UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF FEDERAL AND STATE MATERIALS AND
ENVIRONMENTAL MANAGEMENT PROGRAMS
WASHINGTON, D.C. 20555

May 2, 2007

NRC INFORMATION NOTICE 2007-16: Common Violations of the Increased Controls Requirements and Related Guidance Documents

## ADDRESSEES

All licensees who are implementing the U.S. Nuclear Regulatory Commission (NRC) Order Imposing Increased Controls (EA-05-090), issued November 14, 2005 and December 22, 2005.

## PURPOSE

The NRC is issuing this Information Notice (IN) to inform licensees of the information and resources available to answer questions and clarify issues regarding the requirements of the Increased Controls (IC). This IN also describes some of the common violations that have been identified during IC inspections, in order to bring about awareness of these particular violations and reduce their occurrence. It is expected that recipients will review this information for applicability to their facilities and consider actions, as appropriate. However, suggestions contained in this IN are not new NRC requirements; therefore, no specific action nor written response is required.

## DESCRIPTION OF CIRCUMSTANCES

The NRC has identified that some requirements of the IC are either being misinterpreted, or incompletely implemented by licensees. It appears there are common misunderstandings among licensees about the requirements set forth in the IC, and the intent behind those requirements. It has also been observed that many licensees are either unaware of the guidance that is available to assist in their implementation efforts, or unable to locate the guidance documents.

## DISCUSSION

Prior to the issuance of the IC, meetings were held with, and correspondence received from, affected stakeholders. This led to the development of an implementing guidance document which contains acceptable approaches for achieving compliance with the IC. The implementing guidance includes 201 Questions and Answers (Q&As), which address specific situations and questions regarding the IC. The implementing guidance document, containing the 201 Q&As, were distributed to licensees concurrent with the issuance of the IC Order.

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After the IC were issued, the NRC formed the Implementation of Increased Controls Working Group (IICWG) to discuss various questions and situations regarding implementation of the IC. The purpose of the IICWG was to resolve issues and provide additional guidance to licensees and regulating authorities when questions arose regarding the implementation of the IC and the efforts of the licensee to comply. In addition, the IICWG continues to maintain a living document which is updated with Supplemental Q&As whenever new issues or questions arise.

Increased awareness of how to locate and use these guidance documents may help licensees prevent the violations commonly identified during inspections. Below is a list of the guidance documents available to licensees and their location on the NRC website, followed by a discussion of violations commonly observed during initial inspections of the IC requirements.

Guidance Documents

The guidance documents available to licensees can be found in the NRC public website on the "Security Orders" page, located at the following web address:

http://www.nrc.gov/reading-rm/doc-collections/enforcement/security/index.html

Information specific to the IC is located at the bottom of this web page, under the heading entitled "Holders of Material Licenses Authorized to Possess Radioactive Material Quantities of Concern." Beneath that heading are links to the IC documents shown below:

November 14, 2005 - Letter issued to Holders of Material Licenses Authorized to Possess Radioactive Material Quantities of Concerns

Enclosure 1 - Order Imposing Increased Controls

Attachment B - Increased Controls for Licensees that Possess Sources Containing Radioactive Material Quantities of Concern

Attachment B - Table 1: Radionuclides of Concern

Enclosure 2 - Implementing Guidance with Questions and Answers for Licensees that Possess Radioactive Material Quantities of Concern

Supplemental Questions and Answers - (most current date shown here)

The final two documents in the listing may be particularly useful to a licensee working to comply with the IC Order. The document shown as "Enclosure 2 - Implementing Guidance with Questions and Answers for Licensees that Possess Radioactive Material Quantities of Concern" includes 201 Q&As which are categorized by IC requirements one through six, and by other specific topics such as manufacturers and distributors, medical facilities, etc. The document shown as "Supplemental Questions and Answers" is updated with new Q&As as they are developed in response to requests for further clarification of the IC. Note that the date shown on the Supplemental Q&A document will change to reflect the date when the latest Q&A was approved by the IICWG. Therefore, licensees may wish to check the Security Orders web page regularly to see if the date has changed, indicating the presence of new Supplemental Q&As.

A review of common violations identified during initial inspection of licensees' IC programs indicated that licensees may not have completely understood the IC requirements or fully reviewed the guidance documents. Licensees who have difficulty understanding or complying with the requirements of the IC after fully reviewing the guidance documents mentioned above, or are unsure whether their program is adequate, may contact the appropriate NRC Regional Office for assistance.

Common Violations Among IC Licensees

The following are examples of IC violations which have been identified during inspections. In general, it appears that violations of the IC requirements most commonly involve those of IC 1, 2, 4, and 6. This also includes violations involving the documentation requirements found among the IC.

*Documentation*

An important component to the IC requirements, and a common topic among the guidance documents previously mentioned, is documentation. There are parts of the IC requirements which state that a licensee must have a "documented program," or account for certain provisions "in writing." Many times licensees may have made a good faith attempt to comply with the IC, but have failed to adequately document their actions or program. Thorough documentation is often necessary to demonstrate full compliance.

*IC 1*

Some licensees had not appropriately restricted access to radioactive material quantities of concern and devices containing such radioactive material, allowing access to individuals without a trustworthiness and reliability (T&R) determination. This included instances where licensees did not escort unauthorized individuals who required access to the area where radioactive material and devices were stored in order to perform job duties unrelated to the radioactive material. In some cases, licensees may have performed the T&R determination review; however, they could not present documentation of their determinations when requested by the inspector, as stipulated by IC 1.d. Also, some licensees thought that maintaining a list of approved individuals is the only documentation required for T&R records; however, this list is only a single component of what is required. For instance, according to IC 1.d "The licensee shall document the basis for concluding that there is a reasonable assurance that an individual granted unescorted access is trustworthy and reliable, and does not constitute an unreasonable risk for unauthorized use of radioactive material quantities of concern."

*IC 2*

There have been cases where licensees failed to establish a documented program to monitor and immediately detect, assess, and respond to unauthorized access to radioactive material and devices, as required by IC 2. This included licensees operating at temporary job sites and

transport vehicles containing radioactive material quantities of concern. Some licensees misunderstood what information to include in the required documented program. Other times, licensees may have made a good faith attempt to comply with the IC, but have failed to adequately document their actions or program.

All components of a security program (i.e., detection, assessment, and response) need to be implemented for the program to work properly. Several of the deficiencies observed regarding IC 2 requirements were attributable to inadequate installation of equipment, faulty and dysfunctional equipment, or lack of monitoring in storage areas. Other deficiencies resulted from licensees failing to activate alarm and monitoring systems when the radioactive material was not under direct control and constant surveillance of the licensee or designated T&R personnel.

In general, licensees appear to be communicating with their Local Law Enforcement Agency (LLEA) about the IC and the type of material they possess. However, insufficient information is being shared to develop an effective pre-arranged plan for LLEA response to an actual theft, sabotage, or diversion of radioactive material or devices. The implementing guidance provides details as to what should be provided in the licensee's pre-arranged plan with their LLEA.

There have been cases where licensees did not have a dependable means of transmitting information among the various system components used to detect, assess and respond in accordance with IC 2.c. This has been observed when licensees install security systems which rely solely on a functional land-based telephone line. Many licensees believed that, if the alarm system failed, they would still retain the ability to communicate with the alarm company. Problems with power backups have also been observed. In most cases, alarm companies provided training to licensees on the operation of intrusion alarm systems; however, the training usually focused on the basic operations of the system (i.e., how to set and turn off the alarm system). Therefore, these licensees were not well informed about how their alarm systems functioned. Also, several licensees installed some type of monitoring equipment without fully assessing their vulnerabilities. As a result, these licensees did not recognize that the system was ineffective for their security needs.

*IC 4*

Another common program deficiency is the misuse, or non-use of physical barriers and disabling methods to prevent unauthorized removal when a portable or mobile device is not under direct control and constant surveillance by the licensee. In some cases, this has resulted in loss of control of licensed materials, and a violation issued to the licensee. Therefore, licensees should carefully evaluate their implementation of IC 4 requirements.

*IC 6*

Violations have been identified regarding access, and handling of, physical protection information according to IC 6. Documents which contain information about a licensee's physical protection program are considered sensitive and should be available only to individuals with a need to know and who have been determined trustworthy and reliable. This includes information that describes a licensee's criteria for determining individuals to be trustworthy and reliable for unescorted access to radioactive material quantities of concern.

**CONTACT**

This information notice requires no specific action or written response. If you have any questions about the information in this notice, please contact the technical contact listed below or the appropriate regional office.

***/RA/***

Janet R. Schlueter, Director
Division of Materials Safety
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Enclosure: Recently Issued FSME/NMSS
Generic Communications

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## Recently Issued FSME/NMSS Generic Communications

| Date | GC No. | Subject | Addressees |
|---|---|---|---|
| 02/02/07 | IN-07-03 | Reportable Medical Events Involving Patients Receiving Dosages of Sodium Iodide Iodine-131 less than the Prescribed Dosage Because of Capsules Remaining in Vials after Administration | All U.S. Nuclear Regulatory Commission (NRC) medical use licensees and NRC Master Materials Licensees. All Agreement State Radiation Control Program Directors and State Liaison Officers. |
| 02/28/07 | IN-07-03 | Potential Vulnerabilities of Time-reliant Computer-based Systems Due to Change in Daylight Saving Time Dates | All U. S. Nuclear Regulatory Commission (NRC) licensees and all Agreement State Radiation Control Program Directors and State Liaison Officers. |
| 03/01/07 | RIS-07-03 | Ionizing Radiation Warning Symbol | All U.S. Nuclear Regulatory Commission (NRC) licensees and certificate holders. All Radiation Control Program Directors and State Liaison Officers. |
| 03/09/07 | RIS-07-04 | Personally Identifiable Information Submitted to the U.S. Nuclear Regulatory Commission | All holders of operating licenses for nuclear power reactors and holders of and applicants for certificates for reactor designs. All licensees, certificate holders, applicants, and other entities subject to regulation by the U.S. Nuclear Regulatory Commission (NRC) of the use of source, byproduct, and special nuclear material. |

**Note: NRC generic communications may be found on the NRC public website at http://www.nrc.gov, under Electronic Reading Room/Document Collections.**