

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555

December 27, 2002

NRC INFORMATION NOTICE 2002-36: INCOMPLETE OR INACCURATE INFORMATION
PROVIDED TO THE LICENSEE AND/OR NRC BY
ANY CONTRACTOR OR SUBCONTRACTOR
EMPLOYEE

Addressees:

All materials and fuel cycle licensees and certificate holders.

Purpose:

The U.S. Nuclear Regulatory Commission (NRC) is issuing this Information Notice (IN) to remind addressees of the importance of diligently ascertaining the accuracy of educational background and professional qualifications of any contractor or subcontractor employees subject to such qualification requirements. This IN also alerts addressees of the potential penalties that could result from intentionally providing incomplete or inaccurate information to NRC. It is expected that recipients will review this information for applicability to their facilities and consider actions, as appropriate, to avoid similar problems. However, suggestions contained in this IN are not new NRC requirements; therefore, no specific action nor written response is required.

Description of Circumstances:

The NRC Office of Investigations (OI) recently completed an investigation concerning a consultant's falsification of records, including his educational background. Five NRC medical licensees had contracted the consultant to perform health physics services. OI initiated the investigation based on results of NRC inspections at several medical facilities where the individual provided consulting services. NRC identified false information in various required records (e.g., xenon gas clearance rate calculations, which determine the amount of time that would be needed to clear accidentally spilled radioactive xenon gas from rooms where it was to be used; dose calibrator accuracy evaluations, which compare a known radiation activity to that measured by the calibrator; and survey meter calibrations, which should be performed before first use, annually, and after repair). The investigation determined that the consultant had provided the inaccurate information to licensees, who then provided it to NRC.

NRC also identified inaccurate information regarding the consultant's educational background and professional qualifications. A licensee had failed to check the accuracy of the information and had provided it to NRC in support of a request to name the consultant as the radiation safety officer. The inaccurate information included a copy of a certificate purportedly issued to the individual by a medical specialty board.

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Discussion:

The regulations in 10 CFR 30.9, 40.9, 60.10, 61.9a, 63.10, 70.9, 71.7, 72.11, 76.9, and 110.7a, “Completeness and Accuracy of Information,” require that the information provided to NRC shall be complete and accurate in all material respects. This requirement includes information related to an individual’s educational background and professional qualifications. Therefore, licensees and certificate holders should exercise due diligence in verifying the qualifications of consultants and contractors before employment. This is especially true when the licensee or certificate holder will rely on the work of the individual when making submissions to NRC. The responsibility for ensuring that complete and accurate information is provided to NRC ultimately rests with the licensee and/or certificate holder. Having unqualified personnel conducting licensed activities or providing information or services needed to comply with regulatory requirements could cause a licensee or certificate holder to be in violation of NRC requirements.

The regulations in 10 CFR 30.10, 40.10, 60.11, 61.9b, 63.11, 70.10, 71.11, 72.12, 76.10, and 110.7b, “Deliberate Misconduct,” prohibit any licensee, certificate holder, or any employee, contractor, or subcontractor employee (including a supplier or consultant) of a licensee or certificate holder from deliberately submitting information, to NRC, that the person submitting the information knows to be incomplete and inaccurate in some material respect. Persons found to be involved in violation of this requirement may be subject to enforcement action, in accordance with the “General Statement of Policy and Procedure for Enforcement Actions” (i.e., Enforcement Policy, available online at: <http://www.nrc.gov/what-we-do/regulatory/enforcement/enforc-pol.pdf>). Actions against individuals may include civil penalties; orders to modify, suspend, or revoke licenses; and orders to individuals, restricting future involvement by these individuals in any licensed activities. NRC will refer cases to the U.S. Department of Justice for criminal prosecution involving persons who deliberately cause violations of NRC regulations. NRC may also refer cases to other Federal agencies for investigation, if such cases fall within their jurisdiction.

Related Generic Communications:

- IN 00-04, “1999 Enforcement Sanctions for Deliberate Violations of NRC Employee Protection Requirements”
- IN 97-75, “Enforcement Sanctions Issued as a Result of Deliberate Violations of NRC Requirements”
- IN 93-73, “Criminal Prosecution of Nuclear Suppliers for Wrongdoing”
- IN 92-37, “Implementation of the Deliberate Misconduct Rule”

This IN requires no specific action nor written response. If you have any questions about the information in this notice, please contact one of the technical contacts listed below, or the appropriate regional office.

/RA/SMFrant for

Donald A. Cool, Director
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Attachments:

1. List of Recently Issued NMSS Information Notices
2. List of Recently Issued NRC Information Notices