

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

March 24, 2008

**NRC REGULATORY ISSUE SUMMARY 2008-09
NOTICE OF REVISION TO CRITERIA FOR
NOMINATING MATERIALS LICENSEES FOR DISCUSSION AT THE
AGENCY ACTION REVIEW MEETING**

ADDRESSEES

All U.S. Nuclear Regulatory Commission (NRC) materials licensees, master material licensees, Agreement State Radiation Control Program Directors, and State Liaison Officers

INTENT

The NRC is issuing this regulatory issue summary (RIS) to inform addressees that the NRC will revise the criteria for nominating materials licensees, including Agreement State licensees, with significant performance problems for discussion at the NRC's Agency Action Review Meeting (AARM). No specific action or written response is required.

BACKGROUND

In 2002, the NRC developed a process for providing information on significant nuclear materials issues and adverse licensee performance. This process was provided in SECY-02-0216, "Proposed Process for Providing Information on Significant Nuclear Materials Issues and Adverse Licensee Performance," dated December 11, 2002 (ADAMS Accession Number: ML022410435). As part of this process, the NRC developed criteria to determine which nuclear material licensees with significant performance problems should be discussed at the AARM.

The AARM is an agency meeting for senior NRC managers to review (1) agency actions in response to the performance of nuclear reactor licensees for those nuclear power plants with significant performance problems as determined by the Reactor Oversight Process (ROP) action matrix; (2) results of the staff's assessment of ROP effectiveness; (3) industry performance trends; and (4) agency actions concerning fuel cycle facilities and other materials licensees (including Agreement State licensees) with significant performance problems.

SUMMARY OF ISSUE

NRC is preparing to revise the current criteria, which can be found in Table 1 of SECY-02-0216, used to determine which nuclear material licensees with significant performance problems should be discussed at the AARM.

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Enclosure 1 of this RIS provides a table that compares the current criteria with the newly proposed criteria.

The agency currently identifies nuclear material licensees for AARM discussion based on operating performance, inspection results, and judgment of the severity of safety performance problems. The proposed criteria changes will be based on the same principles as the existing criteria. However, the new criteria provide additional definitions of the criteria requirements and incorporate NRC's current policy and procedures.

NRC published the proposed criteria for public comment in the *Federal Register* (73 FR 14278) on March 17, 2008. The public comment period ends on May 01, 2008. Licensees are welcomed to provide comments to the proposed criteria, as instructed in 73 FR 14278. Note that public comments must be collected in response to 73 FR 14278, and cannot be collected in response to this RIS.

FEDERAL REGISTER NOTIFICATION

A notice of opportunity for public comment on this RIS was not published in the *Federal Register* because this RIS is informational and does not represent a departure from current regulatory requirements.

CONGRESSIONAL REVIEW ACT

The NRC has determined that this action is not subject to the Congressional Review Act.

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not contain information collections and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.).

CONTACT

This RIS requires no specific action or written response. If you have any questions about this summary, please contact the individual listed below or the appropriate regional office.

/RA/

Robert J. Lewis, Director
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Technical Contact: Duane White, FSME
(301)415-6272
E-mail: dew2@nrc.gov

Enclosures:

1. Proposed Revisions to Criteria for
Nominating Licensees for the Agency
Action Review Meeting
2. List of Recently Issued FSME
Generic Communications

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ML080710457

| OFFICE | FSME/DMSSA | FSME/DMSSA | TechEd | DMSSA/MSEAB | OE | OIS |
|---------------|------------|------------------------------|---------------|-------------|-------------------|------------|
| NAME | DWhite:smh | AMcIntosh | QTE via email | SWastler | SLM for SWoods | TDonnell |
| DATE | 02/ 29 /08 | 03/ 06 /08 | 03/ 06 /08 | 03/ 11 /08 | 03/ 13 /08 | 03/ 18 /08 |
| OFFICE | OGC - NLO | OGC - CRA | DMSSA | | | |
| NAME | BJones | J. Martin for TRothschild | RLewis | | | |
| DATE | 03/ 13 /08 | 03/ 17 /08 | 03/ 24 /08 | | | |

OFFICIAL RECORD COPY

**Proposed Revisions to Criteria for Nominating Licensees for the
 Agency Action Review Meeting**

| Current Criteria for Nominating Licensees for the AARM | Proposed Criteria for Nominating Licensees for the AARM |
|---|---|
| <p>Licensee has an event that results in the failure to meet a Safety Measure (e.g., a death, release with significant impact on the environment, etc.).</p> | <p><u>Strategic Plan</u></p> <p>Licensee has an event that results in the failure to meet a Strategic Outcome for Safety or Security in the NRC Strategic Plan (NUREG-1614).</p> |
| <p>Licensee has an event that results in an Abnormal Occurrence, or an event that qualifies for a Severity Level I or II violation, or multiple events that meet the agency Strategic Plan Performance Measures (e.g., reportable loss of material, breakdown of physical protection, etc.),</p> <p>and</p> <p>technical staff believes that there are unique or unusual aspects of the cases that are not adequately or appropriately handled within the normal inspection and enforcement processes.</p> | <p><u>Significant Issue</u></p> <p>Licensee has an issue or event that results in:</p> <ol style="list-style-type: none"> 1. An Abnormal Occurrence Report to Congress (per Management Directive 8.1), or 2. A Severity Level I or II violation (per the NRC Enforcement Policy), or 3. A Level 3 or higher International Nuclear Event Scale Report to the International Atomic Energy Agency (per Management Directive 5.12), <p>and</p> <p>There are unique or unusual aspects of the licensee's performance that warrants additional NRC oversight (e.g., a significant event, which requires an incident investigation team (IIT) or augmented inspection team (AIT)).</p> |
| <p>Licensee has significant breakdowns in its licensed program, where the breakdowns involve more than one compliance item (e.g., a dose monitoring breakdown and a wide-spread failure to implement and maintain required procedures),</p> <p>and</p> <p>technical staff believe there are unique or unusual aspects of the cases that are not adequately or appropriately handled within the normal inspection and enforcement processes.</p> | <p><u>Performance Trend</u></p> <p>Licensee has multiple and/or repetitive significant program issues identified over more than one inspection, or inspection period, and the issues are supported by escalated enforcement, which includes the Alternative Dispute Resolution (ADR) process,</p> <p>and</p> <p>There are unique or unusual aspects of the licensee's performance that warrants additional NRC oversight (e.g., oversight panel formed for order implementation).</p> |

| List of Recently Issued FSME Generic Communications | | | |
|--|-----------|---|--|
| Date | GC No. | Subject | Addressees |
| 10/04/07 | RIS-07-22 | Status Update For Implementation Of NRC Regulatory Authority for Certain Naturally-Occurring and Accelerator-Produced Radioactive Material | All U.S. Nuclear Regulatory Commission materials licensees, radiation control program directors, State liaison officers, and the NRC's Advisory Committee on the Medical Uses of Isotopes. |
| 10/04/07 | RIS-07-23 | Date For Operation Of National Source Tracking System | All licensees authorized to possess Category 1 or Category 2 quantities of radioactive materials. All Radiation Control Program Directors and State Liaison Officers. |
| 12/05/07 | RIS-07-27 | Improving Public Understanding of the Risks Associated with Medical Events | All U.S. Nuclear Regulatory Commission medical use licensees. All Radiation Control Program Directors, and State Liaison Officers |
| 12/07/07 | RIS-07-28 | Security Requirements for Portable Gauges | U.S. Nuclear Regulatory Commission portable gauge licensees and Agreement State Radiation Control Program Directors and Liaison Officers |
| 12/14/07 | RIS-07-38 | Ensuring Complete and Accurate Information in the Documentation of Training and Experience for Individuals Seeking Approval as Medical Authorized Users | All U.S. Nuclear Regulatory Commission medical use licensees and NRC master materials licensees. All Agreement State Radiation Control Program Directors and State Liaison Officers |
| 02/01/08 | RIS-08-02 | Actions to Increase the Security of High Activity Radioactive Sources | All U.S. Nuclear Regulatory Commission Materials and Master Materials Licensees. All Agreement State Radiation Control Program Directors and State Liaison Officers. |

Note: This list contains the six most recently issued generic communications, issued by the Office of Federal and State Materials and Environmental Management Programs (FSME). A full listing of all generic communications may be viewed at the NRC public website at the following address:

<http://www.nrc.gov/reading-rm/doc-collections/gen-comm/index.html>