

June 2, 2006

MEMORANDUM TO: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons

FROM: Luis A. Reyes */RA M Virgilio Acting for/*
Executive Director for Operations

SUBJECT: MAY 2006 UPDATE: INCREASED CONTROL OF SOURCES

On August 15, 2005, the Commission directed the staff in a Staff Requirements Memorandum (SRM) to implement the actions in COMSECY-05-0028, "Staff Response to SRM for COMSECY-05-0015: Initiatives for Increasing Agreement State Participation in the Control of Sources." In order to keep the Commission fully and currently informed during the initial implementation of the increased controls, the staff has provided updates to the Commission through EDO Daily Notes, the Office of Nuclear Security and Incident Response Monthly Significant Security Activities Update, a Technical Assistants briefing, and Commission memoranda. The staff is also continuing to provide monthly updates on the status of ongoing U.S. Nuclear Regulatory Commission (NRC) and Agreement State activities relative to the increased controls. The staff's last monthly update was dated April 28, 2006.

Inspections of licensees implementing the increased controls can begin as soon as licensees report full compliance, but in any case will begin no later than six months after the date of issuance of the increased controls unless the licensee was granted relief from the timeliness requirement. As of May 2006, inspections have commenced in thirteen Agreement States and one NRC Region. All of the Agreement States and Regions have indicated that they are prepared to begin inspections, and have the ability to inspect all higher priority licensees in the first year.

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The Agreement States and NRC staff issued increased controls requirements for 2,880 licenses that are authorized to possess greater than or equal to a Category 2 quantity. As of May 20, 2006, NRC and Agreement States have received responses for essentially 100 percent of the licensees (2 responses outstanding). The Agreement States and NRC staff continue to follow up with licensees that fail to provide an adequate response, and in cases where additional information is needed. A number of the responses have included a statement that the licensee plans to transfer or dispose of their risk significant radioactive material so they will not need to implement the increased controls. In some cases, these notifications have been accompanied by extension requests, because the licensee is unable to transfer or dispose of the material prior to the date compliance is required (due to the large number of disposal requests to the Department of Energy). In general, the staff has granted short extension requests for this purpose, but has only considered longer term extension requests when the licensee provides alternative compensatory measures that achieve the same intent as the increased controls.

Information provided by the Agreement States, and NRC staff indicates that 1,680 of the NRC and Agreement State licensees issued the increased controls possess greater than or equal to a Category 2 quantity, and thus will implement the requirements and need to be inspected. The interim inventory currently includes inventory data for 1,350¹ of the 1,680 licensees implementing the increased controls. The remaining licensees either do not possess a Category 1 or 2 source (i.e., possess below Category 2 collocated sources that in aggregate exceed a Category 2 quantity) or have not yet responded to the request for inventory data. Additionally, information provided by the Agreement States and NRC staff indicates that approximately 1,000 inspections are planned within the first year after implementation of the increased controls. These inspections include all licensees that were identified as high priority based on the prioritization methodology.

In an effort to continuously improve communications between NRC and the States on increased controls, the staff is working to expeditiously establish an Increased Controls toolbox and message board on a secure server accessed on the Office of State and Tribal Programs web site to allow States and Regional Offices to communicate and discuss information applicable to the increased controls (e.g., inspection information on licensees working in multiple jurisdictions, unusual situations encountered, and potential generic issues that may need to be addressed by the Implementation of Increased Controls Working Group). The working group is also preparing to transition to the compliance phase where it will address issues specific to NRC and Agreement State inspection activities and findings.

Integrated Materials Performance Evaluation Program (IMPEP) reviews of Agreement State implementation of the increased controls commenced in February 2006. To date, the review teams have evaluated the licensees that the States had determined met the criteria for the increased controls (as per COMSECY-05-0028) and reviewed the issuance of legally binding requirements for increased controls in accordance with the timelines established by the Commission in the SRM for COMSECY-05-0028. The staff will review additional aspects (i.e., inspections) of the implementation of the increased controls in future IMPEP reviews.

¹ Does not include inventory data for licensees implementing the Panoramic Irradiator or Manufacturing and Distribution Security Orders.

The Commissioners

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The next update will be provided in the quarterly report which will include the status of all actions completed to date on this effort.

cc: SECY
 OGC
 OCA
 OPA
 CFO

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cc: SECY
OGC
OCA
OPA
CFO

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