

Response to Public Comments on Draft Regulatory Guide (DG)-5049
“Independent Assessment of Nuclear Material Control and Accounting Systems”
Proposed Revision 1 of Regulatory Guide (RG) 5.51

On September 17, 2015, the NRC published a notice in the *Federal Register* (80 FR 55880) that Draft Regulatory Guide, DG-5049 (Proposed Revision 1 of RG 5.51), was available for public comment. The Public Comment period ended on November 16, 2015. The NRC received comments from the organizations listed below. The NRC has combined the comments and NRC staff responses in the following table.

Comments were received from the following:

Janet R. Schlueter, Senior Director
Radiation and Materials Safety
Nuclear Energy Institute (NEI)
1201 F Street, NW, Suite 1100
Washington DC 20004
ADAMS Accession No. ML15328A153

Commenter	Section of DG-5049	Specific Comments	NRC Response
Janet R. Schlueter	General	(1) As written, DG-5049, compared with RG 5.51, is overly prescriptive, could be difficult to implement, and could create a significant impact to licensees operations without a demonstrated need or benefit. While the wording in many sections of current RG 5.51 and nine checklists align with DG-5049, the revision significantly changes the scope of an “independent assessment”. The current RG 5.51 is for “Management Review of Nuclear MC&A Systems”. Management reviews include the planning, coordination and administration of the MC&A function and is typically described in current NRC approved FNMCP. The management review and oversight are routinely performed throughout the year by licensee’s onsite MC&A staff. Currently, an independent assessment is a small part of the management oversight process and is typically performed by contractors or others in another business unit independent of the onsite MC&A staff. These assessments are typically completed in less than a week.	The NRC Staff disagrees with comment (1) that DG-5049 is overly prescriptive as compared with RG 5.51, and is “without a demonstrated need or benefit.” RG 5.51 was first issued in June 1975, and this guidance is outdated due to subsequent revisions the NRC made to the MC&A regulations. Nonetheless, as the commenter acknowledges, the wording in many sections of the existing RG 5.51 and its nine appendices (A-I) aligns with the DG-5049 sections and appendices A-I. While some of the guidance is very detailed, guidance does not impose requirements. The RG 5.51 guidance instead provides examples of how the NRC’s MC&A requirements may be met. Contrary to the comment that the new guidance “significantly changes the scope” of independent assessments, such assessments are required by: (A) 10 CFR 74.31(c)(8), established in 1985 and applicable to licensees authorized to hold SNM of low strategic significance; (B) 10 CFR 74.33(c)(8), established in 1991 and applicable to licensees authorized to operate uranium enrichment facilities; (C) 10 CFR

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		<p>(2) The wording in DG-5049 has replaced current RG terms “management review” and “review” with “independent assessment” and “assessment”. As described in Section C.1, this change could cause an independent assessment to last from weeks or even months. Sections C.3.d and C.4.e and Appendices A-1.e, A-2.f, and G address having the independent assessment during inventory. The physical inventory process is a very busy time for fuel cycle facilities and it would be extremely difficult and impractical to bring in an independent assessment team to do an audit during this process. The onsite MC&A staff would not be able to devote time to an assessment team as physical inventory activities encompass onsite staff for the weeks surrounding it.</p> <p>(3) Consideration should be provided in DG-5049 for continued use of onsite MC&A staff for the evaluation of certain portions of the MC&A program with the use of independent auditors in a limited role for certain program elements. This change to DG-5049 would result in a minimal impact for licensees.</p>	<p>74.43(b)(8), established in 2002 and applicable to licensees authorized to hold SNM of moderate strategic significance; and (D) 10 CFR 74.59(h)(4), established in 1987 and applicable to licensees authorized to possess five or more formula kilograms of strategic SNM. These requirements are why the 1975 guidance provided by RG 5.51 needed to be revised.</p> <p>The NRC Staff agrees in part and disagrees in part with comment (2). Staff agrees that observing the entire physical inventory process would be difficult and impractical. However, observing parts of the inventory process would be beneficial for assessing the process. Sections C.3.d, C.4.e, and Appendices A-1.e, A-2.f, and the introductory wording in Appendix G have been revised in response to this comment.</p> <p>While the term “management review” has been replaced with the term “independent assessment,” this change reflects the wording of the current part 74 regulations. As indicated in the response to comment (1) above, independent assessments are required by 10 CFR 74.31(c)(8), 74.33(c)(8), 74.43(b)(8), and 74.59(h)(4). Regarding the physical inventory process, comment (2) states in part that it would be “extremely difficult and impractical to bring in an independent assessment team to do an audit during this process.” The Staff does not agree with this portion of Comment (2). The MC&A regulations at issue here do not contain any audit requirements. References to audits in DG-5049 have been replaced with references to reviews in Revision 1 of RG 5.51 so as not to suggest that audits need be performed.</p> <p>The NRC Staff agrees in part with comment (3). Section B (background) and Section C.2 of RG 5.51 have been revised in response to this comment to indicate that onsite MC&A staff may be used for portions of required</p>

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			independent assessments as long as they are not assessing facility areas for which they are directly responsible.
Janet R. Schlueter	General	DG-5049 carries forward unnecessary wording from RG 5.51. For example, Appendix C-2.a and b state that MC&A procedures and delegations be approved or made “in writing”. Electronic signatures and e-mails have become common since RG 5.51 was issued. We recommend that the term “in writing” be replaced with “documented”, where appropriate.	The NRC Staff agrees with this general comment. Outdated terms in RG 5.51 have accordingly been revised or deleted as needed in Revision 1 of this guidance.