

DATE JUN 16 2014

**Letter of Understanding between the U.S. Department of Veterans Affairs,
Veterans Health Administration and the U.S. Nuclear Regulatory Commission
For License No. 03-23853-01VA**

This document presents the mutually agreed upon shared responsibilities of the United States Nuclear Regulatory Commission (NRC) and the United States Department of Veterans Affairs (DVA) regarding DVA's implementation of, and compliance with, the terms and conditions of the DVA Master Materials License (MML), NRC License Number 03-23853-01VA, as amended. This document supersedes the Letter of Understanding dated November 10, 2004.

ADMINISTRATIVE

1. The DVA is defined as the Under Secretary for Health or designee, National Radiation Safety Committee (NRSC), or National Health Physics Program (NHPP).
 - a. The DVA issues permits to permittees, who are individual facilities, to use byproduct materials.
 - b. The MML does not include generally licensed devices or sealed sources unless these are specifically added to a permit issued by DVA.
2. Existing DVA policies and procedures (which include: (1) the Decommissioning Funding Statement of Intent, (2) the Certification Statement, and (3) the NRSC charter, delegation of authority, and standard operating procedures) submitted in the license application or modified by license amendments will be mandatory requirements for the DVA master materials program and permittees. The DVA may make administrative changes to the NRSC charter, delegation of authority, and SOPs without submitting a request to the NRC for a license amendment in so far as the changes do not decrease the effectiveness of the radiation safety program, do not result in less stringent requirements than NRC regulations, and the NRSC has reviewed and approved the changes prior to implementation. However, nothing in the DVA MML or its policies and procedures relieves the DVA from complying with any other Federal or State law or regulation.
3. The DVA shall seek legal and technical advice from the NRC regarding any questions concerning the interpretation of NRC rules, regulations, orders, policy, procedures, and guidance, including, but not limited to, advice concerning new or unusual applications of licensed materials not clearly authorized under the MML, or for which NRC licensing guidelines are not available. The NRC shall provide the requested legal and technical advice to the DVA as soon as is practicable.
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 as applicable 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.

5. The DVA will not take or authorize the following actions without specific NRC authorization:
 - a. Grant exemptions to NRC regulations.
 - b. Conduct tracer studies in the environment involving direct release of radioactive material (field uses).
 - c. Conduct activities authorized under: 10 CFR Part 32 (manufacture or distribution of items to persons exempt from licensing, items to general licensees, radioactive drugs for medical distribution, and sealed sources and medical devices containing sealed sources for medical distribution); 10 CFR Part 34 (radiography); 10 CFR Part 36 (irradiators); or 10 CFR Part 39 (well logging);
 - d. Conduct activities requiring a specific license pursuant to 10 CFR Part 40 and 10 CFR Part 70.
 - e. Add, or cause the addition of, byproduct material, to any food or other product designated for ingestion or inhalation by, or application to, a human being, unless specifically authorized by the NRC (i.e., authorized by regulation under 10 CFR 30.21, Radioactive drug: Capsules containing carbon-14 urea for "in vivo" diagnostic use for humans," or by license condition for medical use).
6. DVA permittees will be exempt from submitting the notifications under 10 CFR 35.14 to the NRC, if the permittees meet all requirements in 10 CFR 35.14 (to include the requirements in 10 CFR 35.13(b), where appropriate) and provide the required notifications to the NHPP.
7. Through designated program staff, the DVA and the NRC will strive to maintain a cooperative working relationship that encourages frequent sharing of information, openness, and mutual responsiveness to resolve regulatory issues.
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. If NRC determines availability or access must be restricted, NRC will explain the basis for the restriction to DVA.
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. 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.

10. The NRC shall provide guidance and assistance in areas pertinent to the administration of the MML program, including technical assistance in those matters where the NRC has special capabilities and technical ability, or where the NRC determines such assistance is in the best interest of its regulatory program or responsibility.
11. The DVA will use the criteria in the Director, NHPP position description to appoint any new Radiation Control Program Officer. The DVA will use the selection criteria in the NRSC charter to appoint any new Chair, NRSC. The DVA will notify the NRC within 30 days of changes in the Radiation Control Program Officer or the Chair, NRSC. The MML will be amended when changes are made to the Director, NHPP position description or the selection criteria in the NRSC Charter for the Chair, NRSC.
12. The NRSC will establish leak-test requirements for sealed sources and devices containing licensed material consistent with the Sealed Source and Device Registry and NRC regulations.
13. The DVA will continue to operate its currently-licensed incineration facilities which are located in Minneapolis, MN; Salt Lake City, UT; Madison, WI; Boston, MA; and Memphis, TN, subject to the conditions of the superseded NRC license. The DVA will apply for an NRC approval for any additional radioactive waste incineration facilities or seek required NRC approvals for any modifications to existing incineration permits. This does not relieve the DVA from compliance with applicable U.S. Environmental Protection Agency (EPA) and State regulations.
14. The DVA has only one radioactive waste burial site, which is located in West Los Angeles, CA and has been inactive since 1968. The DVA will seek NRC approval for any change in the status of this burial site.
15. The DVA shall ensure that the transportation of licensed material is in accordance with NRC and Department of Transportation regulations regarding the shipment of radioactive materials. This does not relieve the DVA from compliance with other Federal, State or Local requirements regarding the shipment of radioactive materials.
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.
17. The NRC and the DVA will review this Letter of Understanding periodically, and at a minimum, during each biennial inspection. If revisions are warranted, then the DVA and the NRC will seek to finalize such revisions within 180 days after the need for the revision is identified.
18. The DVA MML permit process shall incorporate the requirements of 10 CFR 30.32 and require an Emergency Plan for byproduct material in unsealed form, on foils or plated sources or sealed in glass in excess of 10 CFR 30.72, Schedule C - quantities from a qualifying permit applicant. When the NHPP receives that Emergency Plan, the NHPP will forward a copy of it to the NRC for review.

19. The DVA will maintain an adequate level of professional and clerical staffing to carry out its responsibilities under the MML. The DVA license reviewer and inspector qualification program is described in NRSC SOP 04.

ENVIRONMENTAL

20. For those actions which require NRC approval under the MML, the DVA shall provide any relevant environmental information or analysis to support the NRC action. As provided in NRC regulations, certain license amendment requests are required to be accompanied by an applicant prepared environmental report (ER) that will aid the NRC staff in performing its responsibilities under the National Environmental Policy Act of 1969, as amended (NEPA). The DVA shall submit an ER if the criteria of 10 CFR 51.60 applies. The NRC regulations in 10 CFR 51.45 set forth the requirements for preparing an ER. Guidance on preparing an ER is set forth in the NRC's NUREG-1748, "Environmental Review Guidance for Licensing Actions Associated with NMSS Programs," Chapter 6. The NRC may also require that environmental information be submitted in accordance with 10 CFR 51.41. In responding to NRC requests under 10 CFR 51.41 or the requirements of 10 CFR 51.45, the DVA may use documents prepared, or information obtained, through its environmental impact analysis work conducted pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, to the extent that such documentation or information is timely, pertinent, and responsive to the NRC's request or requirements.

PERMITTING

21. The DVA will follow NRC licensing criteria, NUREG-1556 series, and guidance provided in applicable Licensing Guidance Toolkits (on NRC's website), during permitting activities to ensure consistency between NRC and DVA licensing programs. The DVA permitting program is described in the NRSC SOP 01.
22. The DVA will issue its permitting policies and procedures to its inspectors and permit reviewers.
23. The DVA will update its permitting policies and procedures to reflect the most current NRC regulations and policies as applicable, and distribute the updated permitting policies and procedures to its staff within 90 days from the effective date of NRC regulations or the compliance date if a compliance date is stated in the *Federal Register*. However, compliance with the current regulations and policies is mandatory on the effective date of NRC regulations, or on the compliance date, if a compliance date is stated in the *Federal Register*.
24. The DVA will not issue a DVA permit to individuals or facilities in lieu of an NRC or Agreement State license when such license is required.
25. The NRSC may approve users of licensed materials who are not DVA personnel when such users meet the NRSC's criteria addressing such use and such use is in accordance with NRC requirements and the facility's procedures and complies with the facility's permit. In addition, the work space of such users must be under the control of the DVA. Such users could include, but would not be limited to, contractors, individuals working without pay, students in training, and visiting professionals.

INSPECTION

26. The DVA will follow NRC inspection criteria, NRC Manual Chapter 2800, Materials Inspection Program, and applicable NRC inspection procedures, during inspection activities to ensure consistency between NRC and DVA inspection programs. The DVA inspection program is described in the NRSC SOP 02.
27. The DVA will issue its inspection policies and procedures to its inspectors and permit reviewers.
28. The DVA will update its inspection policies and procedures to reflect the most current NRC regulations and policies and distribute its inspection policies and procedures to its staff within 90 days from the effective date of NRC regulations or the compliance date if a compliance date is stated in the *Federal Register*. However, compliance with the current regulations and policies is mandatory on the effective date of NRC regulations, or on the compliance date, if one is stated in the *Federal Register*.
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 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 the NRC, then the NRC may contact the permittee staff directly for the information. The NRC will inform NHPP for those circumstances that might represent a regulatory violation or when the facility response is not adequate.
 - c. When requested by the DVA, the NRC will provide final results or briefings to DVA to the same extent that the NRC would provide such information to an NRC licensee for NRC enforcement panels completed for NHPP or NRC escalated enforcement findings.

ALLEGATIONS

30. The DVA will refer any allegations against the NRSC or NHPP to the NRC. The DVA program for addressing allegations received from within the DVA or referred by the NRC for DVA to investigate and resolve is described in NRSC SOP 06. The DVA allegation program will encourage individuals to report any and all safety concerns or allegations to whichever organization the allogger deems appropriate, whether at the permittee level, NHPP, DVA, or NRC.

ENFORCEMENT

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 or DVA permittee 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.

32. The DVA shall implement an enforcement program based on current NRC Enforcement Policy (Policy) to ensure that DVA enforcement actions are consistent with the Policy and applicable regulations, and that DVA uniformly applies the Policy and applicable regulations amongst DVA permittees.

INCIDENTS

33. The DVA will report and/or notify the NRC of incidents per NRC regulations. The DVA incident response and reporting program is described in NRSC SOP 05. DVA permittees will submit notifications and reports to the NHPP.

INVESTIGATIONS

34. The DVA will inform the NRC, as soon as practicable, when potential willful violation circumstances are known to NHPP. The DVA will immediately inform the NRC when a willful violation or violation attributed to intentional wrongdoing is cited by the DVA MML.

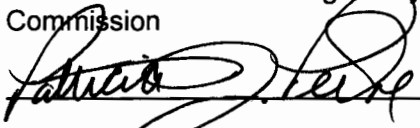
DECOMMISSIONING

35. In the MML application, the DVA provided a decommissioning funding statement of intent per 10 CFR 30.35 (d) (executed by the Under Secretary for Health) and Certification Statement to comply with NRC decommissioning funding assurance regulations. If a DVA permittee requires a decommissioning funding plan, the DVA will review and approve the plan in accordance with NUREG-1757, Volume 3, Financial Assurance, Recordkeeping, and Timeliness (Revision 1) and then provide a copy to the NRC for final approval. The DVA will send NRC a copy of any revisions to decommissioning funding plans.
36. The DVA permit termination and decommissioning procedures will follow NRC regulations and procedures and use current NRC guidance in NUREG-1757, Volume 1, Decommissioning Process for Materials Licensees (Revision 2) and NUREG-1757, Volume 2, Characterization, Survey, and Determination of Radiological Criteria (Revision1).
 - a. The DVA will complete permit termination and decommissioning for permittees categorized as Groups 1 and 2 facilities in accordance with the screening criteria in NUREG-1757, Volume 1, Revision 2.
 - b. The DVA will submit all actions involving decommissioning for permittees categorized as Group 3 facilities and above to the NRC Region III Office for approval. In addition, for these facilities, DVA will submit the Decommissioning Plan (DP) and Final Status Survey Report (FSSR) to the NRC Region III Office for approval. The NRC will approve the DP and FSSR by letter to the DVA. The NRC shall be responsible for complying with the National Environmental Policy Act for Group 3 and above decommissioning actions.

- c. DVA will authorize the NRC approved DP and FSSR by permit condition.
- d. To ensure compliance with 10 CFR 30.36, DVA permittees shall:
- notify the NHPP of changes in operating status in accordance with 10 CFR 30.36(d);
 - submit a DP to the NHPP in accordance with 10 CFR 30.36(d), if required by 10 CFR 30.36(g)(1), for final approval by the NRC prior to beginning decommissioning;
 - submit any requests to extend time periods established in 10 CFR 30.36(d), in accordance with 10 CFR 30.36 (f), to the NHPP;
 - submit any requests for an alternative schedule for completion of decommissioning in accordance with 10 CFR 30.36 (i) to the NHPP;
 - submit permit termination requests upon completion of decommissioning, in accordance with 10 CFR 30.36 (j) to the NHPP;
 - preserve records showing the receipt, transfer, and disposal of byproduct material in accordance with 10 CFR 30.51; and
 - forward, upon completion of permit termination and decommissioning, the records of receipt, transfer, and disposal of byproduct material to the NHPP for storage until the MML is terminated.
- e. To ensure compliance with 10 CFR 30.36, the NHPP shall:
- notify the NRC Region III Office of all changes in operating status of permittees pursuant to the notification requirements in 10 CFR 30.36(d);
 - transmit all DPs to the NRC Region III Office for approval;
 - transmit requests to extend time periods established in 10 CFR 30.36 (d), in accordance with 10 CFR 30.36(f), to the NRC Region III Office for approval;
 - transmit requests for alternative schedules for completion of decommissioning to the NRC Region III Office for approval;
 - transmit requests for permit termination in accordance with 10 CFR 30.36(j) upon completion of decommissioning activities to NRC Region III for approval, with the exception of permittees described in item 36.a. and Broad Scope permittees who retain the facility or land until such time as they release the facility or land from their ownership, as described in NUREG-1757, Volume 1, Revision 2; and

- retain permittee records showing the receipt, transfer, and disposal of byproduct material for minimum retention periods specified in applicable NRC regulations in Title 10 of the *Code of Federal Regulations*, as well as records regarding permittee decommissioning activities, until the MML is terminated.

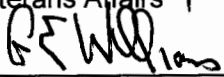
United States Nuclear Regulatory
Commission



Signature

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