

**POLICY ISSUE**  
**(INFORMATION)**

September 20, 2011

SECY-11-0132

FOR: The Commissioners

FROM: Cynthia A. Carpenter, Acting Director  
Office of Federal and State Materials  
and Environmental Management Programs

SUBJECT: REVISION OF THE CRITERIA FOR IDENTIFYING NUCLEAR  
MATERIAL LICENSEES FOR DISCUSSION AT THE AGENCY ACTION  
REVIEW MEETING

PURPOSE:

To inform the Commission of the revision to the criteria which are used to identify nuclear materials licensees with significant performance issues that warrant discussion at a U.S. Nuclear Regulatory Commission's (NRC) Agency Action Review Meeting (AARM). This paper does not address any new commitments or resource implications.

BACKGROUND:

In 2002, the NRC developed a process for providing information on significant nuclear materials issues and adverse licensee performance. This process was provided in SECY-02-0216, "Proposed Process for Providing Information on Significant Nuclear Materials Issues and Adverse Licensee Performance," dated December 11, 2002. As part of this process, criteria were developed to determine nuclear material licensees with significant performance problems that will be discussed at the AARM. The AARM is an agency meeting that allows senior NRC managers (1) to review the appropriateness of agency actions that have been taken for those nuclear reactor and nuclear material licensees with significant performance problems, (2) to ensure that coordinated courses of action have been developed and implemented for licensees of concern, (3) to review results of the staff's assessment of the reactor oversight process

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effectiveness, and (4) to ensure that trends in industry and licensee performance are recognized and appropriately addressed.

In January 2008, as part of the 2008 AARM preparation process, NRC senior management decided that the criteria used to identify a nuclear material licensee with significant performance problems that will be discussed at the AARM needed to be revised to provide additional clarity, which included incorporating NRC's current policies and procedures. In addition, there was a concern that a formal process for revising the criteria had never been established. Therefore, a formal process for revising the criteria was developed and the criteria were revised. The revised criteria for identifying nuclear materials licensees for discussion at the AARM and the process used to revise the criteria were provided to the Commission under SECY-08-0135.

In June 2009, the Commission issued Staff Requirements Memorandum (SRM) M090514, in response to the Commission Briefing on the results of the May 14, 2009, AARM. One item in the SRM stated that "The staff should continue to look for ways to improve and clarify the evaluation process and criteria that are used to identify nuclear materials licensees that warrant discussion at the NRC's Agency Action Review Meeting as well as the criteria licensees need to achieve in order to no longer be considered for discussion." In response to the SRM and as part of the 2010 AARM preparation process, NRC management took a look at the criteria and decided that an additional criterion should be added to address licensees who previously were discussed at the AARM but their corrective actions were ineffective in correcting the underlying issues. At the 2010 AARM, NRC senior management discussed and approved the addition of the new criterion.

#### DISCUSSION:

The agency currently identifies material licensees, including fuel cycle and Agreement State licensees, for AARM discussion based on operating performance, inspection results, and judgment of the severity of the problems related to safety performance. The revised criteria will continue to be based upon the same principles of the existing criteria, but the staff is proposing to include one additional criterion. This criterion focuses on those licensees previously discussed at the AARM who did not address or were ineffective in correcting their underlying issues. As part of the process for revising the criteria, as defined in SECY-08-0135, a *Federal Register* (FR) Notice was published requesting comment on the proposed revision to the criteria (75 FR 54917, September 9, 2010). No public comments were received in response to the FRN on the proposed revision to the criteria. The revised criteria for identifying nuclear material licensees for discussion at the AARM may be found in the enclosure to this paper. Also, in conjunction with the addition of this criterion, the staff will ensure that through the normal enforcement and/or inspection processes, licensees will be informed when the NRC has determined that the licensee has corrected the underlying issue(s).

#### CONCLUSION:

The staff plans to publish a FRN describing the new criteria for identifying nuclear materials licensees for discussion at the AARM. The new criteria will be used as part of the next (e.g., 2012) AARM process.

The Commissioners

3

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection.

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Cynthia A. Carpenter, Acting Director  
Office of Federal and State Materials  
and Environmental Management Programs

Enclosure:  
Criteria for Identifying Nuclear Materials  
Licensees for Discussion at the AARM

COORDINATION:

The Office of the General Counsel has reviewed this paper and has no legal objection.

Cynthia A. Carpenter, Acting Director  
 Office of Federal and State Materials  
 and Environmental Management Programs

Enclosure:  
 Criteria for Identifying Nuclear Materials  
 Licensees for Discussion at the AARM

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## **Criteria for Identifying Nuclear Material Licensees for Discussion at the Agency Action Review Meeting (AARM)**

### **I. Strategic Plan**

Licensee has an event that results in the failure to meet a Strategic Outcome for Safety or Security in the U.S. Nuclear Regulatory Commission (NRC) Strategic Plan (NUREG-1614).

### **II. Significant Issue or Event**

Licensee has an issue or event that results in:

1. An Abnormal Occurrence Report to Congress (per Management Directive 8.1), or
2. A severity level I or II violation, as described in the NRC Enforcement Policy (including equivalent violations dispositioned by Alternative Dispute Resolution), or
3. A Level 3 or higher International Nuclear Event Scale Report to the International Atomic Energy Agency (per Management Directive 5.12),

**and**

There are unique or unusual aspects of the licensee's performance that warrant additional NRC oversight (e.g., a significant event, which requires an incident investigation team or augmented inspection team).

### **III. Performance Trend**

Licensee has multiple and/or repetitive significant program issues identified over more than one inspection or inspection period, and the issues are supported by a severity level I, II, or III violation, as described in the NRC Enforcement Policy (including equivalent violations dispositioned by Alternative Dispute Resolution).

**and**

There are unique or unusual aspects of the licensee's performance that warrant additional NRC oversight (e.g., oversight panel formed for order implementation).

### **IV. Identified for Discussion at Previous AARM**

Licensee corrective actions did not address or were ineffective in correcting the underlying issues that were previously discussed at the AARM.

Enclosure