

July 3, 2006

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

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

SUBJECT: JUNE 2006 QUARTERLY 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, and a Technical Assistants briefing. The staff provided the first quarterly report to the Commission, consistent with the SRM for COMSECY-05-0028 on March 28, 2006. This quarterly report provided a timeline of all actions completed to date on this effort, and this format is being used for subsequent quarterly reports.

The SRM for COMSECY-05-0028 directed the staff to inform the Commission when all appropriate increased controls licensees reported to be in full compliance with the requirements. The staff plans to confirm licensee compliance with this administrative requirement in conjunction with the conduct of initial inspections to verify the licensee compliance with the increased controls. The staff will provide updates to the Commission if in the course of the inspections, significant findings are identified, and will also provide updates to the Commission when certain inspection milestones are accomplished, as required in the SRM for COMSECY-05-0028.

CONTACTS: Andrew N. Mauer, STP
301-415-3962

Douglas A. Broaddus, NMSS
301-415-8124

Following the NRC and Agreement State Issuance of the Increased Controls from September to December 2005, the NRC and Agreement State staff continued to track implementation of the increased controls. All licensees issued the increased controls that possess quantities of concern, were required to be in compliance within six months from the date of issuance (no later than June 2006), and were required to provide a response that included a schedule for full implementation (unless the licensee was granted relief from the timeliness requirement as discussed in the June 2, 2006 Memorandum to the Commission entitled May 2006 Update: Increased Control of Sources). Adequate responses were received from all appropriate licensees, indicating that full compliance would be achieved as required.

The NRC and Agreement State staff are currently focusing efforts on completion of the initial inspections to verify licensee compliance with the increased control requirements, including the administrative requirement for reporting full compliance. As of June 2006, inspections have commenced in twenty-one Agreement States and all NRC Regions, and the remaining Agreement States have indicated that they will begin inspections no later than July 2006. All Agreement States and NRC Regions have indicated they have the ability to inspect all licensees that were identified as high risk based on the prioritization methodology within the first year, which is approximately 1,000 licensees.

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. Approximately 1,680 of the NRC and Agreement State licensees issued the increased controls indicated that they possess greater than or equal to a Category 2 quantity, will implement the requirements, and thus need to be inspected within the three year timeframe established by the Commission.

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. Preliminary findings indicate that State implementation is compatible with NRC's program. The staff will review additional aspects (i.e., inspections) of the implementation of the increased controls in future IMPEP reviews.

During this quarter the following activities related to the increased controls were completed, and the status of all actions completed to date are provided in the Enclosure.

- Increased controls inspections commenced in several Agreement States and all NRC Regions.
- The Implementation of Increased Controls Working Group revised its charter to include addressing issues in the inspection phase of the overall implementation.
- An NRC regional branch chief workshop was held at Headquarters to address increased controls planning and implementation issues, including the scheduling of inspections.

- In an effort to continuously improve communications between NRC and the States on increased controls, the staff initiated and completed the development of 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 staff expects that the following activities will occur during the upcoming quarters:

- The "Materials Control and Security Systems and Principles" course will be transitioned from management by the Office of Nuclear Material Safety and Safeguards to the Technical Training Center beginning in FY 2007.
- Increased controls inspections will have commenced in all Agreement States and NRC Regions.
- NRC enforcement guidance will be issued concerning increased controls inspection findings.

Enclosure:

As stated

cc: SECY
OGC
OCA
OPA
CFO

TIMELINE FOR THE ISSUANCE OF THE INCREASED CONTROLS

August 15, 2005:

- Commission issued the Staff Requirements Memorandum for COMSECY-05-0028.

September 2, 2005:

- The staff issued a letter to the Agreement States which provided expectations for issuance of the requirements, reporting on licensee implementation, and conduct of inspections.
- The Office of the Secretary dispatched letters from the U.S. Nuclear Regulatory Commission (NRC) Chairman to Agreement State Governors, Congressional Oversight Committees, and Federal Agencies (Department of Homeland Security, Department of Energy, National Nuclear Security Administration).

September 6, 2005:

- The Organization of Agreement States, Inc. provided a letter of support to all Agreement States, along with a generic license condition which was approved by the staff. The license condition was used by the large majority of the Agreement States to issue the increased controls.
- The staff dispatched a copy of the NRC Chairman's letters to the Agreement State Governors to the State Liaison Officers and Radiation Control Program Directors.
- The staff also notified Congressional Offices, international counterparts, and key Federal Staff at Department of Homeland Security, Domestic Nuclear Detection Office, Department of Energy, National Nuclear Security Administration, and the Office of the Vice President.
- The Office of Public Affairs also issued a press release.

September 7, 2005:

- The staff dispatched a letter to NRC and Agreement States licensees to provide notification that the additional requirements are being issued under public health and safety authority, and Agreement States will be implementing the increased controls via Order or other immediate effective mechanism for licensees within their jurisdiction.

September 30, 2005:

- The staff provided the Commission with a prioritization methodology to inspect higher risk licensees within the first year of implementation.

Enclosure

November 4, 2005:

- The staff dispatched the prioritization methodology to the Agreement States.

November 14, 2005:

- The NRC issued the increased controls to approximately 500 NRC licensees.
- The staff notified State Homeland Security Advisors of the increased controls and the implementation approach.

November 23, 2005:

- The staff issued a draft temporary instruction for inspecting against licensee implementation of the increased controls for NRC staff and Agreement State comment.

December 1, 2005:

- The NRC Order was published in the *Federal Register*.

December 2, 2005:

- The Agreement States completed issuance of the increased controls to approximately 1,700 licensees in accordance with the Commission's established time-frames.
- All of the Agreement States imposed either a legally binding license condition requiring implementation of the increased controls, or issued Orders and a corresponding license condition to implement the increased controls.

December 5, 2005:

- The Office of Public Affairs issued a press release which announced that the increased controls had been issued over the three month time period and provided links to the public for the NRC's increased controls.
- The staff provided the press release to all Radiation Control Program Directors, State Liaison Officers, international counterparts, and Congressional oversight committees.

December 7, 2005:

- The staff provided a copy of the 12/5/2005 press release to the State Transportation Contacts.
- The staff provided the Agreement States an opportunity to comment on draft revisions to the Integrated Materials Performance Evaluation Program to reflect implementation of the increased controls.

December 22, 2005:

- As a result of the staff's confirmatory review of licensees potentially subject to the increased controls Order, the staff issued the increased controls to an additional 635 NRC licensees that met the criteria for receiving the Order, but were not included in the November 14, 2005, mailing.

January 26, 2006:

- The staff convened the initial meeting of a working group composed of NRC managers and representatives of the Organization of Agreement States, Inc., and the Conference of Radiation Control Program Directors, Inc. This working group was established to ensure regulatory consistency by reviewing and dispositioning implementation issues identified by the NRC staff, the Agreement State Radiation Control Programs and licensees. The working group meets weekly, and additional questions and answers developed by the group have been posted on the NRC web site.

February 16, 2006:

- The NRC drafted and distributed standard violations for the increased controls which are currently undergoing NRC legal review and review by the Office of Enforcement. When these internal reviews are complete, the standard violations will be finalized and subsequently distributed to each of the Agreement State programs and NRC Regional Offices.

February 22, 2006:

- The staff completed a needs analysis for attendance in the NRC sponsored "Materials Control and Security Systems and Principles" course in FY 2006 and FY 2007. The staff determined that the training courses currently budgeted for FY 2006 and FY 2007 should ensure an adequate number of both NRC and Agreement State personnel receive the necessary training to be able to conduct inspections in a time-frame consistent with the Commission direction in the SRM for COMSECY-05-0028.
- As called for in the transition plan for the increased control of sources, and in order to enhance communications with each of the Agreement States on the implementation of the increased controls, bi-weekly teleconferences have been initiated to provide a forum for each of the Agreement States and NRC Regional Offices to be kept abreast of implementation issues of mutual interest.

March 20, 2006:

- The staff finalized and submitted for publication the temporary instruction for the inspection of increased controls.

March 27, 2006

- The staff finalized revisions to the Integrated Materials Performance Evaluation Program to reflect increased controls.

March 31, 2006:

- Minnesota issued NRC-approved increased controls to affected licensees.

April 2006:

- Increased controls inspections commenced in several Agreement States

April 4, 2006:

- The staff completed an NRC regional branch chief workshop to address increased controls planning and implementation issues, including the scheduling of inspections.

June 1, 2006:

- The Implementation of Increased Controls Working Group revised its charter to include addressing issues in the inspection phase of the overall implementation.

June 20, 2006:

- The staff completed the development of 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.