



DEPARTMENT OF VETERANS AFFAIRS
Veterans Health Administration
National Health Physics Program
2200 Fort Roots Drive
North Little Rock, AR 72114

In Reply Refer To: 598/115HP/NLR

August 5, 2013

Kevin G. Null
Division of Nuclear Material Safety
Nuclear Regulatory Commission (NRC), Region III
2443 Warrenville Road, Suite 210
Lisle, Illinois 60532-4352

Re: Your e-mail dated June 25, 2013, with attached Letter of Understanding (LOU)

Dear Mr. Null:

I am responding to your e-mail and subsequent discussions about a possible revision to the LOU submitted by Veterans Health Administration (VHA) as an amendment request to NRC License 03-23853-01VA. First, I request a written response to these questions about the LOU concept and process. Your response will provide VHA additional context and perspective for resolving any issues related to our final LOU.

What is the legal or regulatory basis to have an LOU?

What is the legal or regulatory basis to require the LOU to be a separate signed document?

What is the legal or regulatory basis for items or issues to include (or not to include) in an LOU?

What is the generic or template LOU which NRC used to draft the possible revision for the LOU submitted by VHA?

Second, I request you respond to the enclosed comments and recommended changes to the LOU sent by you. The focus for the comments is to have balance in the tasks or expectations so that the LOU is not weighted to requirements for VHA. In addition, the recommended changes will provide for establishing as a normal course of business for NRC to facilitate VHA achieving regulatory compliance.

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Kevin G. Null

While I request a written response related to the LOU, further discussions to include the Office of General Counsel representatives might be an appropriate next step.

If you have any questions, please contact Thomas E. Huston, Ph.D., at 501-257-1578, or you may reach me at 501-257-1571.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Williams". The signature is cursive and somewhat stylized.

Gary E. Williams
Director, National Health Physics Program

Enclosure

Enclosure to National Health Physics Program letter dated August 5, 2013

Summary comments for Letter of Understanding (LOU) from Nuclear Regulatory Commission (NRC) in e-mail dated June 25, 2013

The general focus for comments is to seek balance in the tasks or expectations so that the LOU is not weighted to requirements for Veterans Health Administration (VHA).

This is a summary for the specific proposed revisions.

#4, #23, and #28: revise to indicate changes to VHA procedures, after any NRC changes, will be "as needed" vice mandated to be completed within 90 days

#8 and #9: revise to indicate NRC will offer or provide information resources as a normal course of business vice "as availability and access allows," require NRC to explain any circumstances where access is restricted and offer alternate methods for VHA support

#16: revise to clarify in more specific detail the permitting documents to be provided to NRC, if requested

#17: revise to clarify the timeframe to update the Letter of Understanding in the future

#29: revise to indicate NRC normally provide NHPP an opportunity to be on site for NRC inspections; revise to require VHA facilities to coordinate with NHPP when providing follow-up information to NRC inspectors; revise to indicate NRC will provide summary results for enforcement panels

#31: revise to clarify in more specific detail the inspection documents to be provided to NRC for escalated enforcement circumstances

Proposed revisions to specific sections

Current

4. The DVA will implement and comply with all applicable NRC rules, regulations, and orders. When the NRC has promulgated a rule revising its regulations, the DVA will implement and comply with the revised regulations by the effective date of the final rule, or by the compliance date if one is stated in the *Federal Register*. The DVA will incorporate these NRC rule revisions into its policies and procedures within 90 days after the effective date of the final rule, or within 90 days after the compliance date if one is stated in the *Federal Register*. The DVA may elect to be more stringent in its controls.

Proposed Revision

4. The DVA will implement and comply with all applicable NRC rules, regulations, and orders. When the NRC has promulgated a rule revising its regulations, the DVA will implement and comply with the revised regulations by the effective date of the final rule,

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or by the compliance date if one is stated in the *Federal Register*. The DVA will incorporate these NRC rule revisions into its policies and procedures, as needed, within 90 days after the effective date of the final rule, or within 90 days after the compliance date if one is stated in the *Federal Register*. The DVA may elect to be more stringent in its controls.

Current

8. As availability and access allows, the NRC will provide to DVA program staff user access to various NRC information resources to enhance program implementation. Examples of such tools include the Sealed Source and Device Registry, Nuclear Material Events Database, and National Source Tracking System.

Proposed Revision

8. The NRC will normally provide to DVA program staff user access to various NRC information resources to enhance program implementation. Examples of such tools include the Sealed Source and Device Registry, Nuclear Material Events Database, and National Source Tracking System. If NRC determines availability or access must be restricted, NRC will explain the basis for the restriction to DVA and offer alternate methods to support program implementation.

Current

9. The NRC shall provide to the DVA all licensing and inspection guidelines and policies relevant to the DVA's MML program. As availability and access allows, the NRC shall provide pertinent training, seminars, and conferences to DVA staff for the purpose of fostering and sustaining administrative, regulatory, and technical competencies. Training topics will include, but not be necessarily limited to, licensing, inspection, allegation response, event response, and health physics and regulatory issues related to byproduct and source materials.

Proposed Revision

9. The NRC shall provide to the DVA all licensing and inspection guidelines and policies relevant to the DVA's MML program. The NRC shall normally provide pertinent training, seminars, and conferences to DVA staff for the purpose of fostering and sustaining administrative, regulatory, and technical competencies. Training topics will include, but not be necessarily limited to, licensing, inspection, allegation response, event response, and health physics and regulatory issues related to byproduct and source materials. If NRC determines availability or access must be restricted, NRC will explain the basis for the restriction to DVA and offer alternate methods to support program implementation.

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Current

16. Upon request by the NRC Region III Project Manager, the DVA will send the NRC a copy of completed permitting actions (which may include the entire license review package) and inspection reports with descriptions of corrective actions and full compliance dates.

Proposed Revision

16. Upon request by the NRC Region III Project Manager, the DVA will send the NRC a copy of completed permitting actions (which may include all documents in the NHPP files for the permitting actions) and inspection reports with descriptions of corrective actions and full compliance dates.

Current

17. The NRC and DVA will review this Letter of Understanding periodically, and at a minimum, during each biennial inspection. If revisions are warranted, then DVA and NRC will seek to finalize such revisions within 180 days.

Proposed Revision

17. The NRC and DVA will review this Letter of Understanding periodically, and at a minimum, during each biennial inspection. If revisions are warranted, then DVA and NRC will seek to finalize such revisions within 180 days after the requirement for the revision is identified.

Current

23. The DVA will update its permitting policies and procedures to reflect the most current NRC regulations and policies. The DVA will incorporate changes or updates to NRC regulations and policies into its permitting policies and procedures and distribute the updated permitting policies and procedures to its staff within 90 days for immediate implementation. Compliance is mandatory on the effective date of NRC regulations, or on the compliance date, if a compliance date is stated in the *Federal Register*.

Proposed Revision

23. The DVA will update its permitting policies and procedures to reflect the most current NRC regulations and policies. The DVA will incorporate changes or updates to NRC regulations and policies into its permitting policies and procedures, as needed, and distribute the updated permitting policies and procedures to its staff within 90 days from the effective date of NRC regulations, or on the compliance date, if a compliance date is stated in the *Federal Register*. Compliance is mandatory on the effective date of NRC regulations, or on the compliance date, if a compliance date is stated in the *Federal Register*.

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Current

28. The DVA will update its inspection policies and procedures to reflect the most current NRC regulations and policies. The DVA will incorporate changes or updates to NRC regulations and policies into its inspection policies and procedures and distribute its inspection policies and procedures to its staff within 90 days for immediate implementation. Compliance is mandatory on the effective date of NRC regulations, or on the compliance date, if one is stated in the *Federal Register*.

Proposed Revision

28. The DVA will update its inspection policies and procedures to reflect the most current NRC regulations and policies. The DVA will incorporate changes or updates to NRC regulations and policies into its inspection policies and procedures, as needed, and distribute its inspection policies and procedures to its staff within 90 days from the effective date of NRC regulations, or on the compliance date, if a compliance date is stated in the *Federal Register*. Compliance is mandatory on the effective date of NRC regulations, or on the compliance date, if a compliance date is stated in the *Federal Register*.

Current

29. The NRC will conduct unannounced inspections of the DVA program, including the permittees authorized under the MML, at times and places it considers appropriate and without prior notification to the inspected facility. When practicable, the NRC will provide NHPP an opportunity to observe NRC inspections at DVA facilities. The DVA will not notify permittees about any proposed unannounced NRC inspections.

a. In cases where NHPP is not able to observe an NRC inspection at a DVA facility, the NRC will provide NHPP the opportunity to monitor the facility-level exit brief (e.g., by teleconference). NHPP may also request a separate briefing to discuss the inspection results.

b. When additional information is needed from a DVA permittee for an inspection by NRC, then NRC may contact the permittee staff directly for the information. When practicable, NRC will inform NHPP for those circumstances that might represent a regulatory deficiency or when the facility response is not adequate.

c. When requested by DVA and when practicable, NRC will provide summary results or briefings to DVA to the same extent that NRC would provide such information to an NRC licensee for NRC enforcement panels completed for NHPP or NRC escalated enforcement findings.

Proposed Revision

29. The NRC will conduct unannounced inspections of the DVA program, including the permittees authorized under the MML, at times and places it considers appropriate and

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without prior notification to the inspected facility. The NRC will normally provide NHPP an opportunity to be on site to observe NRC inspections at DVA facilities. The DVA will not notify permittees about any proposed unannounced NRC inspections.

a. In cases where NHPP is not on site to observe an NRC inspection at a DVA facility, the NRC will provide NHPP the opportunity to monitor the facility-level exit brief (e.g., by teleconference). NHPP may also request a separate briefing to discuss the inspection results.

b. When additional information is needed from a DVA permittee for an inspection by NRC, NRC may contact the permittee staff directly for the information. The permittee will coordinate with NHPP to provide the information to NRC. The NRC will inform NHPP as soon as practicable for those circumstances that might represent a regulatory deficiency or when the facility response is not adequate.

c. When requested by DVA, NRC will normally provide summary results or briefings to DVA for results of NRC enforcement panels completed for NHPP or NRC-escalated enforcement findings. The focus will be to provide NHPP with information to support the DVA enforcement actions to be consistent with NRC actions. See #32 below.

Current

31. The DVA enforcement authority and program are described in the NRSC charter, NRSC delegation of authority, and NRSC SOP 03. The DVA will immediately report to the NRC Severity Level I, II, and III violations. The DVA shall subsequently provide the facts related to the case to the NRC (Region III Office) as specified in the NRC Enforcement Manual. The NRC reserves the right to impose civil penalties per the NRC enforcement policy.

Proposed Revision

31. The DVA enforcement authority and program are described in the NRSC charter, NRSC delegation of authority, and NRSC SOP 03. The DVA will immediately report to the NRC Severity Level I, II, and III violations. The DVA shall subsequently provide all documents in NHPP files for the enforcement action and responses for any additional NRC questions to the NRC (Region III Office) consistent with the NRC Enforcement Manual. The NRC reserves the right to impose civil penalties per the NRC enforcement policy.

Additional minor grammatical corrections

Correct spelling for heading after paragraph 19 (should be: ENVIRONMENTAL)

Correct letter sequencing for paragraph 36e.

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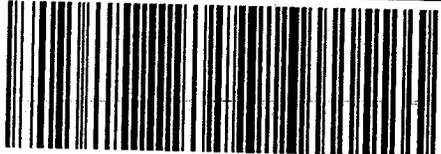
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