

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF FEDERAL AND STATE MATERIALS
AND ENVIRONMENTAL MANAGEMENT PROGRAMS
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555

March 20, 2012

**NRC REGULATORY ISSUE SUMMARY 2012-04
NOTICE OF REVISION TO THE CRITERIA FOR
IDENTIFYING MATERIALS LICENSEES FOR DISCUSSION AT THE
AGENCY ACTION REVIEW MEETING**

ADDRESSEES

All U.S. Nuclear Regulatory Commission (NRC) materials licensees (including fuel cycle facilities and master material licensees), Agreement State Radiation Control Program Directors, and State Liaison Officers

INTENT

The NRC is issuing this regulatory issue summary (RIS) to inform addressees that the NRC has revised the criteria for identifying nuclear material licensees, including Agreement State licensees, with significant performance problems for discussion at the NRC's Agency Action Review Meeting (AARM). No specific action or written response is required. The NRC is providing this RIS to the Agreement States for their information and for distribution to their licensees as appropriate.

BACKGROUND

In 2002, NRC developed a process for providing information to the Commission on significant nuclear materials issues and adverse licensee performance. This process was discussed in SECY-02-0216, "Proposed Process for Providing Information on Significant Nuclear Materials Issues and Adverse Licensee Performance," dated December 11, 2002. As part of this process, the staff developed criteria to identify nuclear material licensees with significant performance problems that would be discussed at the Agency Action Review Meeting (AARM). In 2008, the NRC revised the criteria to provide additional clarification regarding the criteria requirements and to incorporate NRC's current policy and procedures.

The AARM is an agency meeting that allows senior NRC managers (1) to review the appropriateness of agency actions that have been taken for those nuclear power plants with significant performance problems as determined by the reactor oversight process (ROP) action matrix, (2) to review the appropriateness of agency actions for those nuclear materials licensees, including fuel cycle facilities, with significant safety or security issues, (3) to ensure that coordinated courses of action have been developed and implemented for licensees of concern, (4) to review results of the staff's assessment of ROP effectiveness, including a review

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of approved deviations from the action matrix, and (5) to ensure that trends in industry and licensee performance are recognized and appropriately addressed.

SUMMARY OF ISSUE

In June 2009, the Commission issued Staff Requirements Memorandum (SRM), in response to the Commission Briefing on the results of the May 14, 2009, AARM. One item in the SRM stated that “The staff should continue to look for ways to improve and clarify the evaluation process and criteria that are used to identify nuclear material licensees that warrant discussion at the NRC’s Agency Action Review Meeting as well as the criteria licensees need to achieve in order to no longer be considered for discussion.” In response to the SRM and as part of the 2010 AARM preparation process, NRC management reviewed the criteria and decided that an additional criterion should be added to address licensees that were previously discussed at the AARM, but their subsequent corrective actions were ineffective in addressing the underlying issues. At the 2010 AARM, NRC senior management discussed and approved the addition of this new criterion.

After incorporating the new criterion into the existing AARM criteria, the NRC published the proposed criteria in the *Federal Register* (75 FR 54917) for public comment on September 9, 2010. The public comment period ended on October 25, 2010, and NRC received no comments from the public.

The agency currently identifies nuclear material licensees, including fuel cycle and Agreement State licensees, for AARM discussion based on operating performance, inspection results, and the severity of problems related to safety performance. The NRC staff will continue to identify licensees for discussion at AARM meetings based on these parameters. See Enclosure 1 for the AARM criteria in its entirety. The new criterion is listed as Item IV.

FEDERAL REGISTER NOTIFICATION

A notice of opportunity for public comment on this RIS was not published in the *Federal Register* because this RIS is informational and does not represent a departure from current regulatory requirements.

CONGRESSIONAL REVIEW ACT

The NRC has determined that this action is not subject to the Congressional Review Act (5 U.S.C. §§ 801-886) and, therefore, is not subject to the Act.

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not contain information collections and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.).

PUBLIC PROTECTION NOTIFICATION

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

CONTACT

This RIS requires no specific action or written response. If you have any questions about this summary, please contact the individual listed below or the appropriate regional office.

/RA/

Brian J. McDermott, Director
Division of Materials Safety
and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Technical Contact: Duane White, FSME
(301) 415-6272
Duane.White@nrc.gov

Enclosures:

1. Criteria for Identifying Nuclear Material Licensees for Discussion at the Agency Action Review Meeting
2. List of Recently Issued FSME Generic Communications

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|---------------|------------|------------|-------------|------------|------------|
| OFFICE | FSME/DMSSA | FSME/DMSSA | DMSSA/MSEAB | FSME/DMSSA | NMSS/SFST |
| NAME | DWhite | AMcIntosh | CEinberg | JLuehman | EDoolittle |
| DATE | 10/07/11 | 10/07/11 | 10/14/11 | 10/ 20 /11 | 01/ 19 /12 |
| OFFICE | NMSS/FCSS | OGC - NLO | OIS | OGC - CRA | DMSSA |
| NAME | JKinneman | CScott | TDonnell | SCroston | BMcDermott |
| DATE | 01/ 19 /12 | 01/ 27 /12 | 01/ 27 /12 | 02/ 02 /12 | 02/20/12 |

OFFICIAL RECORD COPY

**Criteria for Identifying Nuclear Material Licensees for Discussion
at the Agency Action Review Meeting (AARM)**

I. Strategic Plan

Licensee has an event that results in the failure to meet a Strategic Outcome for Safety or Security in the U.S. Nuclear Regulatory Commission (NRC) Strategic Plan (NUREG-1614).

II. Significant Issue or Event

Licensee has an issue or event that results in:

1. An Abnormal Occurrence Report to Congress (per Management Directive 8.1), or
2. A severity level I or II violation, as described in the NRC Enforcement Policy (including equivalent violations dispositioned by Alternative Dispute Resolution), or
3. A Level 3 or higher International Nuclear Event Scale Report to the International Atomic Energy Agency (per Management Directive 5.12),

and

There are unique or unusual aspects of the licensee's performance that warrant additional NRC oversight (e.g., a significant event, which requires an incident investigation team or augmented inspection team).

III. Performance Trend

Licensee has multiple and/or repetitive significant program issues identified over more than one inspection or inspection period, and the issues are supported by a severity level I, II, or III violation, as described in the NRC Enforcement Policy (including equivalent violations dispositioned by Alternative Dispute Resolution).

and

There are unique or unusual aspects of the licensee's performance that warrant additional NRC oversight (e.g., oversight panel formed for order implementation).

IV. Identified for Discussion at Previous AARM

Licensee corrective actions did not address or were ineffective in correcting the underlying issues that were previously discussed at the AARM.

| List of Recently Issued Office of Federal and State Material and Environmental Management Programs Generic Communications | | | |
|--|------------------------|--|--|
| Date | GC No. | Subject | Addressees |
| 01/17/2012 | RIS-2012-01 | Availability of Safety Culture Policy Statement | All U.S. Nuclear Regulatory Commission licensees, certificate holders, permit holders, authorization holders, holders of quality assurance program approvals, vendors and suppliers of safety-related components, and applicants subject to NRC authority. All Agreement State Radiation Control Program Directors, State Liaison Officers, and other interested stakeholders. |
| 12/14/2011 | RIS-2006-20, Rev. 1 | Guidance for Receiving Enforcement Discretion When Concentrating Uranium at Community Water Systems | All community water systems in the U.S. Nuclear Regulatory Commission non-Agreement States that, while treating drinking water, may accumulate and concentrate naturally-occurring uranium in media, effluents, and other residuals, above 0.05 percent by weight. All Agreement State and Non-Agreement State Radiation Control Program Directors and State Liaison Officers |
| 09/29/2011 | RIS-2011-11 | Regarding Long-Term Surveillance Charge for Conventional or Heap Leach Uranium Recovery Facilities Licensed Under 10 CFR Part 40 | All holders of operating licenses for conventional or heap leach uranium recovery facilities; holders of licenses for conventional or heap leach uranium recovery facilities in decommissioning; companies that have submitted applications to construct new conventional or heap leach uranium recovery facilities or letters of intent to submit such applications; UMTRCA Title II sites; Agreement State Radiation Control Program Directors, and State Liaison Officers |
| 08/31/2011 | RIS-2011-10 | Informing Licensees About the NRC's Public Web Site for Significant Enforcement Actions When Evaluating Individuals for Employment | All U.S. Nuclear Regulatory Commission licensees, certificate holders, permit holders, applicants, Agreement State Radiation Control Program Directors, State Liaison Officers, and other interested stakeholders. |

| List of Recently Issued Office of Federal and State Material and Environmental Management Programs Generic Communications | | | |
|---|-------------|---|--|
| Date | GC No. | Subject | Addressees |
| 08/16/2011 | RIS-2011-09 | Available Resources Associated with Extended Storage of Low-Level Radioactive Waste | All U.S. Nuclear Regulatory Commission licensees, certificate holders, permit holders, authorization holders, holders of quality assurance program approvals, vendors and suppliers of safety-related components, and applicants subject to NRC authority. All Agreement State Radiation Control Program Directors, State Liaison Officers, and other interested stakeholders. |
| 05/18/2011 | IN-2011-09 | Fixed Gauge Shutter Failures Due to Operating in Harsh Working Environments | All U.S. Nuclear Regulatory Commission specific and general fixed gauge licensees. All Agreement State Radiation Control Program Directors and State Liaison Officers. |
| <p>Note: This list contains the six most recently issued generic communications, issued by the Office of Federal and State Materials and Environmental Management Programs (FSME). A full listing of all generic communications may be viewed at the NRC public website at the following address: http://www.nrc.gov/reading-rm/doc-collections/gen-comm/index.html</p> | | | |