

October 29, 2007

AGREEMENT STATES AND NON-AGREEMENT STATES

ACTION PLAN TO RESPOND TO IDENTIFIED VULNERABILITY IN RADIOACTIVE MATERIALS LICENSING (FSME-07-101)

Purpose: To inform the States of a regulatory initiative involving radioactive materials licensing that will have nationwide implications.

Background: Early in 2007, the U.S. Government Accountability Office (GAO) staff obtained and altered a U.S. Nuclear Regulatory Commission (NRC) radioactive materials license authorizing the possession of portable gauges. Following notification of this fact by GAO, the NRC took immediate actions to address the identified vulnerability. After a Congressional hearing in July, the NRC received recommendations from the GAO and the Senate Committee on Homeland Security and Governmental Affairs, Permanent Subcommittee on Investigations staff. NRC staff developed an Action Plan to address needed changes in the NRC's process for issuing radioactive materials licenses. The Action Plan was transmitted to the Commission on August 25, 2007, ([SECY-07-0147](#)) and the Commission approved the Action Plan, with comments, on September 18, 2007 ([SRM-SECY-07-0147](#)).

In discussions with the NRC, representatives of the Organization of Agreement States (OAS) and the Conference of Radiation Control Program Directors (CRCPD) Executive Boards indicated their eagerness to work closely with the NRC to develop solutions in response to the Action Plan. A session to receive input on this topic was held at the 2007 OAS meeting in Oklahoma City, OK. We appreciate the contributions of those individuals who have volunteered to represent the Agreement States on the working groups and steering committees resulting from the Action Plan.

Discussion: The resources required for the Agreement States to implement the recommendations and additional activities as a result of the Action Plan and subsequent followup may be significant. To provide some context, NRC staff received additional resources of 15.5 Full-time Equivalents (FTE) and \$2.58 million in NRC Fiscal Year (FY) 2008 and 12.0 FTE and \$8.26 million in FY 2009 to implement the plan. These resources may not be fully adequate to implement the recommendations of the working groups established by the Action Plan. At the request of OAS officials, we are providing you with suggested talking points for your use while speaking with senior State officials about this initiative and the additional resources you may need (Enclosure 1). We are also providing you a copy of the slides used by NRC staff to brief the Commission on September 4, 2007, and to facilitate the OAS Meeting discussions on the Action Plan (Enclosure 2).

The NRC and the Agreement States will continue to coordinate closely to assure consistent, nationwide implementation of all initiatives resulting from the Action Plan. We believe that implementation of the Action Plan and resulting regulatory improvements will improve safety, security, and public confidence by reducing the risk of fraudulent transfers and establish a more integrated, comprehensive regulatory framework for radioactive material.

- Contents:**
- 1.) Suggested Talking Points Regarding the Action Plan to Respond to Vulnerabilities in the Radioactive Materials Licensing Program
 - 2.) Slides from the September 4, 2007, Commission Briefing on the Action Plan

If you have any questions regarding this correspondence, please contact me or the individual named below.

POINT OF CONTACT:	Aaron T. McCraw	INTERNET:	ATM@NRC.GOV
TELEPHONE:	(301) 415-1277	FAX:	(301) 415-3502

/RA/

Janet R. Schlueter, Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:
As Stated

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NAME	AMcCraw:SMH	JRSchlueter	
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SUGGESTED TALKING POINTS

ACTION PLAN TO RESPOND TO VULNERABILITIES IN THE RADIOACTIVE MATERIALS LICENSING PROGRAM

- In 2005, the U.S. Nuclear Regulatory Commission (NRC) and the States implemented several requirements concerning increased control of radioactive material on certain groups of licensees possessing risk-significant quantities of radioactive material. These increased control requirements were developed through the coordination of the NRC, the Organization of Agreement States (OAS), and the Conference of Radiation Control Program Directors (CRCPD), and reflect the increased emphasis on the security of radioactive material after the 9/11 attacks.
- In response to a requirement in the 2005 Energy Policy Act passed by Congress, one of the increased control requirements called for licensees to determine the trustworthiness and reliability of individuals who were granted unescorted access to the radioactive material. Before unescorted access may be granted, individuals must be fingerprinted and subjected to a criminal background check.
- In 2006, the U.S. Government Accountability Office (GAO) issued their report entitled "*Border Security: Counterfeit Documents Were Successfully Used to Purchase and Transport Radioactive Material Across Our Nation's Borders at Selected Locations* (GAO-06-422RNI)," which described their findings in smuggling extremely small quantities of radioactive material across the Nation's borders. In response to this report, the NRC, the States, and the U.S. Customs & Border Protection worked together to improve border security involving radioactive materials.
- Early in 2007, GAO staff used false information (e.g., business name, address, etc.) to obtain a valid NRC radioactive materials license authorizing the possession of portable gauges. GAO staff was also able to modify the license using commercial computer software to make the license appear to authorize possession of a larger amount of radioactive material.
- To address the weaknesses identified by GAO, the NRC has developed an Action Plan to address needed changes in the NRC's process for issuing radioactive material licenses. The Action Plan contains short-, mid-, and long-term actions, with time frames ranging from a few months to several years.
- OAS and CRCPD are working with the NRC to implement the Action Plan and ensure a consistent, nationwide implementation of various action items in the Plan.
- A very constructive, facilitated discussion to receive input on this topic was held at the 2007 OAS meeting in Oklahoma City, OK.
- Working groups and steering committees established in conjunction with the Plan include Agreement State representatives.

- The resources required for our State to implement the recommendations and additional activities as a result of the Action Plan and subsequent followup may be significant.
- To put the potential resource burdens in context, NRC staff has received additional resources of 15.5 Full-time Equivalents (FTE) and \$2.58 million in NRC Fiscal Year (FY) 2008 and 12.0 FTE and \$8.26 million in FY 2009 to implement the plan. NRC regulates approximately 4,500 radioactive material licenses nationwide. Our State regulates...
- We strongly believe that implementation of the Action Plan and resulting regulatory improvements will improve safety, security, and public confidence by reducing the risk of fraudulent transfers and establish a more integrated, comprehensive regulatory framework for all radioactive material.