

SAFEGUARDS INFORMATION

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
WASHINGTON, DC 20555-0001

July 21, 2005

NRC REGULATORY ISSUE SUMMARY 2005-14 CLARIFICATION OF IMPLEMENTING GUIDANCE FOR COMPENSATORY MEASURES RELATED TO ACCESS AUTHORIZATION ORDERS

ADDRESSEES

All U.S. Nuclear Regulatory Commission (NRC) holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

INTENT

The NRC is issuing this regulatory issue summary (RIS) to clarify the NRC's interpretation of the implementing guidance for Order EA-02-261, dated January 7, 2003. The Order imposed compensatory measures related to access authorization.

This RIS clarifies implementing guidance in the following areas:

- Extended credit checks and the responsibilities of the reviewing official
- Requirement for an individual knowledgeable in access authorization
- Licensee data management for a denial of access authorization
- Requirements for the use of developed references

When separated from Attachment 1 this document is
DECONTROLLED.

WARNING: Violations of Section 147 of
the Atomic Energy Act, "Safeguards
Information" is subject to Civil and
Criminal Penalties

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BACKGROUND INFORMATION

Section 73.56 of Title 10 of the Code of Federal Regulations (10 CFR 73.56) addresses personnel access authorization (AA) requirements for nuclear power plants. Paragraph 73.56(a)(1) states, in part, that “each licensee who is authorized to operate a nuclear power reactor pursuant to §§50.21(b) or 50.22 of this chapter...shall certify to the NRC that it has implemented an access authorization program that meets the requirements of this part.” Paragraph 73.56(a)(4) further states that “the licensee may accept an access authorization program used by its contractors or vendors for their employees provided it meets the requirements of this section.... In any case, the licensee is responsible for granting, denying, or revoking unescorted access authorization to any contractor, vendor, or other affected organization employee.” Additionally, paragraph 73.56(g)(1) states, in part, that “each licensee shall audit its access authorization program...to ensure that the requirements of this section are met.”

As a result of the NRC’s comprehensive security review following the September 11, 2001, terrorist attacks, the Commission determined that certain compensatory measures (CMs) must be implemented by licensees as prudent measures to improve AA programs at operating power reactors. Therefore, the Commission imposed requirements (set forth in Attachment 2 of the January 7, 2003, AA Order) to provide reasonable assurance that the public health and safety and common defense and security will continue to be adequately protected in the current threat environment. This Order contained requirements for licensees to implement CMs beyond the current requirements in NRC regulations (10 CFR 73.56). At the time the Order was issued, the NRC included guidance for implementing each requirement of the Order and included additional guidance replacing Regulatory Guide 5.66, “Access Authorization Program for Nuclear Power Plants.” Following the issuance of the Order, each licensee, by letter issued under oath or affirmation, stated that it would comply with the guidance provided with the January 7, 2003, Order as a means for implementing both the Order and the requirements of 10 CFR 73.56. Each licensee also specified any deviations from the implementation guidance with the Order. Prior to January 7, 2004, all licensees, by letter issued under oath or affirmation, stated that they were in full compliance with the January 7, 2003, Order.

By letter dated April 14, 2004, the Nuclear Energy Institute (NEI) submitted NEI 03-01, “Nuclear Power Plant Access Authorization Program,” and requested that the staff review and endorse NEI 03-01 as an acceptable means for the industry to comprehensively implement the requirements in the January 7, 2003, Order and in the existing regulations relevant to access authorization. By letter dated April 16, 2004, the staff endorsed Revision 1 to NEI 03-01 dated April 2004. Therefore, licensees could (1) implement their AA programs by maintaining their commitment to implement the guidance provided by the NRC, or (2) implement their program through the endorsed version of NEI 03-01, Revision 1.

Following the January 7, 2004, final implementation date of the Order, the NRC implemented an inspection program to assess the licensees' implementation of the Order. The NRC has determined from these inspections that licensees are not consistent in interpreting various requirements of the power reactor Order. As a result of these inconsistencies, some licensees are not implementing the requirements as intended by the Order. These site-specific noncompliances are being addressed through the inspection assessment and enforcement programs, as appropriate.

SUMMARY OF ISSUE

The NRC has determined from inspections that various requirements of the AA Order were not being implemented. This proposed RIS clarifies the more common noncompliance issues and findings discussed at the Compensatory Measures Management Review Panel. Attachment 1 contains safeguards information (SGI) that provides clarification of areas wherein actual or potential noncompliance issues have become a concern.

BACKFIT DISCUSSION

This RIS requires no action or written response and is, therefore, not a backfit under 10 CFR 50.109. Consequently, the staff did not perform a backfit analysis.

FEDERAL REGISTER NOTIFICATION

A notice of opportunity for public comment on this RIS was not published in the *Federal Register* because it is informational and pertains to a staff position that does not represent a departure from current regulatory requirements and practice. The NRC has worked with NEI and industry representatives in developing the final version of this clarifying guidance.

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT OF 1996

The NRC has determined that this action is not subject to the Small Business Regulatory Enforcement Fairness Act of 1996.

PAPERWORK REDUCTION ACT STATEMENT

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

CONTACT

Please direct any questions about this matter to the technical contact listed below or to the appropriate Office of Nuclear Reactor Regulation (NRR) project manager.

/RA/

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Attachment: Summary of Issue (SGI)

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

Attachment will not be released to the public because it contains Safeguards Information and must be accorded the protection required under 10 CFR 73.21.

Attachment