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NUCLEAR REGULATORY COMMISSION
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MEMORANDUM TO: Robert J. Lewis, Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

FROM: Materials Program Working Group
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SUBJECT: ASSESSMENT OF THE REPORT OF THE INDEPENDENT EXTERNAL
REVIEW PANEL

Attached is the Materials Program Working Group's (the Working Group) revised assessment of the Independent External Review Panel's (the Panel) Report. This addresses Objective 2 of the Working Group's charter. The Working Group originally submitted this to the Steering Committee on May 2, 2008.

We will be happy to discuss our assessment of the Panel's report with you at your convenience.

Observations and Recommendations of the Independent External Review Panel

Observation 1

The Panel believes there are many qualified and conscientious license reviewers at NRC and in the Agreement States who diligently issue licenses and make licensing decisions in a timely manner. In response to the vulnerabilities identified in the GAO report, the NRC and the Agreement States are enhancing security in the licensing process. This will complement and strengthen protection of health, safety, and the environment. The GAO demonstrated the practice of relying on the “good faith presumption,” that applicants will be honest in providing information on an application, is a vulnerability. Rather, a shift to verify and establish trust may be necessary. The Panel learned that some Agreement States may have this same vulnerability, while other Agreement States that require site visits for “new applicants” make such exploitation less likely.

The Panel agrees with the GAO report in that the validation process used by license reviewers may not adequately ensure that the entity applying for the license is legitimate. NRC staff has introduced a number of ongoing initiatives aimed at assessing and reducing vulnerabilities in the licensing process. Immediately following the issuance of the GAO Report, NRC staff initiated the following actions:

1. Issued interim guidance requiring pre-licensing site visits for all unknown applicants.
2. Made a retrospective assessment of licenses issued in the previous 18 months using interim guidance for pre-licensing visits to assess the legitimacy of applicants.
3. Issued Regulatory Information Summary (RIS) 2007-13, “Verification of the Authenticity of Materials Possession Licenses,” advising licensees to heighten their awareness regarding transfer of radioactive materials.

Following these initial steps, NRC staff took the following actions:

1. Issued revised pre-licensing guidance that requires a pre-licensing site visit for applicants that meet certain criteria.
2. Formed the Materials Program Working Group that developed recommendations regarding license verification and anti-counterfeiting.
3. Issued Order EA-07-305, “Order Imposing Fingerprinting Requirements and Criminal History Checks for Unescorted Access to Certain Radioactive Material.”
4. Developed a plan to assess the types, numbers, and quantities of sources between Category 3 and Category 4 of the IAEA Code of Conduct.

Recommendation 1a

The Panel recommends the following for “new applicants,” – (The Panel defines a “new applicant” as an entity that has never held an NRC or Agreement State license. A former licensee that has not held an NRC or Agreement State license in the last 5 years should also be

considered a “new” applicant.) – and for licensees requesting changes to their authorized quantities of radioactive materials to a higher-risk Category (e.g., from Category 3 to Category 2):

1. The “good faith presumption” is temporarily suspended.
2. A review of health, safety, environmental, and security plans is performed. (Data contained in these plans should meet the essential objectives found in NUREG-1556. In addition, reviewers should ensure that all plans are tailored to the operation rather than just a reiteration of the requirements as worded in the licensing guidance. A lack of specificity in an application may be an indicator of an inexperienced applicant.)
3. An on-site visit is performed, including all locations identified on the license application where the material will be stored or used (excluding devices designed for mobile use such as moisture density gauges and well logging devices).
4. A background investigation is conducted of key personnel, including responsible members of management, the Radiation Safety Officer, and personnel with unescorted access.
5. A review of plans for activities using the requested radioactive materials is conducted to verify that the activities comport with the approved uses for the requested sources/devices.

Additional information that could be reviewed may include:

- verification of business licenses and registrations
- tax number verification from the Internal Revenue Service or a State agency
- financial records that validate legitimate business activities
- reference checks and credential verifications for key individuals on the license application
- customer reference checks

Response to Recommendation 1a

The Working Group agrees with Recommendation 1a. The Working Group recommends that the definition of “new applicant” from the Pre-licensing Guidance be used.

For Item 1, the Working Group will address this in the comprehensive report.

For Item 2, the Working Group recommends that NUREG-1556 be revised to request submission of applicant-specific procedures to address the review of health, safety, environmental, and security plans.

For Item 3, the Working Group recommends that the pre-licensing guidance be clarified to indicate that the pre-licensing site visits include all locations of storage and use identified on the license application.

For Item 4, the Working Group believes that the background investigation for the applicant is addressed in part in the pre-licensing guidance. The Working Group will provide additional recommendations on background investigations in its comprehensive report.

Item 5 is already addressed in the guidance for pre-licensing visits (see “Guidance for Conducting the Pre-licensing Visit”).

Recommendation 1b

The Panel recommends that a process and criteria be developed that will allow “new applicants” to obtain and use radioactive materials and over time and through inspection be recognized for having a record of credible performance leading to the establishment of trust.

The Panel believes that this process is *not* necessary for licensees who have a current history of performance under other NRC or Agreement States licenses that are supported by inspections.

Response to Recommendation 1b

The Working Group agrees with Recommendation 1b. The Working Group recommends that Inspection Manual Chapter (IMC) 2800, “Materials Inspection Program,” be revised to include criteria to allow licensees to establish a record of credible performance through the inspection process.

Observation 2

The Panel believes that the NRC’s openness policy regarding public access to licensing information provides excellent information for license applicants to apply for, obtain, and maintain a license. At the same time, it also provides very useful information to an adversary attempting to obtain a license or circumvent regulations, designed to prevent unauthorized access to radioactive material.

The Panel recognizes that increasing control of regulatory information is contrary to current NRC practice. The Panel is not advocating the abandonment of this practice. Providing the necessary information for an applicant to submit a complete application is essential to the ease and efficiency of the licensing process.

Licensing guidance provides license reviewers with information regarding decisionmaking and further lines of inquiry used during application reviews. This information may have the unintended consequence of providing a malevolent applicant with information on how to exploit the licensing system.

The GAO was able to gather all the necessary information to produce a legitimate license application and supporting documentation using publicly-available information. Additionally, the

GAO knew and understood all actions the NRC was to take in processing the application. This understanding allowed the GAO to anticipate, prepare for, and counter any actions taken by the NRC. This was the primary reason that GAO was successful.

Recommendation 2

The Panel recommends that information specific to the review and decisionmaking procedures used by license reviewers to evaluate and grant licenses be examined to determine if the release of this information provides an advantage to an adversary attempting to exploit the licensing process. This is not intended to restrict information that is designed to help an applicant prepare a complete license application.

The Panel recommends that the Commission consider expanding the current operational security program to include materials licensing guidance and the processes for review and issuance of licenses. Specific elements of this program that require development include the following:

1. Identifying the information needed by an adversary to exploit the licensing process.
2. Conducting a thorough review of all licensing guidance to identify publications containing exploitable information.
3. Conducting a risk-informed analysis in order to identify the benefit that may be associated with currently available licensing information for legitimate applicants, as opposed to the advantage provided to an adversary.
4. Establishing and implementing measures to safeguard and control the release of some licensing information.

Response to Recommendation 2

The Working Group agrees with Recommendation 2. The NUREG-1556 series and associated documents should be reviewed and updated to address Items 1-4.

Observation 3

The Panel learned about the current process for validating the authenticity of licenses and methods to verify current inventory of radioactive material prior to transfer. These procedures do not prevent an adversary from modifying or counterfeiting a license or prevent a licensee from exceeding authorized quantities.

The Panel learned that the NRC has several programs, including the Web-based Licensing (WBL) system and the National Source Tracking System (NSTS), under development. These programs will enhance the security and accountability of radioactive material, in addition to ensuring health, safety, and environmental protection.

The Panel believes that development of a WBL system increases the security of radioactive material and provides both convenience and consistency to the license review process. The

potential security advantages of this system include the verification of the license and its conditions by each party involved in the transfer of radioactive material.

A tracking system, NSTS, is currently being developed for Categories 1 and 2 radioactive materials. The Panel also learned that the staff is currently evaluating Category 3 and 10-times-less-than-Category 3 sources to assess if any additional sources should be tracked in the same manner as Category 1 and 2 sources, with particular regard to the risk of aggregation of many sources.

The Panel believes that Agreement State participation in the development and implementation of the combined WBL/NSTS is crucial because the Agreement States regulate the vast majority of the current and future licenses.

The Panel believes that a combined WBL/NSTS can work in a similar manner to banking or credit card transactions with the following attributes:

- A licensee would have an account with a balance of authorized possession limits.
- The licensee would notify a vendor of an intended purchase and would authorize the vendor to log into their license and validate that the transaction comports with licensed radionuclides and limits.
- The vendor would receive an authorization code that would be added to the shipping paperwork.
- The amounts of each radionuclide would be reserved from the licensee's available limits.
- The licensee would log into the system and acknowledge receipt when the material arrives and the radioactive materials in the shipment would be added to the inventory for that licensee.
- The approach provides the basis for an integrated real-time inventory in a single system that incorporates licensing and source tracking.

The Panel believes that comprehensive and real-time tracking of radioactive materials transfer would confirm the licensee's compliance with established limits, ensure accountability of radioactive materials during acquisition, and provide an additional means of validating the licensee's legitimacy. Had this system been in place, up to date, and used by the vendors contacted by GAO, the altered license would likely have been detected. In turn, appropriate actions could have been taken to thwart the GAO's efforts.

The Panel's charter required the Panel to document other options that the Panel considered and the reasons for not adopting them. In this regard, the Panel considered information on the integrity of license documents. The Panel learned that the staff is considering near-term steps to make license documents less susceptible to counterfeiting. The Panel learned that the Materials Program Working Group (the Working Group) recommended that the NRC not modify the license documents to reduce counterfeiting. Instead, the Working Group recommended that the NRC and the Agreement States require licensees to verify the validity of license documents

by directly contacting the appropriate regulatory authority. The Panel supports the Working Group's recommendation and believes that licensees could verify possession limits with the appropriate regulatory agency instead of relying solely on a facsimile copy of the license from the licensee.

The Panel learned that the Working Group recommended that licensees authorized to possess Category 3 or larger quantities of radioactive material should be required, prior to transfer, to contact the recipient's regulatory authority to verify the authenticity of the transferee's license when certain conditions exist. The Panel believes that the process recommended by the Working Group will provide adequate controls for all transfers of risk significant quantities since all transfers from licensees authorized to possess Category 1, 2, and 3 sources will require prior notification.

Recommendation 3a

The Panel recommends that the NSTS and WBL be integrated to allow for real-time sharing of information between the systems. This integrated system should be developed so it is easy for the NRC, Agreement States, and licensees to use. The Panel believes that resources that would be needed to select and implement more robust license documents are better used in creating a single web-based, real-time licensing and tracking database.

To realize the full potential of the system, it should include the following features:

1. The system must be integrated to provide licensees, vendors, and regulators controlled access (as appropriate) to license information to verify licenses and to properly accomplish transfers of radioactive materials between licensees in accordance with the terms and conditions of each party's license and the regulations.
2. The system must be designed so that the record of transactions is accomplished at the time the transaction is made to allow for real-time verification of transfer of sources.

Response to Recommendation 3a

The Working Group agrees with Recommendation 3a. The Working Group realizes that the seamless integration of data from NSTS and WBL via the License Verification System (LVS) to allow for real-time sharing of information between the systems is the cornerstone of an effective system. The Working Group supports the Panel's vision of real-time verification of transfer of sources. To achieve the Panel's vision, the systems require real-time interoperability and the ability of State and Federal agencies to independently access information contained in the systems. The Working Group is aware that the Program Office is working to involve Agreement States in the development of the capabilities and requirements for this system. The Agency should continue to keep a high priority on the involvement of the Agreement States, the integration and coordination for these systems, and the maintenance of an appropriate level of funding to make the necessary alterations to the system and its capabilities.

Recommendation 3b

The Panel recommends that licenses be confirmed for *all* transfers of radioactive materials in risk-significant quantities (Category 1, 2, and 3 or as otherwise determined by the Commission) until the real-time WBL/NSTS is up and running. The Panel recognizes there are frequent transfers of radioactive materials in risk-significant quantities between parties where there is a record of credible performance leading to the establishment of trust (Recommendation 1b). This may require an exception to this recommendation.

Response to Recommendation 3b

The Working Group agrees with Recommendation 3b. As the Panel points out, there are cases where there is a record of credible performance between the two parties. The Working Group believes that its short-term recommendations appropriately address the establishment of trust by requiring license verification of “unknown” transferees and changes in delivery locations.

Recommendation 3c

The Panel recognizes that the WBL/NSTS system will take time and resources to develop and recommends that a plan be developed for a phased approach by taking the following steps:

1. Develop and test the system.
2. Get Agreement State and licensee input and participation in the development and trials using the system.
3. Roll out and implement the system.

Resources to support this effort will need to involve planning for NRC and Agreement State participation from the first stages of development through rollout and ongoing support for continued use of the system.

Response to recommendation 3c

The Working Group agrees with the Panel’s recommendation. The WBL/NSTS system is vital for long-term license verification, with input from both the NRC and the Agreement States. Because the Agreement States oversee approximately 80 percent of the licenses in the United States, they need to be involved early in the development of the system. This will ensure that the system will provide both the NRC and the Agreement States a comprehensive system that will be adopted and used. See also Comment on 3a.

Observation 4

The Panel learned that current performance-based guidance establishes expectations for the security of radioactive material; however, these expectations could be subject to a range of interpretation. Increased Controls (IC) Orders (consistent with IAEA Code of Conduct) have been issued to licensees possessing Category 1 and 2 sources. The Panel learned that staff is also developing additional guidance for security of materials.

The Panel believes that fully integrating security with health, safety, and environmental protection when regulating radioactive material will require a culture change at the NRC and in the Agreement States. The following discussion briefly outlines aspects for security to be included as a complement to health, safety, and environmental protection.

Security starts with identifying an appropriate level of protection based on the type, form, and quantity of radioactive material. The processes currently used to make risk-informed decisions for health, safety, and environmental protection are identical to those used to determine risk as it applies to security. The strategies for responding to security threats are different from the strategies for responding to the health, safety, and environmental concerns in that they must consider malevolent action.

Once threats have been characterized, controls to protect radioactive material can be developed in a risk-informed manner. Rather than focusing solely on specific physical and procedural countermeasures, security plans could be developed by answering the following questions:

- What type of protection should the countermeasure(s) provide (e.g., deter, delay, detect, destroy, defend, or defeat)?
- What type of undesirable events do they guard against (e.g., surreptitious entry, forced entry, technical implant, or theft of sensitive material)?
- When are they effective — during which hours of the day/night and under what conditions?
- Where are they effective? What areas do they cover?
- What is the history of reported malfunctions (e.g., type, time, cause, and pattern)?
- What is the correlation of countermeasure effectiveness to security incident reports that may indicate that the countermeasure was defeated?
- What is the history of countermeasure maintenance/upgrades?

These considerations are not normally part of the risk analysis performed for health, safety, and environmental protection but are essential for appropriate risk-informed security. Any analysis is specific to the asset being protected, therefore, the guidance should focus on the goals necessary for protection, methods for the analysis, and countermeasures that are appropriate based on the identified risks.

Recommendation 4

The Panel recommends development of detailed physical security requirements using a risk-informed, graded approach. These standards would likely be more detailed than the requirements currently found in IC Orders. This would help assure that physical protection of licensed materials is in conformance with a risk-informed decisionmaking process regarding

security and safeguards issues. In addition, licensees would be afforded the information necessary to understand the requirements and costs associated with risk-informed security controls. The Commission may wish to consider whether additional Orders or rulemakings are appropriate to impose more detailed, risk-informed security controls.

Response to Recommendation 4

The Working Group agrees with the general premise that more detailed physical security requirements should be developed. Therefore, the Working Group supports a rulemaking effort for the Increased Controls. Currently planned rulemakings for security requirements can provide the vehicle to accomplish this action. To determine where additional details are needed, the rulemaking should be informed by lessons learned, operating experience, and stakeholder input.

Many good ideas on how to improve security have already been identified during the on-site inspections and meetings with local law enforcement agencies (LLEA). As a short-term measure, the Working Group recommends that the lessons learned across the country by licensees, regulators, and LLEA be compiled into a “good practices” document, including integration of the more than 200 Q&As.

Observation 5

Licensing for both NRC and Agreement State staff is primarily learned on the job, with supervisory review of case work while progressing from simple license and amendment reviews to more complex reviews. Training courses are completed in the core areas, (e.g. health physics, medical, and industrial uses and transportation of radioactive materials). License reviewers, as well as inspectors, also are trained in specialized areas such as internal dosimetry, environmental monitoring, and air sampling. Mastery of licensing skills typically is completed in approximately 2 years with delegation of authority to sign certain licenses granted by license type for NRC license reviewers. Agreement States have similar schemes for license reviewer training and qualification. It is common for Agreement State license reviewers to be cross-trained to perform compliance inspections.

At present, security matters that rely on a “verify to establish trust” approach are not part of the culture of NRC licensing. The Panel recognizes that NRC and Agreement State inspectors have started to receive security training for verifying licensee compliance with IC Orders. Security is not, however, fully ingrained in the licensing culture of NRC or the Agreement State licensing staff at this time.

The Panel learned that NRC has a program to train staff in accordance with Inspection Manual Chapter (IMC) 1246. Likewise, the Agreement States have training programs equivalent to IMC 1246. The NRC Licensing Process and Procedures Course is the primary course for both NRC and Agreement State license reviewers.

The Panel recognizes that staff has begun to outline challenges to incorporate security into NRC and Agreement States licensing culture, practices, and procedures.

The Panel believes that security threat information, including an adversary’s capability, intent, and objectives, should be part of the licensing process especially for “new applicants.” At

present, the NRC does not have a formal threat awareness program available to NRC or Agreement State staff to support risk-informed decisionmaking regarding security in the licensing process.

Providing current threat information will provide license reviewers with information that addresses the realistic capabilities of an adversary. This information will aid licensee reviewers in making effective risk-informed licensing decisions consistent with historical and contemporary threat information and consistent with health, safety, and environmental protection.

Recommendation 5a

The Panel recommends that security be incorporated into the licensing culture of NRC and Agreement State license reviewers. Security should be elevated to be equal with health, safety, and the environment in evaluating license applications in a risk-informed manner. This heightened state of awareness can best be accomplished by ensuring that training programs include more comprehensive training on security issues, aimed at recognizing a malevolent applicant.

Response to Recommendation 5a

The Working Group agrees with the concept of altering the licensing culture of the NRC and placing equal emphasis on security as currently exists with health, safety and the environment. This will be discussed in more detail in the Working Group's comprehensive report.

Recommendation 5b

The Panel recommends that licensing personnel be provided the tools and training necessary to make risk-informed decisions that address security aspects as well as health, safety, and environmental protection. These tools could include the following:

1. A threat awareness program designed to inform personnel on the current tactics, techniques, and procedures of adversaries; current threat information; and distribution of lessons learned and best practices.
2. Increased emphasis on security aspects of risk-informed decisionmaking in core training curriculum and qualification programs.
3. A process to report and investigate all suspicious applications, including reporting procedures to involve appropriate law enforcement agencies, as necessary.
4. Information management databases, such as "ChoicePoint," for use in NRC and Agreement States licensing programs.

Resources to support this effort will need to involve planning for NRC and Agreement State participation during development through rollout and ongoing support for continued use of these tools.

Response to Recommendation 5b

The Working Group agrees with this recommendation. The Working Group will provide additional discussion of this topic in its comprehensive report.

Observation 6

The Panel learned that licenses of the NRC's Office of International Programs (OIP) are issued to both NRC and Agreement States licensees. A licensee must possess a specific license authorizing possession of radioactive materials before applying to OIP for a license to import or export radioactive material or devices containing radioactive material. As such, a new license applicant of OIP will have a history with either the NRC or an Agreement State that can be evaluated when determining the validity of the import/export applicant.

Additionally, the Panel learned the following:

1. Licenses are issued by OIP for shorter time intervals compared to other licenses issued by NRC and the Agreement States. It is not unusual for OIP to work with the same applicant on many occasions.
2. Frequently, one or more Executive Branch agencies in addition to the NRC must approve the proposed export of the radioactive material or device.
3. All specific license applications are made public with some requiring *Federal Register* notices.
4. Various reporting requirements apply to persons operating under the different import and export general licenses (GL) authorized in Title 10 Code of Federal Regulations (10 CFR) Part 110, "Export and Import of Nuclear Equipment and Material."
5. A recent rule change reduced the number of sources eligible for import and export under GL authorization.

Recommendation 6a

The Panel recommends that staff verify that import/export licensees possess a valid and current license to which the materials will be imported. For first-time applicants for import/export licenses, the Panel recommends that more detailed assessments be made than for licensees with established records of satisfactory performance prior to authorization. If the first-time applicant has a new possession license, the Panel recommends that OIP verify that the possession license was issued in accordance with the objectives outlined in the Panel's Recommendation 1a.

Response to Recommendation 6a

The Working Group agrees with Recommendation 6a. Applicants must apply for specific import/export license for Category 1 and 2 quantities and in some instances may apply for a specific import/export license when smaller quantities are involved. OIP currently verifies all possession licenses with the appropriate regulatory authority for applicants

for specific import licenses. Once the NRC and Agreement States incorporate the processes in Recommendation 1a (by implementing the revised pre-licensing guidance) and OIP verifies with the regulator that the license was issued in accordance with the pre-licensing guidance, OIP will have addressed this recommendation.

Recommendation 6b

The Panel recommends that importers and exporters operating under the GL granted by 10 CFR Part 110 be required to report electronically in real time into the WBL/NSTS when it becomes available.

Response to Recommendation 6b

The Working Group agrees with the concept of Recommendation 6b. However, the Working Group notes that it would be unnecessary to require import/export GLs to report transfers to NSTS, because such transfers are required to be reported under the possession licenses by the same licensees.

Observation 7

The Panel learned that approximately 10 percent of licensees have possession limits with no upper bound. The Panel also learned that financial assurance requirements, IC Orders, and observations during inspections have resulted in some licensees reducing their possession limits to only the quantities of radioactive materials they need. New licenses are being granted only with specific possession limits. At renewal, specific limits are being added to licenses that do not have them.

Recommendation 7

The Panel recommends the NRC and Agreement States continue to encourage licensees to carry only as-needed possession limits as this helps determine appropriate financial assurance and applicability of IC Orders. This provides awareness to licensees that disposition of unwanted or unused radioactive material is preferred over accumulation. The Panel realizes that unsealed, short-lived radioactive materials are routinely used in nuclear medicine (10 CFR 35.100, "Use of Unsealed Byproduct Material for Uptake, Dilution, and Excretion Studies for Which a Written Directive is Not Required," 10 CFR 35.200, "Use of Unsealed Byproduct Material for Imaging and Localization Studies for Which a Written Directive is Not Required," and 35.300, "Use of Unsealed Byproduct Material for Which a Written Directive is Required."). The Panel does not intend this recommendation to apply to those materials.

Response to Recommendation 7

The Working Group agrees with Recommendation 7 with one clarification. The Working Group does not agree that 10 CFR 35.300 licensees should be permitted to retain "as needed" possession limits. For these licensees, possession limits are needed to ensure that applicable safety procedures are submitted during licensing. This is consistent with current practice.

Consistent with Recommendation 7, the short-term recommendations proposed by the Working Group specified that possession limits for 10 CFR 35.100 and 35.200 may be authorized “as needed” possession limits.

Observation 8

The Panel reviewed the “Implementation Guidance for Completing the Checklist to Provide a Basis for Confidence that Radioactive Materials Will be Used as Specified on the License,” dated January 11, 2008, developed by the Pre-licensing Working Group.

The Panel believes that there are several examples in this document where the “good faith presumption” is still relied upon. For example, the guidance in paragraph 01.01 states “...all new applicants or licensees (new, renewal, or amendment) that are requesting risk significant quantities of certain radioactive materials (all forms, sealed and unsealed) indicated in the checklist (step 1, table of risk significant quantities) and that have not been subject to a Security Order or the additional requirements for increased controls will not be approved until the NRC or an Agreement State has determined with confidence that the applicants commitments will be implemented...”

As another example, a template paragraph 03.03a states in part, “when authorized to possess <radionuclide> you will be required to comply with the NRC Security Order before the date that you possess the material. SSSB will be contacting you regarding this matter.”

In the guidance in paragraph 03.03b, the license reviewer is provided a template paragraph to include in any deficiency letter or email when an applicant requests risk-significant quantities of radioactive material. The template paragraph currently states in part:

...When authorized to possess <insert radionuclide> you will be required to comply with the additional requirements for increased controls before the date that you possess the material. Please submit your schedule for implementing the increased controls and provide confirmation that you will not take possession of the additional radioactive materials in risk significant quantities until you are in full compliance with the Increased Controls...

Recommendation 8

The Panel recommends that the guidance be re-evaluated to eliminate reliance on the “good faith presumption” and replaced with on-site inspection and verification. Two examples are provided below:

1. The Panel recommends that the guidance be modified to clearly inform the reviewer that an on-site, pre-licensing visit is needed to verify that the applicant has implemented applicable Security Orders.
2. The Panel recommends the guidance in paragraph 03.03b be revised to clearly inform the reviewer not to issue the license until the applicant has implemented the applicable Security Orders and that the implementation has been verified by an on-site, pre-licensing visit.

...When authorized to possess <insert radionuclide> you will be required to comply with the additional requirements for Increased Controls before the date that you possess the material. Please submit your schedule for implementing the Increased Controls. You will not be allowed to take possession of the additional radioactive materials in risk-significant quantities until you are in full compliance with the Increased Controls and these controls have been confirmed by inspection...

There may be other examples in the guidance where positive verification of licensee commitments by inspection (pre-licensing visit) are not required rather certifications by the licensee are accepted in good faith.

Response to Recommendation 8

The Working Group agrees with Recommendation 8. The Working Group recommends that the Pre-licensing Working Group revise the guidance to require a pre-operational site visit to ensure that security orders or Increased Controls have been implemented prior to the licensee taking possession of risk-significant material. Additionally, the Working Group recommends that the Pre-licensing Working Group review the pre-licensing guidance for any other examples of “good faith presumptions” that need to be reconsidered.