

1. Has the NRC activated its Continuity of Operations Program (COOP)?

Currently, the COVID-19 Public Health Emergency (PHE) has not triggered implementation of our COOP plan. However, the agency is prepared to implement the COOP if the current situation challenges our continuing operations.

2. Is the NRC cancelling its upcoming training classes?

The NRC Technical Training Center announced that it is rescheduling, or holding virtually, its training courses through July 2020. The NRC on-line training courses continue to be available. Any questions about NRC training courses should be sent to ASTrainingandtravelResource@nrc.gov.

3. How is the NRC keeping apprised on the status of the National Materials Program?

The NRC maintains frequent communications with the Regional State Agreement Officers and Regional Government Liaison Officers and exchanges valuable information regarding the implementation of the National Materials Program (NMP). The NRC also maintains communications with the Organization of Agreement States, States and Tribal governments, and the Conference of Radiation Control Program Directors. In addition, the NRC and Agreement State National Materials Program Co-Champions have been meeting frequently to exchange information on matters surrounding the COVID-19 PHE.

4. What is the NRC doing with regards to its materials oversight and inspection program?

At this time the NRC staff continues to be on mandatory telework. The agency has issued its guidance to resume inspections titled, "Inspection Guidance During Transition From COVID-19 Mandatory Telework for the Nuclear Material and Waste Safety Programs." A copy of the guidance is available in the NRC's Agencywide Documents Access and Management System (ADAMS) using the Accession Number ML20143A281. In general, the guidance balances the importance of protecting the health and safety of NRC inspectors and site personnel along with the need to conduct effective oversight that supports the agencies critical safety and security mission.

5. Is the NRC considering any regulatory relief to certain regulatory requirements licensees are unable to comply with due to COVID-19 PHE impacts in licensee operations?

The NRC recognizes that during the current COVID-19 PHE, licensees may experience challenges in meeting certain regulatory requirements. The NRC issued a letter to its byproduct, fuel facilities, and spent fuel storage licensees (Agencywide Documents Access Management System (ADAMS) Accession No. ML20094G166) outlining the regulatory options to seek regulatory relief that may be necessary during the COVID-19 PHE.

Specific COVID-19 documents issued by the NRC related to materials licensees can be found at: <https://www.nrc.gov/about-nrc/covid-19/materials/med-indust-academic.html>. In addition, the Enforcement Guidance Memorandums related to materials licensees can be found at: <https://www.nrc.gov/reading-rm/basic-ref/enf-man/app-a.html>.

6. What is the NRC doing with respect to licensing reviews and the receipt of applicant/licensee correspondence?

The NRC continues to process correspondence through its mailroom and review licensing casework as scheduled. Since NRC staff is currently teleworking, licensees are encouraged to send electronic copies of their submissions, as appropriate, to their respective licensing project managers or supervisors, or notify them that an application or correspondence has been mailed to ensure the timely processing and acknowledgement of them.

Should a licensing review be impacted by the current COVID-19 PHE (e.g. delay in responses to requests for additional information, unable to conduct a pre-licensing visit), the NRC will communicate with the applicant/licensee to determine appropriate course of action and document the reasons for the delay in finalizing the licensing actions and any agreed-upon path forward for completing the review.

7. Given the current restrictions in travel, is the NRC continuing to conduct pre-licensing site visits prior to issuing a license?

The agency will resume pre-licensing site visits in accordance with the “Decision-making Tool for Materials and Waste Programs’ Inspection Activities During COVID-19 Public Health Emergency Recovery.”

8. What interaction is NRC having with the American Society for Nondestructive Testing (ASNT) and its certification program. Are the expiring radiographer certifications being extended? If so, is NRC approving such extensions?

The NRC received a regulation exemption request from the ASNT regarding extending the radiography certification expiration dates. The NRC granted the exemption request for ASNT to extend certifications expiring between March 31, 2020 and September 30, 2020, for up to two extensions to these individuals, in increments of no more than 90 days. The ASNT will notify via email the confirmation of the extension to affected individuals. In addition, the ASNT will update each record on its website. The NRC and Agreement State inspectors can confirm the validity of radiography certifications through the ASNT Certificate Holders Directory at:

https://www.asnt.org/MajorSiteSections/Certification/Certificate_Holders.aspx. The NRC’s full response to the requested exemption can be found using ADAMS Accession Number ML20090C666.

9. What are some of the COVID-19 implications to the implementation of the Integrated Materials Performance Evaluation Program (IMPEP)?

The NRC is maximizing the use of technology and where appropriate continuing without disruptions the implementation of IMPEP using remote capabilities. For example, the IMPEP reviews for the Wyoming and Georgia Agreement State Programs were conducted virtually in March and April 2020, respectively. The NRC has also postponed most IMPEP reviews of other States scheduled for FY2020 until FY2021.

Notwithstanding, travel restrictions across the U.S. may delay the conduct of inspection accompaniments in support of future IMPEP reviews, team member participation in IMPEP reviews, and the conduct of on-site reviews and in-person periodic meetings. These will be addressed on a case-by-case basis with each State.

10. How are future IMPEP reviews considering any impacts of the COVID-19 PHE in the timely completion of routine and/or reciprocity inspections?

The NRC is in the process of developing a Temporary Instruction (TI) to address how performance indicators will be evaluated by IMPEP teams for actions taken by NMP radiation control programs during the COVID-19 PHE. The NRC recognizes the Agreement State Program's priority is the protection of public health and safety, as well as the protection of their staff, and understand the disruptions the COVID-19 PHE has caused to the conduct of inspections, licensing, and other elements of its Programs. The NRC encourages the States to document any changes to normal implementation of its Radiation Control Programs so future IMPEP review teams have the information they need to assess the programs. IMPEP reviews are performance based and as such, the NRC does not foresee the Program's evaluations to be impacted solely by the delays these interim restrictions may cause.

For example, Programs should document the inspections that could not be performed during the COVID-19 PHE period with an appropriate justification (e.g., travel restriction, denied access, etc.) and develop a plan to conduct any overdue or delayed inspections upon the easing of the limitations caused by COVID-19 PHE. During the IMPEP review, the team will take into consideration the list of overdue and delayed routine and reciprocity inspections impacted by the COVID-19 PHE and evaluate them in accordance with the TI. The team will evaluate the implementation of the plan to conduct the overdue inspections.

Further, the IMPEP process allows for this flexibility as stated in SA-101, Status of Materials Inspection Program, Section V.B.8:

In applying the criteria, flexibility may be used to make the determination of the rating for this indicator. The review team should consider the status of the Program and any mitigating factors that may have prohibited the Program from conducting inspections during the review period. The review team's assessment should include the examination of plans to perform any overdue inspections or reschedule any missed or deferred inspections. The Principal Reviewer should determine that a basis has been established by the Program for not performing any overdue inspections or rescheduling any missed or deferred inspections.

The IMPEP reviews have, in the past, successfully evaluated Agreement State and NRC Materials Programs that were challenged to conduct timely inspections and licensing due to unique circumstances, such as natural phenomena events. Annual IMPEP team leader counterpart meetings and team member trainings will continue to include discussions reinforcing the consideration that should be applied based on unique circumstances to provide knowledge, understanding of a performance-based review, and use of the TI.

11. How will the IMPEP review team evaluate the Agreement State Program's decision to delay or not respond to an event or allegation?

The Program should evaluate each incident or allegation on case-by-case basis and document their decision on their course of action. During the IMPEP review, the team will take into consideration the COVID-19 PHE restrictions and the public health safety significance of the event or allegation. The NRC would expect the review team to verify that the Program evaluated the incident and if appropriate, considered following up on the allegation remotely when on-site response is not the best course of action considering the circumstances.

12. Do Agreement States have the authority to issue the exemptions to their licensees? Can the Agreement States issue "blanket exemptions" instead of issuing exemptions on a case-by-case basis? Does the NRC have to approve these exemptions for compatibility with NRC requirements?

Agreement States have the authority to issue exemptions to their licensees provided the exemptions are protective of health and safety. Exemptions issued by Agreement States do not need prior approval from the NRC. One of the 28 criteria (Criterion 11) used to evaluate new Agreement State applications (see Commission Policy Statement *Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreements* (46 FR 7540, January 23, 1981; as amended by policy statements published at 46 FR 36969, July 16, 1981; and 48 FR 33376, July 21, 1983)) requires the State to have the authority to impose additional requirements to protect health and safety, or to grant necessary exemptions which will not jeopardize health and safety. All of the current 39 Agreement States have been evaluated against this criterion.

The NRC's Agreement State Program Policy Statement (82 FR 48535, October 18, 2017) recognizes the need for Agreement States to have flexibility in program implementation and administration to accommodate individual State preferences, State legislative direction, and local needs and conditions. Agreement State programs need to take action in response to the COVID-19 PHE in accordance with the specific conditions in their State, the orders issued by their Governor and public health officials, and State administrative processes. Consequently, Agreement States have flexibility to issue exemptions to their licensees and flexibility in the administrative procedures they use to issue exemptions. The regulatory relief that the State approves may be different than those exemptions issued by the NRC.

13. Is NRC staff available to receive and accept fingerprint submissions via the NRC mailroom?

Yes, the NRC mailroom will continue to process incoming mail. Criminal history staff are submissions. For information on Criminal History Records Check submission visit: <https://www.nrc.gov/security/chp.html>.

The NRC recognizes that some licensees are experiencing difficulties getting employees fingerprinted to meet 10 CFR 37.23, *Access Authorization Program Requirements*, and 10 CFR 37.25, *Background Investigations*, requirements due to local law enforcement agencies

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and private fingerprinting companies not being open to the public for fingerprinting during the COVID19 PHE. Some Federal and State government offices and commercial services, e.g. United Parcel Services stores are still open to the public for fingerprinting services but may be operating under limited hours. This issue may affect the ability to submit initial investigations in accordance with 10 CFR 37.25(a) and 10-year reinvestigation in accordance with 10 CFR 37.25(c) for unescorted access to Category 1 and Category 2 radioactive materials. We have encouraged NRC licensees to search online for government or private organizations that provide fingerprinting and to report to NRC if they have issues or concerns.

For further information on regulatory relief related to fingerprinting requirements, the NRC issued a letter dated May 1, 2020 titled, "U.S. Nuclear Regulatory Commission Planned Actions Related to Certain Requirements for Part 37 During the Coronavirus Disease 2019 Public Health Emergency." The letter can be found under the "Related Communications" section using the following link: <https://www.nrc.gov/about-nrc/covid-19/materials/med-indust-academic.html>.