

January 23, 2006

MEMORANDUM TO: Chairman Diaz
Commissioner McGaffigan
Commissioner Merrifield
Commissioner Jaczko
Commissioner Lyons

FROM: Luis A. Reyes */RA/*
Executive Director for Operations

SUBJECT: JANUARY 2006 UPDATE: INCREASED CONTROL OF
SOURCES

On August 15, 2005, the Commission directed the staff in a Staff Requirements Memorandum (SRM) to implement the actions in COMSECY-05-0028, "Staff Response to SRM for COMSECY-05-0015: Initiatives for Increasing Agreement State Participation in the Control of Sources." In order to keep the Commission fully and currently informed during the initial implementation of the increased controls, the staff has provided updates to the Commission through EDO Daily Notes, the Office of Nuclear Security and Incident Response Monthly Significant Security Activities Update, and a Technical Assistants briefing. The staff provided the first quarterly report to the Commission, consistent with the SRM for COMSECY-05-0028 on December 22, 2005. This quarterly report provided a timeline of all actions completed to date on this effort, and this format will be used for subsequent quarterly reports. The staff will also continue to provide monthly updates on the status of ongoing U.S. Nuclear Regulatory Commission (NRC) and Agreement State activities relative to the increased controls.

As a result of the staff's quality assurance review of licensees who were issued the increased controls Order on November 14, 2005, staff identified an additional 635 NRC licensees that met the criteria for receiving the Order, but were not included in the November 2005 mailing. Staff identified these additional licensees through a visual review of approximately 3,000 NRC issued materials licenses to identify license conditions that would authorize possession of quantities of concern. This visual review was necessary because many licenses are written with open-ended material authorizations and without a firm possession limit that would have facilitated the use of an automated search mechanism to identify the licensees. On December 22, 2005, the staff issued the increased controls Order to these additional licensees. The additional licensees are

CONTACTS: Andrew N. Mauer, STP
301-415-3962

Douglas A. Broaddus, NMSS
301-415-8124

also being added to the interim inventory database, and will be requested to provide information on the sources they possess. Based on the types of licenses identified during the quality assurance review, and the responses of licensees from the initial mailing, the staff expects that most of these additional licensees will not actually possess quantities of concern, and will not need to implement the Order. Future recurrences of this issue with possession limits will be addressed by additional licensing guidance for newly issued or amended licenses to include a limit that would restrict possession to below the threshold values when a licensee does not plan to possess quantities of concern.

The staff continues to follow up with the Agreement States on the status of the quality assurance checks of licensees in Agreement States who should have been issued increased controls. As additional licensees are identified with license authorizations for quantities of concern, these licensees are either being issued increased controls or Agreement States are taking action to reduce the limits on the affected licenses to below the quantities of concern. Any of these additional Agreement States licensees whose possession limits are not reduced below the threshold values will also be added to the interim inventory database, and will be requested to provide information on the sources they possess.

Several activities are currently underway which involve implementation of the increased controls, and the status of these activities will be addressed in future updates. As noted in the first quarterly report, the staff has drafted a temporary instruction for inspection of the increased controls and proposed revisions to the Integrated Materials Performance Evaluation Program. These documents are currently being finalized, and will be issued in the near future. In early January 2006, the staff established a working group composed of NRC managers and a representative of the Organization of Agreement States, Inc., to ensure regulatory consistency by reviewing and dispositioning implementation issues identified by the NRC staff, the Agreement State Radiation Control Programs, and licensees.

The staff has arranged to conduct at least four training courses for NRC and Agreement State inspectors in FY 2006. The first training course will be conducted at Sandia National Laboratory in Albuquerque, New Mexico, in February 2006. Subsequent training courses will be conducted in the Agreement States of Texas (April 2006) and California (May 2006). The fourth training course will be conducted in June 2006 at Sandia National Laboratory. The staff is working with the Agreement States to understand training needs in FY 2006 and FY 2007, and will schedule additional courses, as appropriate.

All licensees who have been issued the increased controls and possess radioactive materials outlined in the Order (EA-05-090), must be in compliance with the increased controls within six months from the date of issuance. Inspections could begin as soon as licensees report full compliance, but in any case will begin no later than six months after the date of issuance of the increased controls. The NRC staff and the Agreement States are tracking licensee compliance with the increased controls and currently are continuing to follow up with the affected licensees to ensure adequate responses to the increased control requirements are received from each of the affected licensees. In many cases, licensees have requested that the authorized possession limits on their licenses be reduced below the quantities of concern, or have identified that they do not possess radioactive materials in quantities of concern in aggregate.

Once all of the licensees that will actually need to implement the increased controls are identified, the NRC and Agreement State staff will begin scheduling inspections of the higher risk licensees within the first year of implementation based on the prioritization methodology. In future updates, the staff will provide an estimate of the approximately 2,900 NRC and Agreement State licensees issued the increased controls that will be implementing the requirements, and thus need to be inspected.

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