



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, DC 20555 - 0001

July 17, 2006

MEMORANDUM TO: Samuel J. Collins, Regional Administrator, Region I
William Travers, Regional Administrator, Region II
James L. Caldwell, Regional Administrator, Region III
Bruce Mallet, Regional Administrator, Region IV
Jack R. Strosnider, Director, Office of Nuclear Material Safety
and Safeguards
Roy Zimmerman, Director, Office of Nuclear Security and
Incident Response
Bradley W. Jones, Assistant General Counsel
for Materials Litigation and Enforcement
Janet R. Schlueter, Director, Office of State and Tribal Programs

FROM: Michael R. Johnson, Director */RA/*
Office of Enforcement

SUBJECT: REQUEST FOR REVIEW: ENFORCEMENT GUIDANCE
MEMORANDUM, "ENFORCEMENT DISCRETION FOR
VIOLATIONS ASSOCIATED WITH CONCENTRATING URANIUM
AT COMMUNITY WATER SYSTEMS"

The purpose of this memorandum is to provide the enclosed draft Enforcement Guidance Memorandum (EGM), "Enforcement Discretion For Violations Associated With Concentrating Uranium at Community Water systems" for your review. This EGM provides the enforcement guidance that the NRC will follow to disposition violations associated with water treatment facilities who possess quantities of uranium that require a specific license, but have not applied for, nor received, a specific license.

On December 7, 2000, the U.S. Environmental Protection Agency (EPA) issued new standards for the uranium content in drinking water (65 FR 76707). In the final rulemaking, EPA set a maximum contaminant level (MCL) of 30 micrograms per liter (30 µg/L) for uranium in drinking water. To comply with the EPA standard, some Community Water Systems will concentrate quantities of uranium that would require specific licensing. Most of these facilities are not specifically licensed by NRC. In response to these issues, on April 28, 2006, (SECY-06-0049) the Commission approved the issuance of a generic communication to describe NRC expectations with regard to water treatment facilities who concentrate uranium during removal from its drinking water, and the use of enforcement discretion at each community water system that meets the expectations stated in the proposed generic communication. Both the generic communication and the enforcement discretion will be effective until a new general license rule is implemented.

Please provide your comments/concurrence to Sally Merchant of my staff (slm2) by July 28, 2006. If you have any questions, please contact Sally at 301-415-2747.

Enclosure: As stated

cc: Russell Barnes, NSIR
Charles Miller, NMSS

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EGM 06-00X

MEMORANDUM TO: Samuel J. Collins, Regional Administrator, Region I
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SUBJECT: ENFORCEMENT GUIDANCE MEMORANDUM - ENFORCEMENT
DISCRETION FOR VIOLATIONS ASSOCIATED WITH
CONCENTRATING URANIUM AT COMMUNITY WATER
SYSTEMS

On December 7, 2000, the U.S. Environmental Protection Agency (EPA) issued new standards for the uranium content in drinking water (65 FR 76707). In the final rulemaking, EPA set a maximum contaminant level (MCL) of 30 micrograms per liter (30 µg/L) for uranium in drinking water. The Atomic Energy Act of 1954, as amended, provides the NRC with regulatory authority over source material (which includes uranium) after its removal from its place in nature. Regulation of source material is addressed in 10 CFR Part 40, "Domestic Licensing of Source Material." Therefore, depending on the technologies chosen to remove uranium from its drinking water, some community water systems (CWS) in non-agreement States may fall under NRC jurisdiction and be required to obtain a specific license from the NRC (in accordance with 10 CFR 40.31), for authorization to possess, process, and dispose of the concentrated uranium. Similarly, CWS in Agreement States may also be required, under appropriate State regulations, to obtain a license for authorization to possess, process, and dispose of the concentrated uranium.

Because the cost of obtaining such licenses can be burdensome to the impacted facilities and to regulatory agencies, NRC is promulgating a new general license specific to drinking water facilities for meeting EPA's requirements while continuing to ensure that public health and safety remains adequately protected from the possession and processing of the uranium. While the new general license is being developed, NRC plans to exercise enforcement discretion for those facilities under NRC jurisdiction.

On August XX, 2006, the NRC issued a Regulatory Issue Summary (RIS) 2006-XX, "Guidance for Receiving Enforcement Discretion When Concentrating Uranium at Community Water Systems," to all such facilities in NRC non-agreement states, that may

Enclosure

accumulate and concentrate uranium in drinking water above 0.05 percent by weight during the treatment of drinking water. This RIS provides the conditions under which the NRC would exercise enforcement discretion in regards to these facilities. Facilities that possess less than 15 pounds at one time, and less than 150 pounds per year may operate under a general license in 10 CFR 40.22, "Small Quantities of Source Material." However, these facilities would normally require a specific license. NRC is issuing enforcement discretion not to cite CWS for possession of quantities of uranium that require a specific license, but have not applied for, nor received a specific license, provided they comply with the following objectives as described in the RIS:

1. CWS choosing to receive enforcement discretion must notify the NRC that they intend to operate under the enforcement discretion objectives by submitting notification to NRC in accordance with the methods stated in 10 CFR 40.5, "Communications." The notification should include the facility name and address. The notification should also identify a point of contact, including a mailing address and telephone number;
2. The CWS must provide an annual report of the activities that occur during the previous calendar year. The report must include:
 - (A) Amount of uranium transferred from the CWS site,
 - (B) To whom it was transferred,
 - (C) Average concentration of uranium in each shipment.

The first annual report must be submitted by February 28, of the year following the reporting period.

3. When filter media (or other materials, such as sludge) contain above 0.05% by weight of uranium, and are no longer being actively used by the CWS to meet EPA's uranium MCL, the filter media must be transferred in accordance with applicable Department of Transportation regulations, as follows:
 - (A) Transfer the material containing the uranium to a facility authorized to possess the source material (e.g., a person authorized by a specific license for possession of uranium issued by NRC or an NRC Agreement State); or
 - (B) Transfer the material containing the uranium for disposal at a facility licensed for disposal of source material.
4. While awaiting transfer, the material containing the uranium must be stored in a manner that will not cause or allow for the release of the uranium, or unnecessarily expose workers or members of the public.
5. While in storage, the material containing the concentrated uranium must be kept in an area that provides containment in the event of a spill, so that uranium will not adversely affect the surrounding environment or workers and the concentrated uranium cannot re-enter the water treatment system.

6. Materials containing uranium at concentrations greater than 0.05 percent, that are no longer directly related to the drinking water treatment process, may not be stored at the drinking water facility for longer than 60 days.
7. Back-washing or other procedures that are required for normal operation of the filter media are permitted as long as the concentrated uranium is captured and transferred in accordance with the transfer procedures in item 3, above.

Violations associated with non-compliances with the above objectives should be brought to an Enforcement Panel where they will be dispositioned on a case-by-case basis. Under certain circumstances, enforcement discretion may be rescinded as a result of the facility not meeting the above objectives, or if in the opinion of the NRC, the facility cannot operate safely under the enforcement discretion policy.

Enforcement discretion will apply until either:

- (A) A new general license is enacted or the Commission makes a determination to no longer pursue a new regulation.
- (B) The facility obtains a specific license from the NRC or Agreement State; or
- (C) The facility ceases operations. If the facility ceases operations, the facility shall decommission/decontaminate their facility in accordance with 10 CFR Part 20, Subpart E, "Radiological Criteria for License Termination"

This EGM will be in effect until further notice.

If you have any questions, contact Sally L. Merchant at 301-415-2747 or e-mail (slm2).

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