

February 5, 2007

MEMORANDUM TO: Martin J. Virgilio  
Deputy Executive Director for Materials, Waste,  
Research, State, Tribal and Compliance Programs  
Office of the Executive Director for Operations

FROM: Charles L. Miller, Director **/G.Pangburn RA for/**  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: DEVELOPMENT OF THE "PROCEDURE FOR COORDINATION  
OF EMERGENT MATERIALS LICENSING AMENDMENTS AND  
AGREEMENT STATE/OTHER AGENCIES REQUEST FOR  
TECHNICAL ASSISTANCE REQUIRING EXPEDITED ACTION"

In response to WITS 200600202, the Office of Federal and State Materials and Environmental Management Programs (FSME), in coordination with the Regions, has developed the enclosed "Procedure For Coordination of Emergent Materials Licensing Amendments and Agreement State/Other Agencies Request for Technical Assistance Requiring Expedited Action" (Enclosure 1). Concurrent with this memorandum, FSME will distribute this procedure to the Regions for implementation and to the Agreement States for information via an Agreement State Letter.

Enclosure:  
Procedure For Coordination of Emergent  
Materials Licensing Amendments and  
Agreement State/Other Agencies Request  
for Technical Assistance Requiring  
Expedited Action

CONTACT: Gregory Morell, FSME/DMSSA  
(301) 415-6613

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DISTRIBUTION: WITS 200600202/FSME 200700161  
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"PROCEDURE FOR COORDINATION OF EMERGENT MATERIALS LICENSING

## AMENDMENTS AND AGREEMENT STATE/OTHER AGENCIES REQUEST FOR TECHNICAL ASSISTANCE REQUIRING EXPEDITED ACTION ”

### **Purpose:**

To provide guidelines and protocol to efficiently process emergent requests regarding Nuclear Regulatory Commission (NRC) license amendments and Agreement State/other Agencies technical assistance requests during emergencies. The expectation is that “emergency” requests would typically involve relief from some regulatory requirement necessitated by extraordinary or catastrophic events resulting from natural phenomena, acts of vandalism, fires, or terrorism. These requests could also include Agreement State requests for inspection assistance.

NRC’s expectation is that prior to contacting the NRC, licensees and Agreement States would take appropriate action to mitigate any event that may pose a real or potential threat to the public health and safety or to the environment.

### **Background:**

Subsequent to Hurricane Katrina, Louisiana (an Agreement State) requested (via the Regional State Agreement Officer) that the NRC evaluate a technical issue. At the time, the Office of Nuclear Material Safety and Safeguards (NMSS) did not have a procedure for handling such requests, and resolution of the request was accomplished based on staff knowledge that enabled involvement of the appropriate Offices/Divisions. In addition, ensuring that the proper level of management was involved in the concurrence process and issuing the response was based on ad-hoc staff inquiry. This procedure will establish the protocol to be used for emergency licensing or technical assistance requests and will ensure that the request is evaluated and completed in an efficient and effective manner.

The Regions evaluate and process the majority of NRC materials licensing actions with the exception of: (1) licensing issues that need to be resolved via the technical assistance request (TAR) process; (2) licensing actions that involve requests for exemption or relaxation from most regulatory requirements and/or Orders; (3) manufacturing and exempt distribution licenses; and, (4) certain special nuclear materials licenses.

NUREG-1556, Volume 20 and Management Directive 5.2 contains the information needed to process licensing amendments and respond to requests for NRC assistance to the Agreement States.

**NOTE:** As stated in NUREG-1556, Volume 20, “The Regions may grant a temporary exemption of NRC regulations or license conditions, on a case-by-case basis, without referral to the (former) Director, Division of Industrial and Medical Nuclear Safety (IMNS), NMSS, (now, Director, Division of Materials Safety and State Agreements [DMSSA], Office of Federal and State Materials and Environmental Programs), in certain circumstances; however the exemption request should be discussed with IMNS wherever possible.” Refer to NUREG-1556, Section 4.13 for more information.

### **Policy:**

NRC's policy is to ensure licensing exemptions and technical assistance evaluations do not present an unnecessary risk to the public health and safety or the environment and are consistent with the common defense and security and are addressed promptly.

**Procedure:**

**1. Emergency Licensing Amendment or Assistance Request**

- a. Upon receipt of an NRC emergency licensing/technical assistance request and/or an Agreement State technical assistance request, the Region will notify the FSME Regional Coordinator (RC). Contingent on the emergent nature of the request and the available time to respond to the request, written documentation can be obtained at a later date, e.g., amendment request, licensee information, license, compensatory safety measures. Attachment 1 should be used for all requests (see Attachment 1).
- b. The RC will provide a briefing related to the request to the Office Director and cognizant management, e.g., Division Director, Branch Chief, etc.
- c. A telephonic meeting will be convened with applicable Headquarters (HQ) management, technical staff and the Region to determine the merits of the request and an appropriate course of action. In order to facilitate a request, the response to the licensee or Agreement State can be communicated verbally and documented at a later time.
- d. Subsequent to the briefing, the RC will engage the appropriate Offices/Division and technical staff at management's discretion, e.g., Office of the General Counsel (OGC), Office of Nuclear Safety and Incident Response (NSIR), Office of Enforcement (OE).
- e. If not already accomplished by the Region, the responsible HQ Division will screen all documents related to the request relative to Sensitive Unclassified Non-Safeguards Information (SUNSI) and provide to the appropriate Division Secretary to ensure request is ticketed and entered into ADAMS.
- f. If resolution cannot be obtained during the telephonic meeting based on the lack of information, key personnel participation, etc., management will provide the Region with a tentative time to reconvene.

**Note:** All exemption requests and staff responses to exemption requests must be reviewed by OGC.

**2. Response to and Documentation of Request**

- a. Contingent on the nature of the emergent licensing issue or Agreement State technical assistance request, NRC response may take time to evaluate and additional time to prepare a response. HQ will provide the Region/Agreement State with a tentative completion date and time.

- b. If management approves the emergency licensing action or assistance request, the responsible Division/Branch will prepare the response letter for Office Director signature. Note that the nature of the request may necessitate verbal communication with the licensee. Additional concurrence will be determined by HQ management. The written response will be forwarded to the appropriate Region/Division, which will update the NRC license via license condition to reflect the approval. If the response is based on an Agreement State TAR, the Region will forward the information to the requesting Agreement State (See Attachment 2).
- c. The responsible Headquarters Division will ensure that the Agency response is screened for SUNSI and entered into ADAMS.
- d. If a license or Order exemption/relaxation is not approved, HQ will provide the Region with appropriate information for discussion and closeout with the licensee.

**Note:** Contingent on the request, some responses to Agreement States may require DEDO concurrence and signature, e.g., NMSS' response to Louisiana's smoke detector request post Hurricane Katrina (ML052850457).

- e. The responsible Division will provide the completed response to the RC for transmission to the Region.
- f. Relaxation and/or exemption requests may require additional Regional followup, e.g., inspection. The Region will provide the RC with updates as necessary.

Attachments:

1. Regional Technical Assistance Request
2. Temporary Exemption to U.S. Nuclear  
Regulatory Commission Regulation

## REGIONAL TECHNICAL ASSISTANCE REQUEST

Date:	Package Accession No.	ML
ADAMS Send to:	Janet R. Schlueter, Director Division of Materials Safety and State Agreements, FSME (Copy to Tyra Daniels)	
From:	XYZ, Director Division of Nuclear Materials and Safety	
<b>Original signed by:</b>		
Licensee:	Name	
License No.	Docket No.	Control No.
Letter Dated:	ADAMS Accession No.	
Enforcement Action being held in abeyance:	<input type="checkbox"/>	Yes <input type="checkbox"/> No <input type="checkbox"/>
Problem or Issue:		
Action Requested:		
Review the licensee's request and determine ...		
Recommended Action and Alternatives	<input type="checkbox"/>	Accept <input type="checkbox"/> Reject <input type="checkbox"/>
Approve/Disapprove...		
TARs addressing similar issues (subject, date and location):		
Background Documents (Include date and ADAMS Accession Number):		
Letter dated , 2006 (ML...)		
Remarks:		
Reviewer:	Name	Reviewer Code:
Needed By (date):		

**[INSERT NAME AND ADDRESS]**

SUBJECT: TEMPORARY EXEMPTION TO U.S. NUCLEAR REGULATORY COMMISSION  
(NRC) [REGULATION OR LIST THE SPECIFIC LICENSE CONDITION(S)]

**[INSERT SALUTATION]**

Pursuant to the written request dated [date of request] for temporary exemption(s) from the requirements of [NRC regulation or license condition] by [name and position of requestor representing the licensee], the following temporary exemption(s) is (are) granted for the specified period of time:

[Each temporary exemption granted should be listed separately with documentation of the circumstances surrounding the request and the duration of time for which the exemption is granted.]

**[USE THE FOLLOWING PARAGRAPH ONLY IF THE LETTER IS DETERMINED TO BE PUBLICALLY AVAILABLE AFTER THE SENSITIVE INFORMATION SCREENING PROGRAM (SISP) REVIEW]** In accordance with 10 CFR 2.390 of NRC's "Rules of Practice," a copy of this letter and its enclosures will be available electronically for public inspection in NRC's Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC web site at "<http://www.nrc.gov/NRC/ADAMS/index.html>" (the Public Electronic Reading Room).

If your understanding of the above temporary exemption differs from that set forth above, you are to notify [contact] immediately, at [telephone number].

**[INSERT NAME]**, Director

Division of Nuclear Materials Safety

Docket No: **[INSERT NUMBER]**  
License No.: **[INSERT NUMBER]**  
Control No.: **[INSERT NUMBER]**