

September 28, 2007

MEMORANDUM TO: Chairman Klein
Commissioner Jaczko
Commissioner Lyons

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

SUBJECT: SEPTEMBER 2007 QUARTERLY 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," and to provide quarterly updates of actions completed. This memorandum provides a quarterly update on the status of ongoing U.S. Nuclear Regulatory Commission (NRC) and Agreement State activities relative to the Increased Control (IC), along with a chronology of events regarding the IC efforts to date. Specifically, this update addresses current implementation, training, guidance, and communication efforts in regard to the IC. The staff's last quarterly update was dated June 29, 2007 (Agencywide Documents Access and Management System (ADAMS) Accession Number ML071650312).

Implementation Working Group

In 2005, the Implementation of Increased Controls Working Group (IICWG) was formed under the guidance of Management Directive (MD) 5.3, "Agreement State Participation in Working Groups," with representatives from the Office of Federal and State Materials and Environmental Management Programs, Office of Nuclear Security and Incident Response, Office of the General Counsel, the Regions, the Organization of Agreement States (OAS), and the Conference of Radiation Control Program Directors (CRCPD). Other NRC offices participate as needed. The IICWG meets by teleconference on the second and fourth Wednesdays of the month.

In addition to routine implementations issues, the IICWG last quarter guided the work of a subgroup developing guidance for the continuing IC inspections. The work of this subgroup is further discussed in the Guidance Section below.

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Inspections of Licensees Implementing the IC

The NRC Regions and Agreement States have completed the first-year inspections of high priority licensees, and are continuing to inspect the lower priority licensees as planned.

The performance of the Regions and States in prioritizing and conducting the IC inspections is verified through the routine Integrated Materials Performance Evaluation Program (IMPEP) reviews. The Regions and Agreement States which have been evaluated to date, were found to be on schedule, had properly prioritized the licensees, and performed adequate inspections meeting established criteria.

Neither the Regions or the Agreement States have reported any significant problems in the completion of scheduled IC inspections.

The NRC Regions and Agreement States have conducted approximately 1,100 IC inspections out of a nationwide total of approximately 1,700 licensees that are required to implement the IC requirements.

As described in previous updates, the IICWG identified that some of the IC requirements were either being misinterpreted or incompletely implemented by licensees. NRC issued Information Notice (IN) 2007-16, "Common Violations of the IC Requirements & Related Guidance Documents," on May 2, 2007, to inform licensees of information and guidance available to assist with the implementation of the IC requirements. Based on the available information, licensees continue to have difficulty achieving full compliance with the IC requirements by the time of their initial IC inspection. Although it may be too soon to determine the effectiveness of the IN, the IICWG will continue to explore additional mechanisms and opportunities to communicate the proper implementation of the IC requirements to licensees.

Training

Inspectors from each Agreement State and NRC Region have attended the NRC-sponsored training sessions on IC inspections. A sufficient number of personnel were trained to enable the completion of the first round of inspections on time. Three sessions were held in Fiscal Year (FY) 2007, training about 30 students each. In the last quarter, a session in August 2007 trained students from the NRC Regions, Headquarters, the Agreement States, and the NRC Master Materials Licenses. NRC has funded all Agreement State travel associated with the IC training. NRC staff recognizes the need for additional IC inspection training course sessions in the future. Sessions are budgeted in FY 2008 and in FY 2009 and will be requested in FY 2010.

The Agreement States of Florida, Ohio and Texas have expressed interest in hosting course sessions. One of the 2008 courses is scheduled to be held in the State of Florida, and another tentatively scheduled to be held in Pennsylvania. Also, NRC is generally supportive of Agreement States using a "train the trainer" approach to customize the training, reduce travel costs and meet state specific needs.

Guidance

In May of 2007, the IICWG formed a subgroup to develop guidance for future IC inspections. The subgroup is developing an Interim Guidance letter, which will be provided to the Directors of the Regional Divisions of Nuclear Material Safety and to the Directors of the Agreement State Radiation Control Programs. The subgroup is developing changes to Chapter 2800, "Materials Inspection Program," and specific Inspection Procedures (IPs) for the inspections of IC implementation and the implementation of the requirements of the Additional Security Requirements Orders issued to Panoramic Irradiator and Manufacturing and Distribution licensees. This guidance will replace the Temporary Instruction 2008/038 which is set to expire on March 30, 2008.

The subgroup meets by teleconference on Wednesdays in the weeks between the IICWG meetings. The subgroup held one face-to-face meeting in NRC Headquarters on July 30 - 31, 2007. No additional face-to-face meetings are anticipated.

Fingerprinting

Section 652 of the Energy Policy Act requires, in part, the fingerprinting of any individual who is permitted unescorted access to radioactive materials or other property subject to regulation by the Commission and determined by the Commission to be of such significance to the public health and safety or the common defense and security. In SRM-SECY-07-0011, "Interim Implementation of Fingerprinting Requirements in Section 652 of the Energy Policy Act of 2005," dated March 12, 2007, the Commission determined that radioactive materials for which the Commission has previously decided to impose "increased controls" are materials of such significance.

The Increased Controls Fingerprinting Working Group was formed in April 2007 under MD 5.3 with OAS and CRCPD representatives on both the working group and the steering committee established to aid the working group. The working group co-chairs briefed the Commissioners' Technical Assistants on July 3, 2007. The working group is providing the Commission information on its activities in separate communications.

Communications

The secure IC Toolbox Web site continues to be the primary method of communicating with the Agreement States on IC issues. Currently, there are more than 400 Agreement State and NRC staff registered as users of the Web site. However, Agreement State letters, or other formal communications, are issued when necessitated by a significant development. Non-sensitive issues are occasionally raised during the monthly OAS/CRCPD/NRC teleconferences.

Summary

The following IC-related activity was completed during this quarter (the status of all completed actions to date is provided in the enclosure):

- The performance of NRC Region III and the Agreement States of South Carolina, Iowa, and Maryland in performing IC inspections were examined through the routine IMPEP reviews.

The staff expects that the following activities will occur during the upcoming quarters:

- The IICWG subgroup for future IC inspections will issue interim guidance on continued IC inspections by letter, and continues to develop guidance to be added to the NRC Inspection Manual and IP.
- IC inspections of lower priority licensees will continue in both the Agreement States and NRC Regions. Some States should complete initial inspections of all licensees implementing IC during the second year.
- The NRC will issue guidance in the Inspection Manual Chapter 2800 and IPs on subsequent routine re-inspection of IC licensees.
- NRC staff will continue to work with Technical Training Center and the Agreement States to determine a schedule for the FY 2008 and FY 2009 IC courses.

Enclosure:
Timeline for the Issuance of the
Increased Controls

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