

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF FEDERAL AND STATE MATERIALS
AND ENVIRONMENTAL MANAGEMENT PROGRAMS
WASHINGTON D.C. 20555-0001

December 14, 2011

**NRC REGULATORY ISSUE SUMMARY 2006-20, Rev. 1
GUIDANCE FOR RECEIVING ENFORCEMENT DISCRETION WHEN
CONCENTRATING URANIUM AT COMMUNITY WATER SYSTEMS**

ADDRESSEES

All community water systems (CWSs) in the U.S. Nuclear Regulatory Commission (NRC) 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.

INTENT

The NRC is issuing this regulatory issue summary (RIS) to rescind, in its entirety, RIS 2006-20. No action or written response is required.

BACKGROUND

On December 7, 2000 (65 *FR* 76707), the U.S. Environmental Protection Agency (EPA) issued new standards for the uranium content in drinking water. In EPA's final rulemaking, EPA set a maximum contaminant level (MCL) of 30 micrograms per liter, equivalent to 30 parts per billion, for uranium in drinking water. The Atomic Energy Act of 1954, as amended, provides the NRC with regulatory authority over source material (which includes uranium and thorium) after its removal from its place of deposit in nature. The NRC has issued regulations for source material in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 40, "Domestic Licensing of Source Material."

In the *Federal Register* notice for the December 2000 final rule, the EPA estimated that 500 water treatment facilities may be required to remove uranium from drinking water. However, the exact number of affected facilities was uncertain because uranium concentration in drinking water had never been systematically measured. When RIS 2006-20 was issued on September 14, 2006, the staff was concerned that EPA's new regulation, effective at the end of 2007, would result in the need for NRC and the Agreement States to specifically license a large number of water treatment facilities under 10 CFR Part 40. This would result in large resource implications for CWSs and the NRC. To avoid the burden associated with issuing so many new specific licenses while still ensuring public health and safety, the NRC began promulgating a

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new general license that would be applicable only to water treatment facilities that removed uranium from drinking water. As a final rule was unlikely to be promulgated before the EPA implemented its rule, the staff also recommended that the Commission approve the use of enforcement discretion to not cite the failure of a CWS to obtain a specific license until the rulemaking for the new general license was completed. The Commission approved the use of enforcement discretion for CWSs that met specific criteria, and RIS 2006-20 was issued to convey the opportunity for regulatory relief.

SUMMARY OF ISSUE

To date, the NRC has not received any requests by a CWS for enforcement discretion from the specific licensing requirements in 10 CFR Part 40, and the NRC has only issued one specific license for removal of uranium from drinking water. The number of applications for specific licenses is well below the number estimated in 2006 when the staff initially recommended promulgation of a new general license. The unexpectedly low number of specific license applications may be because: (1) the number of water treatment facilities requiring removal of uranium was overestimated, (2) some water treatment facilities may be using alternate sources for drinking water or using technologies that do not concentrate uranium to levels requiring licensing (i.e., they are able to maintain concentration of uranium below 0.05 percent by weight of uranium in accordance with the exemption for unimportant quantities in 10 CFR 40.13(a)), (3) some water treatment facilities may operate within the constraints of the general license for small quantities of source material in 10 CFR 40.22 (i.e., maintain under 15 pounds of uranium at one time and concentrate less than 150 pounds of uranium per year), and (4) some water treatment facilities may have been allowed to defer treatment of water for uranium removal while technical considerations are worked out with the EPA.

Since the NRC originally announced the initiation of the proposed rulemaking for CWSs in 2006, neither industry nor the Agreement States have urged the NRC to complete the general license rulemaking for CWSs. Based on the limited number of specific license applications received to date, the staff has concluded that promulgation of the new general license rule is unnecessary and has terminated the rulemaking as it appears that most CWSs are able to operate within the confines of the existing general license requirements. Accordingly, the NRC has concluded that there is no longer a reason to continue to offer enforcement discretion to CWSs for the failure to obtain a specific license. There are existing licensing pathways available to CWSs and those that concentrate uranium at levels requiring a specific license are required to apply for a specific license. Based on this determination, the NRC is rescinding RIS 2006-20.

BACKFIT

This RIS requires no action or written response. Any action on the part of addressees in accordance with the guidance contained in this RIS is strictly voluntary and, therefore, is not a backfit under any requirement. Consequently, the staff did not perform a backfit analysis.

FEDERAL REGISTER NOTIFICATION

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

CONGRESSIONAL REVIEW ACT

This RIS is not a rule as designated by the Congressional Review Act (5 U.S.C. §§ 801-886) and, therefore, is not subject to the Act.

RELATED GENERIC COMMUNICATIONS

NRC Regulatory Issue Summary 2006-20, "Guidance for Receiving Enforcement Discretion When Concentrating Uranium at Community Water Systems."

PAPERWORK REDUCTION ACT STATEMENT

This RIS references information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). These information collection requirements were approved by the Office of Management and Budget, approval number 3150-0020.

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 RIS, please contact the technical contact listed below or the appropriate regional office.

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Enclosure:
List of Recently Issued FSME
Generic Communications

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Enclosure:
List of Recently Issued FSME
Generic Communications

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| OFC | FSME:DILR | FSME:DILR | FSME:RMSB | OE |
| NAME | GComfort | JDanna | AMcIntosh | KDay |
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| List of Recently Issued Office of Federal and State Material and Environmental Management Programs Generic Communications | | | |
|--|-------------|--|---|
| Date | GC No. | Subject | Addressees |
| 11/19/2010 | IN-2010-24 | Notice of Possible Source Leakage During Non-Routine Maintenance on a Gammacell 40 Irradiator | All academic Type A broad scope licensees; all medical institutions; all self shielded irradiators less than or equal to 10,000 cues licensees; all Radiation Control Program Directors and State Liaison Officers. |
| 04/27/2011 | IN-2011-11 | Reporting Requirement for Heat and Smoke Detector Failures in 10 CFR Part 36 Irradiators | All holders of irradiator licenses issued by the U.S. Nuclear Regulatory Commission under to Title 10 of the <i>Code of Federal Regulations</i> (10 CFR), Part 36, "Licensees and Radiation Safety Requirements for Irradiators;" Agreement State Radiation Control Program Directors and State Liaison Officers |
| 01/21/10 | RIS-2010-02 | The Global Threat Reduction Initiative (GTRI) Federally Funded Voluntary Security Enhancements for High-Risk Radiological Material | All holders of operating licenses for nuclear power reactors and research and test reactors under the provisions of Title 10 of the <i>Code of Federal Regulations</i> (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," except those that have ceased operations and have certified that fuel has been permanently removed from the reactor vessel and have no spent fuel stored on-site. All U.S. Nuclear Regulatory Commission (NRC) fuel cycle facilities licensed under 10 CFR Part 40, "Domestic Licensing of Source Material" or 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material" and gaseous diffusion plants certified under 10 CFR Part 76, "Certification of Gaseous Diffusion Plants." All holders of site-specific licenses for independent spent fuel storage installations (ISFSIs) under the provisions of 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-level Radioactive Waste, and Reactor-related Greater than Class C Waste," and all holders of 10 CFR Part 50 licenses with ISFSIs under the general license provisions of 10 CFR Part 72. All NRC materials licensees authorized to possess Category 1 or Category 2 quantities of radioactive materials, under the provisions of 10 CFR Parts 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," 40, and 70. |

| List of Recently Issued Office of Federal and State Material and Environmental Management Programs Generic Communications | | | |
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| Date | GC No. | Subject | Addressees |
| 05/25/10 | RIS-2010-04 | Monitoring the Status of Regulated Activities During a Pandemic | All holders of operating licenses for nuclear power reactors and research and test reactors under the provisions of Title 10 of the <i>Code of Federal Regulations</i> (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," except those that have ceased operations and have certified that fuel has been permanently removed from the reactor vessel and have no spent fuel stored on-site. All U.S. Nuclear Regulatory Commission (NRC) fuel cycle facilities licensed under 10 CFR Part 40, "Domestic Licensing of Source Material" or 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material" and gaseous diffusion plants certified under 10 CFR Part 76, "Certification of Gaseous Diffusion Plants." All holders of site-specific licenses for independent spent fuel storage installations (ISFSIs) under the provisions of 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-level Radioactive Waste, and Reactor-related Greater than Class C Waste," and all holders of 10 CFR Part 50 licenses with ISFSIs under the general license provisions of 10 CFR Part 72. All NRC materials licensees authorized to possess Category 1 or Category 2 quantities of radioactive materials, under the provisions of 10 CFR Parts 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," 40, and 70. |
| 09/10/10 | RIS-2010-09 | Radiation Safety Officers For Medical-Use Licenses Under 10 CFR Part 35 | All U.S. Nuclear Regulatory Commission (NRC) medical-use licensees, NRC master material licensees, Agreement State Radiation Control Program Directors, and State Liaison Officers. |
| 01/25/11 | RIS-2011-01 | NRC Policy On Release Of Iodine-131 Therapy Patients Under 10 CFR 35.75 To Locations Other Than Private Residences | All U.S. Nuclear Regulatory Commission (NRC) medical-use licensees, NRC master material licensees, 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> | | | |