

AUDIT REPORT

Audit of NRC's Use of Confirmatory Action Letters

OIG-12-A-09 February 10, 2012



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OFFICE OF THE
INSPECTOR GENERAL

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

February 10, 2012

MEMORANDUM TO: R. William Borchardt
Executive Director for Operations

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

SUBJECT: AUDIT OF NRC'S USE OF CONFIRMATORY ACTION
LETTERS (OIG-12-A-09)

Attached is the Office of the Inspector General's (OIG) audit report titled, *Audit of NRC's Use of Confirmatory Action Letters*.

The report presents the results of the subject audit. Agency comments provided at the January 20, 2012, exit conference have been incorporated, as appropriate, into this report.

Please provide information on actions taken or planned on each of the recommendations 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 415-5915 or RK Wild, Team Leader, Nuclear Reactor Safety Audits Team, at 415-5948.

Attachment: As stated

EXECUTIVE SUMMARY

BACKGROUND

The Nuclear Regulatory Commission (NRC) regulates commercial nuclear power plants and other civilian uses of nuclear materials, such as in nuclear medicine, through licensing, inspection, and enforcement of its requirements. In exercise of its regulatory responsibilities, NRC uses administrative actions, such as Confirmatory Action Letters (CALs) to supplement the agency's enforcement program. CALs are "letters confirming a licensee's agreement to take certain actions to remove significant concerns about health and safety, safeguards, or the environment."

Administration of Confirmatory Action Letters

The NRC Office of Enforcement is responsible for the development and implementation of the *NRC Enforcement Policy (Policy)* and the *NRC Enforcement Manual (Manual)*. The *Policy* sets forth the general principles governing NRC's enforcement program. The *Manual* contains guidance on preparation, issuance, coordination, tracking, and closure of CALs and delegates authority for issuing CALs to the NRC regional administrators and some program office directors.

OBJECTIVE

The audit objective was to determine the effectiveness of NRC's utilization of CALs as a regulatory tool. To meet this objective, Office of the Inspector General (OIG) auditors focused on the agency's administration of the CAL process.

RESULTS IN BRIEF

NRC's administration of the CAL process is not as effective as it could be. Specifically, CAL guidance is inconsistent because the CAL guidance does not include some offices' roles or clearly identify all CAL recipients.

Further, NRC program and regional offices do not fully comply with CAL guidance. Despite requirements contained in the *Manual* for the concurrence, tracking, and numbering of CALs,

- Some required office concurrences on CALs are missing.
- CAL tracking practices vary among offices.
- CAL numbering conventions vary among offices.

Weaknesses in NRC's CAL guidance and compliance with the guidance exists because the agency does not have a centralized control point for agencywide oversight and implementation of a fully effective CAL process, including consistent CAL guidance, compliance with the guidance, and the tracking of CALs.

Consequently, NRC may be missing opportunities to effectively use CALs for potential CAL recipients not identified in current guidance and to efficiently track and trend CALs.

RECOMMENDATIONS

This report makes four recommendations to improve the agency's process for administering CALs. A list of these recommendations appears on page 11 of this report.

AGENCY COMMENTS

On January 10, 2012, OIG issued the discussion draft of this report to the Executive Director for Operations. OIG met with NRC management officials and staff on January 20, 2012, at an exit conference to discuss the draft report. At this meeting, agency management stated its agreement with the report recommendations and provided informal comments for OIG to consider for incorporation into the report. OIG incorporated the agency comments into the report as appropriate. NRC management and staff reviewed and agreed with the revisions and opted not to provide formal comments for inclusion in this report.

ABBREVIATIONS AND ACRONYMS

ADAMS	Agencywide Documents Access and Management System
Appendix B	10 CFR Part 50, Appendix B
CAL	Confirmatory Action Letter
CFR	Code of Federal Regulations
FSME	Office of Federal and State Materials and Environmental Management Programs
Manual	NRC Enforcement Manual
NMSS	Office of Nuclear Material Safety and Safeguards
NRC	Nuclear Regulatory Commission
NRO	Office of New Reactors
NRR	Office of Nuclear Reactor Regulation
NSIR	Office of Nuclear Security and Incident Response
OE	Office of Enforcement
OIG	Office of the Inspector General
Policy	NRC Enforcement Policy

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I. BACKGROUND

The Nuclear Regulatory Commission (NRC) regulates commercial nuclear power plants and other civilian uses of nuclear materials, such as in nuclear medicine, through licensing, inspection, and enforcement of its requirements. In exercise of its regulatory responsibilities, NRC uses administrative actions, such as Confirmatory Action Letters (CALs), to supplement the agency's enforcement program. CALs are "letters confirming a licensee's agreement to take certain actions to remove significant concerns about health and safety, safeguards, or the environment." Appendix A of this report contains an example of a CAL that NRC recently issued.

The origins of CALs can be traced to 1974. At that time, NRC created Immediate Action Letters that the agency would use to confirm a recipient's commitment to certain actions. NRC also used the letters to document cases where the recipient voluntarily agreed to cease operations until the recipient properly evaluated and corrected the situation. In 1982, the agency changed the name from Immediate Action Letters to Confirmatory Action Letters.

NRC expects the recipient of a CAL to adhere to any obligations and commitments addressed in the letter. CALs do not establish legally binding commitments with the exception of a provision to report information to NRC. If a recipient failed to meet a commitment in a CAL, according to agency guidance, NRC would likely proceed with stringent enforcement sanctions such as an order. An order is an enforcement sanction that NRC issues to modify, suspend, or revoke licenses or to impose civil penalties.

Administration of Confirmatory Action Letters

The NRC Office of Enforcement (OE) is responsible for the development and implementation of the *NRC Enforcement Policy (Policy)* and the *NRC Enforcement Manual (Manual)*. The *Policy* sets forth the general principles governing NRC's enforcement program. The *Manual* contains guidance on preparation, issuance, coordination, tracking, and closure of CALs.

The *Manual* delegates authority for issuing CALs to the NRC regional administrators and the directors of the Office of Nuclear Reactor Regulation (NRR), the Office of Nuclear Material Safety and Safeguards (NMSS), the Office of Federal and State Materials and Environmental Management Programs (FSME), and the Office of New Reactors (NRO). The *Manual* also states that offices with the potential for issuing CALs have the responsibility for preparing, issuing, coordinating as required, tracking the status, and appropriately closing out CALs.

When asked about CAL guidance that program and regional offices use, some program offices and regions identified office instructions and inspection guidance, in addition to the *Policy* and *Manual*, as a source of guidance, as shown in Table 1.

Table 1: Additional CAL Guidance Provided by NRC Offices and Regions

Guidance	Offices								
	NRR	NMSS	FSME	NRO	NSIR	RI	RII	RIII	RIV
Office Instructions	X		X			X	X		X
Inspection Guidance	X		X	X					

Note: NSIR is the Office of Nuclear Security and Incident Response. The four NRC regions are indicated as RI, RII, RIII, and RIV.

Source: OIG analysis of CAL guidance provided by NRC offices and regions

From January 1, 2000, to April 30, 2011, NRC issued approximately 195 CALs to different entities, including nuclear power plants, decommissioned reactors, research and test reactors, materials licensees, certificate of compliance holders,¹ and non-licensees. During this approximate 11-year period, the agency has issued on average 17 CALs each year, with NRR issuing the most and Region I issuing the second largest number of CALs.

¹ A certificate of compliance holder is an entity that has a certificate issued by the Commission approving the design of a spent fuel storage cask in accordance with Title 10 Code of Federal Regulations (10 CFR) Part 72, *Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste and Reactor-Related Greater than Class C Waste*.

II. OBJECTIVE

The audit objective was to determine the effectiveness of NRC's utilization of CALs as a regulatory tool. To meet this objective, Office of the Inspector General (OIG) auditors focused on the agency's administration of the CAL process. Appendix B contains information on the audit scope and methodology.

III. FINDING

NRC's administration of the CAL process is not as effective as it could be. The agency position is that CALs are a valuable enforcement tool for obtaining timely confirmation that the recipient has agreed to take action that will remove significant concerns regarding health and safety, the environment, safeguards, or security. As such, maintaining a viable and consistent CAL program is of utmost importance to the agency.

NRC's CAL guidance lacks consistency and the agency does not fully comply with its guidance. This is because NRC does not have a centralized control point for agencywide oversight and implementation of a fully effective CAL process, including consistent CAL guidance, compliance with the guidance, and the tracking of CALs. Consequently, NRC may be missing opportunities to effectively and efficiently administer the use of CALs.

Requirements for Effective Programs

Federal internal control standards provide for continuous program assessment and evaluation to assure program effectiveness. *Standards for Internal Control in the Federal Government* state that Federal program managers must provide continuous mission and program internal control assessment and evaluation.

In implementing these standards, management is responsible for developing internal controls—such as detailed policies, procedures, guidance, and practices—to fit their agency's operations and be an integral part of daily operations. Specifically, achieving effective administration of the CAL process requires consistent guidance and compliance with the established guidance.

NRC's Approach to CAL Administration Is Not as Effective as It Could Be

NRC's administration of the CAL process is not as effective as it could be. There is a lack of consistency in the agency's CAL guidance. Moreover, program and regional offices do not fully comply with CAL guidance.

CAL Guidance Is Inconsistent

Agency guidance for CAL implementation has inconsistencies. For example, CAL guidance does not include some offices' roles or clearly identify all CAL recipients.

The *Manual* does not consistently identify some offices' roles pertaining to CAL administration. Two offices that the *Manual* does not acknowledge consistently are FSME and NRO. In its "Responsibilities and Authorities" section, the *Manual* authorizes the Directors of FSME and NRO to sign and issue CALs. However, the *Manual* is silent on FSME's and NRO's role in virtually all remaining sections, even though those sections mention other agency offices by name. These sections include:

- CAL Coordination and Review.
- CAL Signature Authority.
- Licensee Notification, Mailing and Distribution for CALs.
- CAL Tracking Responsibilities.
- Closing Out CALs.

Moreover, CAL guidance does not clearly identify all CAL recipients. The entities that the *Policy* identifies as CAL recipients are licensees or contractors, whereas the *Manual* states CAL recipients are licensees or vendors. In addition, Inspection Procedure 92703, *Followup of Confirmatory Action Letters or Orders*, states CAL recipients are licensees or individuals. As illustrated in Table 2, it is unclear who the intended CAL recipients are.

Table 2: Recipients Identified in CAL Guidance

Guidance	Recipients			
	Licensees	Contractors	Vendors	Individuals
<i>Policy</i>	X	X		
<i>Manual</i>	X		X	
Inspection Procedure 92703	X			X

Source: OIG analysis of CAL guidance provided by NRC offices and regions

Furthermore, the *Manual* clearly states that CALs should not be used to remove an individual from, or restrict his or her ability to perform, licensed activities. The *Manual* further cautions against the use of CALs for individuals because, in such instances, individual rights are affected and the opportunity for a hearing must be given both to the licensee and to the affected individual.

The variety of CAL recipients and the types of concerns addressed in CALs that NRC issued are illustrated in Table 3.

Table 3: Various Recipients and Concerns Addressed in CALs

Recipient Type	Concern	Issuing Office
Commercial Power Reactor Licensee	Inattentive security guards	Region I
Research and Test Reactor Licensee	Unexpectedly high dose rates	NRR
Medical Use Licensee	No radiation safety officer and broken lock	Region I
Fuel Cycle Facility Licensee	Unacceptable enriched uranium configuration	Region II
Certificate of Compliance Holder	Waste transportation drum performance	NMSS
Real Estate Company Non-Licensee in Possession of Materials	Unlicensed tritium found in building	Region II

Source: OIG analysis of agency-provided documentation

Agency Offices Do Not Fully Comply With CAL Guidance

NRC program and regional offices do not fully comply with CAL guidance. Despite requirements contained in the *Manual* for the concurrence, tracking, and numbering of CALs,

- Some required office concurrences on CALs are missing.
- CAL tracking practices vary among offices.
- CAL numbering conventions vary among offices.

Concurrences on CALs Are Missing

Some required office concurrences on CALs are missing. The *Manual* requires the Director, NRR, to concur on CALs issued to reactor licensees and the Director, Office of Nuclear Security and Incident Response (NSIR), to concur on security-related CALs. However, OIG identified several CALs issued to reactor licensees that did not have NRR concurrence, as well as several security-related CALs that did not have NSIR concurrence.

CAL Tracking Practices Vary

Tracking practices vary among the agency's program and regional offices despite agency guidance that requires accounting of specific information. The *Manual* stipulates that offices and regions should maintain a list summarizing the following information that would be suitable for auditing purposes:

- How many CALs have been issued.
- To whom the CAL has been issued.
- Why the CAL was issued, i.e., a brief description of the issues.
- When all corrective actions were or will be completed.

None of the program and regional offices maintain tracking lists that adequately provide all the information as required by the *Manual*. The methods offices and regions use for tracking the CALs issued vary from no tracking to some method of tracking, but without the information needed for auditing purposes.

Agency officials provided various explanations for why they do not track CALs. Reasons included issuing too few CALs to justify a tracking system and relying on other offices to track CALs.

Some offices also indicated that they rely on the Agencywide Documents Access and Management System (ADAMS)² for locating and knowing the status of their CALs. However, ADAMS is a document repository, not a tool to track the information to the degree of specificity that the *Manual* requires. Further, ADAMS is vulnerable to user-introduced inaccuracies. For example, CALs in ADAMS do not have consistent profile descriptions,³ which made it difficult for agency and OIG staff to search for and locate documents in ADAMS. In some cases, offices inconsistently profiled or described CALs as “letter,” “inspection report,” and/ or “CAL.” When asked for a list of CALs, at least one office that issues CALs and relies solely on ADAMS for tracking, overlooked a number of CALs because the CALs were profiled inconsistently.

Numbering Conventions Vary

Some offices used numbering conventions that vary from the required numbering format. The *Manual* states that the issuing program or regional office assigns the CAL a tracking number based on the office acronym, the year of issuance, and the sequential CAL number for that year (e.g., XXXX-06-008). However, in some instances, offices used variations of this format, including CAL numbers with no clear indication of the program or regional office acronym, the year issued, and/or the sequential CAL number for that year. One office was not internally consistent with its own numbering scheme, using variations of CAL numbering conventions including 02-8-00 and XXXX-2010-001. Use of numbering conventions that varied from the required numbering format has likely led to the use of duplicate CAL numbers identified during this audit.

² ADAMS is NRC's official recordkeeping system that contains vast libraries or collections of documents related to the agency's regulatory activities.

³ Every document in ADAMS has a document profile that stores information about the document, such as author, title, docket number, public availability, etc. The document profile provides consistent fields of information needed to identify, locate, list, and manage documents. For example, the document profile has properties that describe the Document Date, Document Sensitivity, Author Name, etc.

NRC Would Benefit From a Centralized Control Point To Oversee the CAL Process Agencywide

NRC currently does not have a centralized control point for oversight and implementation of an effective agencywide CAL process to include holding program and regional offices accountable for following CAL guidance. If the agency had a centralized control point, it would be able to, among other things:

- Assess and update the *Policy*, the *Manual*, and other associated guidance to ensure that NRC's approach for utilizing CALs is consistent, effective, and efficient. With authority over guidance, a centralized control point would be uniquely positioned to serve as a resource for program and regional offices issuing CALs. Even though no such control point currently exists at NRC, some program and regional office points-of-contact were under the impression that OE was already fulfilling this role to offer clarification of guidance and track their CALs.
- Conduct periodic CAL audits that verify compliance with CAL policies and procedures. In fact, in 2004, OE conducted an audit of agencywide CALs and found some tracking and numbering issues similar to those described in this OIG report. Yet, without being designated as a clear agencywide control point for CALs, the office lacked leverage to encourage the changes and lost institutional memory that it had conducted the audit.
- Implement a comprehensive, agencywide CAL tracking system. Doing so would eliminate the confusion over numbering schemes and sequences, and help to ensure agency staff and management awareness of the status of open CALs.

NRC Offices May Be Missing Opportunities To Effectively and Efficiently Administer the Use of CALs

Without a centralized control point for oversight of the CAL process, NRC may be missing opportunities to administer the use of CALs more effectively and implement the CAL program more efficiently. Among other things, this makes it challenging for the agency to ensure that all items committed to by CAL recipients have been met.

Opportunities To Use CALs More Effectively

NRC may be missing opportunities to use CALs more effectively. Additionally, NRC may have been out of compliance with current guidance on who can receive a CAL. NRC has issued CALs to recipients not clearly identified in the *Policy* or *Manual*. For example, in one case, the CAL recipient — although not a licensee, vendor, or contractor — was able to take action expeditiously to address significant concerns about health, safety, and the environment. The flexibility to issue a CAL to a non-licensee who was in possession of nuclear materials may be a very effective use of a CAL. However, because the *Policy* and *Manual* do not identify non-licensees as potential CAL recipients, other NRC staff would not necessarily know that CALs could be effectively used in this manner.

NRC may also be missing the opportunity to issue CALs to vendors. According to NRC staff, the agency has not issued CALs to the vendors that NRC inspects in accordance with 10 CFR Part 50, Appendix B (Appendix B).⁴ An NRC staff member stated that during a vendor inspection, if the Appendix B vendor's quality assurance program is inadequate, it is conceivable that issuing a CAL would be useful. However, NRC's Vendor Inspection Program staff have not pursued the use of CALs as a possible tool for vendors.

Program Implementation Efficiencies Are Impacted

NRC may also be missing opportunities to implement the CAL program more efficiently, primarily with regard to the agency's CAL tracking efforts. Currently, the agency supports multiple CAL tracking systems that have varying degrees of effectiveness for identifying the universe of both open and closed CALs, and determining the status of open CALs. In requesting CALs from each of the program and regional offices, OIG found more CALs than offices reported. Further, OIG and NRC staff found it difficult to locate CAL closure letters, thus demonstrating that staff do not have CAL status information readily available. Without readily available CAL status information, the agency cannot determine in a timely fashion whether a CAL recipient has met all of the commitments described in the CAL.

⁴ 10 CFR Part 50, Appendix B, *Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants*, requires that a quality assurance program be applied to all activities affecting structures, systems, and components of reactors that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public. The appendix establishes quality assurance requirements for the design, manufacture, construction, and operation of those structures, systems, and components.

Further, NRC may be missing trending opportunities by having several dispersed CAL tracking systems. Trending CAL data provides an ongoing record of system performance. Specifically, having the capability to trend all of NRC's CALs enables NRC to have a running record of CALs to perform baseline comparisons, identify repeating issues, and monitor the agency's CAL activities.

Conclusion

The agency views the CAL as an effective and efficient means for obtaining timely confirmation of actions a recipient has agreed to take in order to remove significant concerns about public health, safety, safeguards, security, or the environment. As such, CALs support NRC's overall safety mission. However, program implementation weaknesses, such as inconsistent CAL guidance, prevent staff from using CALs to their full potential and degrade NRC's overall CAL program accountability. Sustained non-compliance with established guidance may indicate weak organizational accountability.

Strengthening organizational management with a centralized control point for CALs would improve the agency's oversight of and accountability for CAL program requirements. Implementing such oversight would result in improvements to NRC's overall approach for using the CAL process. More importantly, it would further support the agency's responsibility for overseeing the Nation's safe operation of commercial nuclear power plants and other uses of nuclear materials to ensure that the public and environment are adequately protected.

Recommendations

OIG recommends that the Executive Director for Operations:

1. Designate a centralized control point to oversee and implement an effective agencywide CAL process.
2. Assess and update the *NRC Enforcement Policy*, the *NRC Enforcement Manual*, and other associated guidance to ensure that NRC's approach for utilizing CALs is consistent, effective, and efficient.
3. Conduct periodic CAL audits that verify compliance with CAL policies and procedures.
4. Implement a comprehensive, agencywide CAL tracking system.

IV. AGENCY COMMENTS

On January 10, 2012, OIG issued the discussion draft of this report to the Executive Director for Operations. OIG met with NRC management officials and staff on January 20, 2012, at an exit conference to discuss the draft report. At this meeting, agency management stated its agreement with the report recommendations and provided informal comments for OIG to consider for incorporation into the report. OIG incorporated the agency comments into the report as appropriate. NRC management and staff reviewed and agreed with the revisions and opted not to provide formal comments for inclusion in this report.

Appendix A

Example of a Recently Issued Confirmatory Action Letter



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION II
245 PEACHTREE CENTER AVENUE NE, SUITE 1200
ATLANTA, GEORGIA 30303-1257

September 30, 2011

CAL No. 2-2011-001

Mr. David A. Heacock
President and Chief Nuclear Officer
Virginia Electric and Power Company
Innsbrook Technical Center
5000 Dominion Boulevard
Glen Allen, VA 23060-6711

SUBJECT: CONFIRMATORY ACTION LETTER – NORTH ANNA POWER STATION UNIT
NOS. 1 AND 2, COMMITMENTS TO ADDRESS EXCEEDING DESIGN BASES
SEISMIC EVENT (TAC NOS. ME7050 AND ME7051)

Dear Mr. Heacock:

As reported to the Nuclear Regulatory Commission (NRC or Commission) in licensee event report, EN47201, and updated on September 9, 2011, North Anna Power Station (NAPS) experienced vibratory ground motion in excess of its operating and design basis. In accordance with Appendix A to Title 10 of the Code of Federal Regulations, Part 100, paragraph V(a)(2), a nuclear power plant is required to be shutdown when the vibratory ground motion exceeds that of the Operating Basis Earthquake (OBE). In addition, the regulations state that "prior to resuming operations, the licensee will be required to demonstrate to the Commission that no functional damage occurred to those features necessary for continued operation without undue risk to the health and safety of the public."

On August 23, 2011, during a seismic event which exceeded the plant's OBE, both NAPS units experienced automatic trips and entered Mode 3; subsequently, both units were taken to cold shutdown – Mode 5. On September 17, 2011, the fuel was removed from NAPS Unit 2 placing it in no Mode to allow for inspections.

On September 17, 2011, you submitted the NAPS Units 1 and 2 Summary Report of the August 23, 2011 Earthquake Response and Restart Readiness Determination Plan (Agencywide Documents Access and Management System (ADAMS) Accession Number ML11262A151), stating the impacts of the event and the near-term activities planned for completion to demonstrate that no functional damage has occurred to those features necessary for the continued operation without undue risk to the health and safety of the public. In the cover letter you requested NRC concurrence to restart NAPS Units 1 and 2 upon completion of the remaining near-term action items. In addition, in a conference call between you, Eric Leeds, Director, Office of Nuclear Reactor Regulation and myself, on September 23, 2011, you reiterated your commitment to keep both North Anna Units 1 and 2 shutdown until you receive NRC approval for restart.

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This Confirmatory Action Letter (CAL) confirms that NAPS Units 1 and 2 will not enter Modes 1 - 4 (as defined in the technical specifications), until the Commission has completed its review of your information, performed confirmatory inspections, and completed its safety evaluation review. The permission to resume operations will be formally communicated to Virginia Electric and Power Company (VEPCO) in a written correspondence.

VEPCO shall submit to the NRC all documentation requested by the NRC as being necessary to demonstrate that NAPS Units 1 and 2 can be operated safely following the seismic event that exceeded the safe shutdown event analyzed in the current revision of the Updated Final Safety Analysis Report.

This CAL will remain in effect until the NRC has (1) reviewed your information, including responses to staff's questions and the results of your evaluations, and (2) the staff communicates to you in written correspondence that it has concluded that NAPS can be operated without undue risk to the health and safety of the public or the environment.

Pursuant to Section 182 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2232), you are required to:

- 1) Notify me immediately if your understanding differs from that set forth above;
- 2) Notify me if for any reason you cannot complete the actions; and
- 3) Notify me in writing when you have completed the actions addressed in this Confirmatory Action Letter.

In accordance with 10 CFR 2.390 of the NRC's regulations a copy of this letter, and any response will be made available electronically for public inspection in the NRC Public Document Room or from the ADAMS, accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

To the extent possible, your response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal

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privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

Sincerely,

/RA/

Victor M. McCree
Regional Administrator

Docket No.: 50-338, 50-339

License No.: NPF-4, NPF-7

cc: See next page

D. Heacock

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cc cont'd:

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Appendix B**OBJECTIVE, SCOPE, AND METHODOLOGY**

OBJECTIVE

The audit objective was to determine the effectiveness of NRC's utilization of Confirmatory Action Letters as a regulatory tool.

SCOPE

The audit focused on reviewing the agency's administration of the CAL process by examining relevant documents and conducting interviews with agency staff. While the audit primarily reviewed current agency guidance and practices with regard to CALs, auditors also reviewed CALs issued since January 1, 2000. We conducted this performance audit at NRC headquarters (Rockville, MD) from May 2011 through November 2011. Internal controls related to the audit objective were reviewed and analyzed. Throughout the audit, auditors were aware of the possibility or existence of fraud, waste, or misuse in the program.

METHODOLOGY

OIG reviewed agency regulations regarding NRC's use of CALs, including the *NRC Enforcement Policy* and the *NRC Enforcement Manual*. OIG also reviewed office-specific guidance on CALs, including LIC-100, *Control of Licensing Bases for Operating Reactors*; and Regional Office Instruction No. 0904, *Confirmatory Action Letters*. Furthermore, OIG reviewed NRC inspection manual chapters, inspection procedures, and CALs issued between January 1, 2000, and April 30, 2011, which totaled 195 CALs.

OIG interviewed NRC staff who are involved in CAL-related activities. These interviews included a deputy executive director, office directors, deputy directors, project managers, and enforcement specialists. Overall, OIG conducted interviews with all program and regional office points-of-contact identified by the agency to obtain staff insights into the agency's use of CALs.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The audit work was conducted by Sherri Miotla, Team Leader; R.K. Wild, Team Leader; Kevin Nietmann, Senior Technical Advisor; Vicki Foster, Audit Manager; and Andrea Ferkile, Senior Management Analyst. Additional support was provided by Jacki Storch, Audit Manager; Robert Woodward, Audit Manager; and Maxinne Lorette, Senior Auditor.