

December 11, 2013

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

FROM: Catherine Haney, Director /RA/  
Office of Nuclear Material Safety  
and Safeguards

SUBJECT: STATUS OF RECOMMENDATIONS: AUDIT OF U.S. NUCLEAR  
REGULATORY COMMISSION'S REGULATORY OVERSIGHT  
OF SPECIAL NUCLEAR MATERIAL (OIG-03-A-15)

In a memorandum dated February 6, 2013, the Office of the Inspector General (OIG) informed the Executive Director for Operations that two remaining recommendations (recommendations 1 and 3) resulting from OIG-03-A-15 remain in a resolved status. Recommendations 1 and 3 will be closed once the agency provides, and OIG verifies, information confirming that corrective actions have been finalized. The OIG requested a status update on the remaining two recommendations by December 11, 2013. The updated status report is provided in the enclosure.

Two of the three OIG conditions for Recommendation 1 have been satisfied. The remaining condition, to complete documentation of the basis for risk-informing the Material Control and Accounting (MC&A) program and apply it to the program with respect to conducting periodic inspections, is to be addressed as part of the staff's revision of the 10 CFR Part 74. The proposed rule, titled "Amendments to Material Control and Accounting Regulations," was published in the *Federal Register* on November 8, 2013. The Commission provided direction to the staff regarding the scope of the 10 CFR Part 74 rulemaking in SRM-08-0059, dated February 5, 2009.

Recommendation 3, to document the basis of the approach used to risk-inform oversight of MC&A activities for all types of materials licensees, is also addressed as part of the staff's rulemaking to revise 10 CFR Part 74.

Enclosure:  
Audit of NRC Oversight of SNM

CONTACT: Thomas Pham, NMSS/FCSS  
301-287-9132

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**AUDIT OF U.S. NUCLEAR REGULATORY COMMISSION'S  
REGULATORY OVERSIGHT OF SPECIAL NUCLEAR MATERIAL  
OIG-03-A-15**

**Status of Recommendations**

**Recommendation 1:**

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

Remaining condition:

Document the basis for risk-informing the MC&A program (and apply it to the program) with respect to conducting periodic inspections.

**December 2013 Status**

In the February 7, 2006, memorandum, the Office of the Inspector General (OIG) stated that two of the three conditions identified by OIG that needed to be met to close this recommendation have been satisfied. The remaining condition is the need to complete documentation of the basis for risk informing the MC&A program (and apply it to the program) with respect to conducting periodic inspections. In a subsequent memorandum dated August 24, 2006, OIG requested an estimated completion date for this recommendation.

In SECY-05-0143, "Proposed Changes to the Material Control and Accounting Program," the staff recommended that the Commission approve the staff's proposed enhancements to the MC&A regulations, inspection program, and licensing process. Consistent with information provided in previous status reports, in response to the associated staff requirements memorandum (SRM) to SECY-05-0143 dated November 18, 2005, the staff completed the development of the technical basis for the Part 74 rulemaking. This technical basis addressed the requirement to risk inform the MC&A requirements. This was further delineated in the MC&A rulemaking plan (SECY-08-0059, "Rulemaking Plan: Part 74 – Material Control and Accounting of Special Nuclear Material") dated April 25, 2008. The technical basis for the Part 74 rulemaking in SECY-08-0059 addressed the need to complete documentation of the basis for risk informing the MC&A program.

The SRM for SECY-08-0059 was issued on February 5, 2009. The Commission approved the staff's rulemaking Option 4, directing the staff to revise and consolidate current MC&A regulations into Part 74.

The proposed rule package to amend Title 10 of the *Code of Federal Regulations* (10 CFR) Part 74, "Material Control and Accounting of Special Nuclear Material," was submitted to the Executive Director for Operations (EDO) on August 29, 2011, and subsequently forwarded to SECY on September 14, 2011. The package was withdrawn on November 8, 2011, to allow staff to resolve an inconsistency. The revised proposed rule package SECY-11-0175, "Proposed Rule: Amendments to Material Control and Accounting Regulations," was provided to the Commission on December 21, 2011. In April 2012, SRM-SECY-11-0175 approved the proposed rule package and identified seven issues to be resolved in the *Federal Register* Notice

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for the proposed rule. In November 2012, the revised rule package was submitted to SECY and was converted to COMSECY-12-0026, which needed a Commission revote. In May 2013, SRM-COMSECY-12-0026 directed the staff to complete the rulemaking effort. The proposed rule [NRC-2009-0096], titled "Amendments to Material Control and Accounting Regulations," and associated guidance documents [NRC-2013-0195] were completed and published in the *Federal Register* on November 8, 2013.

Completion of the Part 74 rulemaking process addresses the requirement for formal implementation of the risk-informed MC&A regulations.

### **Recommendation 3:**

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

### **December 2013 Status**

As part of the 10 CFR Part 74, "Material Control and Accounting of Special Nuclear Material," rulemaking, the staff completed incorporating the basis for risk-informing MC&A related activities into the technical basis for this subject rulemaking in April 2010.

The proposed rule package to amend Title 10 of the *Code of Federal Regulations* (10 CFR) Part 74, "Material Control and Accounting of Special Nuclear Material," was submitted to the Executive Director for Operations (EDO) on August 29, 2011, and subsequently forwarded to SECY on September 14, 2011. The package was withdrawn on November 8, 2011, to allow staff to resolve an inconsistency. The revised proposed rule package SECY-11-0175, "Proposed Rule: Amendments to Material Control and Accounting Regulations," was provided to the Commission on December 21, 2011. In April 2012, SRM-SECY-11-0175 approved the proposed rule package and identified seven issues to be resolved in the Federal Register Notice for the proposed rule. In November 2012, the revised rule package was submitted to SECY and was converted to COMSECY-12-0026, which needed a Commission revote. In May 2013, SRM-COMSECY-12-0026 directed the staff to complete the rulemaking effort. The proposed rule [NRC-2009-0096], titled "Amendments to Material Control and Accounting Regulations," and associated guidance documents [NRC-2013-0195] were completed and published in the *Federal Register* on November 8, 2013.

Completion of the Part 74 rulemaking process addresses the requirement for formal documentation of the risk-informed MC&A regulations.