

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR REACTOR REGULATION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
OFFICE OF FEDERAL AND STATE MATERIALS
AND ENVIRONMENTAL MANAGEMENT PROGRAMS
WASHINGTON, DC 20555-0001

May 25, 2010

**NRC REGULATORY ISSUE SUMMARY 2010-04
MONITORING THE STATUS OF REGULATED ACTIVITIES
DURING A PANDEMIC**

ADDRESSEES

All holders of operating licenses for nuclear power reactors and research and test reactors under the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," except those that have ceased operations and have certified that fuel has been permanently removed from the reactor vessel and have no spent fuel stored on-site.

All U.S. Nuclear Regulatory Commission (NRC) fuel cycle facilities licensed under 10 CFR Part 40, "Domestic Licensing of Source Material" or 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material" and gaseous diffusion plants certified under 10 CFR Part 76, "Certification of Gaseous Diffusion Plants."

All holders of site-specific licenses for independent spent fuel storage installations (ISFSIs) under the provisions of 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," and all holders of 10 CFR Part 50 licenses with ISFSIs under the general license provisions of 10 CFR Part 72.

All NRC materials licensees authorized to possess Category 1 or Category 2 quantities of radioactive materials, under the provisions of 10 CFR Parts 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," 40, and 70.

INTENT

The NRC is issuing this regulatory issue summary (RIS) to inform addressees of the NRC's desire for information on the evolving pandemic situations at licensee sites and the impact of a pandemic situation on operational decisions and requests for regulatory relief. The NRC intends to use this information to align NRC resources to be prepared to address potential safety and operational issues at affected licensee sites, and to support decision-making within the NRC. The NRC, therefore, is soliciting licensees to voluntarily provide information regarding the above.

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The NRC is also sharing this RIS with the Agreement States via a separate communication and is encouraging the Agreement States to share it with their licensees.

BACKGROUND INFORMATION

The NRC's overarching mission is to license and regulate the nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment.

Across the spectrum of government operations, there has been a concerted effort to prepare for and respond to pandemic outbreaks, including the H1N1 influenza virus. All government agencies have or are preparing pandemic plans to ensure the operation of the government during a pandemic. Part of this preparation and planning is an effort by the federal government to ensure the U.S. infrastructure is maintained to the fullest extent possible.

The Homeland Security Council, in the *National Framework for 2009-H1N1 Influenza Preparedness and Response*, described surveillance as the first of the pillars of preparedness and further defined the term to mean "enhanced efforts to achieve timely and accurate situational awareness of evolving disease and the impact on critical sectors to inform policy and operational decisions." Under that definition, the NRC is in a "situational awareness" mode whenever there is a threat of a pandemic, because: (1) of the agency's need to be ready to respond quickly to any emergency that could threaten the agency's mission or the nuclear activities that it regulates, and (2) impacts to the electric grid may have an impact on plant safety.

SUMMARY OF ISSUES

The NRC is interested in maintaining situational awareness of licensees' ability to cope with the challenges associated with a pandemic. This information will serve two functions:

1. The NRC must be prepared to respond quickly if a safety or security event develops.
2. The NRC is obligated to keep its stakeholders informed.

Information of Interest

During a pandemic, the NRC is interested in maintaining situational awareness of the status of its regulated activities and requests that licensees voluntarily inform the staff of any potential impacts on those activities. Accordingly, answers to the following two questions should be considered during routine business contacts with NRC staff (e.g., during routine communications with the NRC licensing project manager or resident inspector or during inspections conducted by the NRC), or as licensees desire to report information:

1. Does the licensee anticipate operational challenges at the facility or in the conduct of activities in the next 48 hours in the following areas as a result of the pandemic?
 - a. safety
 - b. security
 - c. safeguards
 - d. emergency preparedness

2. Does the licensee anticipate the need to request regulatory action as a result of the pandemic in the next 48 hours?

Responses to these questions will be voluntary. If either question results in a “yes” answer, the NRC expects the licensee to provide additional information specific to the needs of the licensee, as soon as possible. In such cases, the appropriate NRC staff will follow-up with the licensee. Please note this RIS does not eliminate the need for licensees to meet the reporting requirements contained in applicable regulations. Further, there are no information collection expectations other than information that is typically exchanged through routine business activities or is already required by NRC regulations. The information provided will enable the NRC to effectively respond to licensees with potential challenges.

As discussed above, materials licensees can provide this information during routine communications with the NRC. In addition, the NRC will provide a separate communication to materials licensees identifying the appropriate means to submit the information on potential pandemic impacts.

NRC recognizes that during a pandemic, licensees’ resources may be strained. Therefore, NRC understands that licensees will provide information to the best of their ability, given the circumstances.

BACKFIT DISCUSSION

This RIS requests that addressees voluntarily provide information as appropriate to assist the NRC staff in managing the impacts of a pandemic on regulated activities. This effort by the NRC is a part of the continuing Federal effort in pandemic planning, and it supports situational awareness of potential issues at NRC-licensed facilities.

The staff is not imposing any new positions nor is it imposing any new regulatory requirements on licensees. Any information provided by a licensee is strictly voluntary. No action is required on the part of any licensee; therefore, this document does not constitute a backfit under applicable backfit regulations. Consequently, the staff did not perform a backfit analysis.

FEDERAL REGISTER NOTIFICATION

A notice of opportunity for public comment on this RIS was published in the Federal Register on December 9, 2009 (74 FR 65165 - 65167), with a 45-day public comment period. Comments were received from one industry stakeholder. The NRC staff considered all comments. The staff’s evaluation of the comments is publicly available through NRC’s Agencywide Documents Access and Management System, under Accession No. ML100321489.

CONGRESSIONAL REVIEW ACT

This RIS is not a rule as designated by the Congressional Review Act (5 U.S.C. §§ 801-808) and, therefore, is not subject to the Act.

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing information collection requirements were approved by the Office of Management and Budget, control numbers 3150-0011 and 3150-0012.

PUBLIC PROTECTION NOTIFICATION

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a current valid Office of Management and Budget control number.

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Adams Accession No. **ML100539611**

TAC ME2242

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