient to address OIG's concerns, and states:

Although the agency's proposed action [detailed in previous memos] is a step in the right direction, overall it does not fully address the intent of OIG's recommendation. OIG recommended that NRC conduct a comprehensive regulatory analysis of a much broader group of materials, including aggregation of sources and bulk material. NRC's proposal is limited to a one-time data collection and analysis of "Category 3.5" sources. Therefore, it appears that only half of Category 3 sources will be considered for inclusion in the National Source Tracking System. Furthermore, NRC's effort will not be completed in a reasonable period of time. NRC's proposed action is less than satisfactory in responding to OIG's recommendation.

The two previous memos, dated March 30, 2006 and July 18, 2006, discuss the reasons for not considering a broader range of alternatives for the National Source Tracking System (NSTS), in particular, categories of material of lesser concern than Categories 1 and 2, aggregation, and bulk (or unsealed) material. In brief, those alternatives had been discussed in considerable detail in the: (1) NSTS Working Group, (2) Safe Source Steering Committee, and (3) Interagency Coordination Committee, in addition to their consideration by the International Atomic Energy Association (IAEA) *Code of Conduct on the Safety and Security of Radioactive Sources*, the U.S. Department of Energy/NRC Joint Study on Radiological Dispersal Devices, development of the Energy Policy Act; and, more recently, "The Radiation Source Protection and Security Task Force Report," by the NRC. The reasons for not including source aggregation and bulk material were set forth in SECY-05-0092, "Proposed Rule: National Source Tracking of Sealed Sources," and SECY-06-0094, "Tracking or Providing Enhanced Controls for Category 3 Sources;" both were approved by the Commission.

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The Commission Staff Requirements Memorandum and voting record for SECY-06-0094, also contain confirmation that the scope of the system, as planned, is appropriate and that the staff and Commission decisions on which alternatives to consider were purposeful and appropriate. Former Chairman Diaz said in his comments that:

The Commission made a very well considered decision to focus its enhanced source control efforts on Category 1 and 2 sources as defined by the IAEA Code of Conduct. The appropriateness of Category 2 as the lower threshold of concern has been affirmed both by the results of the staff's security assessments and, currently, by the initial findings of the interagency Radiation Protection and Security Task Force.

Additionally, Commissioner McGaffigan said, "I agree with my colleagues that the staff has produced a solid analysis and a rich range of options for Commission consideration."

As noted in my response of July 18, 2006, Category 3.5 sources are those with an activity greater than one-tenth the Category 3 threshold; they are not, "half of Category 3 sources," as OIG stated in the aforementioned quote. The Commission directed the staff to include Category 3 sources in a proposed rule to be submitted with the analysis of Category 3.5 sources. NRC Staff now plans to submit the proposed rule in March 2008. It is not clear what OIG means in saying that the effort will not be completed in a reasonable period of time. Given existing resources and the explicit Commission decision on SECY-06-0094, staff considers the year required for collection of data and 6 months for analysis to be reasonable. That information will inform the decision on whether sources below Category 2 should be included in the NSTS.

In OIG's Recommendation 2, OIG requested NRC's analysis of the interim database and how the numbers compare to the estimates used to design the NSTS. The fiscal year (FY) 2005 data analysis summary tables are enclosed. Please note that these tables are marked, "Official Use Only," and should not be released to the public. These tables show the inventory data presented a number of different ways. The first two pages give an overall summary, explain the limitations of the data, and discuss how the data were cross-checked for verification. NRC staff is currently analyzing the recently completed FY 2006 inventory and will cross-check those data with FY 2005 inventory data to further ensure stability in the source estimates.

Section 3.2 of the current NSTS design analysis requirements, version 1.4, dated September 2005 is included as Enclosure 1. This section shows the numbers to which the system is being designed. For example, NSTS must be able to store data on 20,000 licensees and 750,000 sources at the start. As the inventory data show, there are about 1,400 licensees currently in possession of at least one Category 2 or above source and about 48,000 sources.

The NSTS design requirements are well above the actual numbers. NRC is confident that the NSTS, as designed, will be able to perform as expected in the actual environment, as indicated by the inventory data. Both enclosures included with this response contain a large amount of information that takes time to study and understand. NRC staff is available to answer questions, about the information, as such questions arise.

Enclosures:

1. Requirements Analysis for SafeSource
Phase II: National Source Tracking
System
2. Fiscal Year 2005 Interim Inventory of
Radioactive Sources Data Analysis

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