[7590-01-P]

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Interim Staff Guidance Documents For Fuel Cycle Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: James Smith, Project Manager, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20005-0001. Telephone: (301) 415-6459; fax number: (301) 415-5370; e-mail: jas4@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Nuclear Regulatory Commission (NRC) is preparing and issuing Interim Staff Guidance (ISG) documents for fuel cycle facilities. These ISG documents provide clarifying guidance to the NRC staff when reviewing licensee integrated safety analyses, license applications or amendment requests or other related licensing activities for fuel cycle facilities under Subpart H of 10 CFR Part 70. The NRC is making available in final one ISG document (FCSS-ISG-05), which was previously issued for comment in September 2004. Additions and changes have been made in response to comments from the public and members of the NRC staff.

II. Summary

The purpose of this notice is to provide the public with the final version of an interim staff guidance (ISG) document for fuel cycle facilities. FCSS-ISG-05, Rev. 0 discusses the effective dates for the additional reporting requirements of 10 CFR 70.74 and Appendix A to

10 CFR Part 70, and the applicability of NRC Bulletin 91-01, “Reporting Loss of Criticality Safety Controls.”

III. Further Information

Documents related to this action are available electronically at the NRC's Electronic Reading Room at http://www.nrc.gov/reading-rm/adams.html. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the document related to this notice is provided in the following table. If you do not have access to ADAMS or if there are problems in accessing the document located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr@nrc.gov.

Interim Staff Guidance	**ADAMS Accession Number**
FCSS Interim Staff Guidance-05, Rev. 0	**ML053630228**

This document may also be viewed electronically on the public computers located at the NRC’s PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. Questions on the ISG can be directed to James Smith, Project Manager, Technical Support Group, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20005-0001.

Comments can also be submitted by telephone, fax, or e-mail which are as follows: Telephone: (301) 415-6459; fax number: (301) 415-5370; e-mail: jas4@nrc.gov.

Dated at Rockville, Maryland this 27th day of February, 2006.

For the Nuclear Regulatory Commission.

/RA/

Melanie A. Galloway, Chief
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and Safeguards
Office of Nuclear Material Safety
and Safeguards

Division of Fuel Cycle Safety and Safeguards
FCSS Interim Staff Guidance - 05, Revision 0
Additional Reporting Requirements of 10 CFR 70.74

Issue:

Effective dates for the additional reporting requirements of 10 CFR 70.74, Appendix A to 10 CFR Part 70, and NRC Bulletin 91-01, "Reporting Loss of Criticality Safety Controls."

Introduction:

The purpose of this Interim Staff Guidance (ISG) is to clarify what parts of Appendix A to 10 CFR Part 70 are effective as of October 18, 2000; what parts are effective after the submittal of the Integrated Safety Analysis (ISA) Summary, in accordance with 10 CFR 70.62(c)(3)(ii); and when the reporting requirements in NRC Bulletin 91-01, currently referenced in fuel cycle licenses, are superceded by the requirements of 10 CFR 70.74.

This ISG supplements information in Sections 5.4.1, 5.4.3.4.7, and 11.4.3.6 of NUREG-1520, "Standard Review Plan for the Review of a License Application for a Fuel Cycle Facility."

The information in NUREG-1718 is not affected by this ISG, because a mixed-oxide (MOX) fuel fabrication facility would be a new facility, and therefore (as with any other new Part 70 facilities) the complete submittal of an ISA Summary (i.e., an ISA Summary covering the entire facility) would be necessary before an operating license could be granted. Thus, all requirements of Appendix A to 10 CFR Part 70 would apply to a facility of this type and the provisions of NRC Bulletin 91-01 would not apply.

Background on 10 CFR Part 20 and NRC Bulletin 91-01:

BL-91-01 noted that an immediate report was required by 10 CFR 20.403(a)(1)[now 20.2202(a)(1)] if an event threatened to cause an exposure exceeding 25 rem total effective dose equivalent. The bulletin explained that the NRC considers the loss of a criticality control to threaten an event that may cause an exposure > 25 rem; therefore, it requires an immediate report under 10 CFR Part 20. Equipment-related controls may also require an immediate report under 10 CFR 70.50(a). In response to the original bulletin issued in 1991, licenses noted that some criticality controls are more significant than others and committed to reporting the loss of less significant criticality controls than those requiring immediate reports under 10 CFR 20.403(a)(1) and 10 CFR 70.50(a). In addition, it was acceptable for licensees to report the loss of less significant criticality controls in accordance with the commitments made in response to the original bulletin.

Discussion:

After October 18, 2000, existing licensees must comply with the reporting requirements of (a)(1), (a)(2), and (b)(4) of Appendix A to Part 70. The new reporting requirements require reporting to the NRC Operations Center: (1) within 1 hour, an inadvertent nuclear criticality, and an acute intake by an individual of 30 mg or greater of uranium in a soluble form; and (2) within 24 hours any natural phenomenon or other external event (including fires internal or external to the facility) to the facility that has affected or may have affected the intended safety function, availability, or reliability of one or more items relied on for safety. The remaining reporting requirements listed in Appendix A were held in abeyance until after the complete

submittal of the ISA Summary, required by October 18, 2004, in accordance with 10 CFR 70.62(c)(3)(ii).

“Complete submittal” means that an ISA summary that includes the entire facility and all licensed processes must have been submitted to NRC. Partial ISA Summary submittals under 10 CFR 70.62(c)(3)(ii) or as part of a license amendment do not meet this criterion.

Many existing fuel facility licenses include reporting requirements in accordance with NRC Bulletin 91-01. Following complete submittal of the ISA Summary, these remain conditions of these licenses until NRC has issued a licensing action to delete these requirements. Therefore, between October 18, 2000, and complete submittal of the ISA Summary, both the requirements of Bulletin 91-01 (as committed to in the license) and paragraphs (a)(1), (a)(2), and (b)(4) of Appendix A of Part 70 apply. Following complete submittal, the NRC Bulletin 91-01 requirements in the license will be superceded by the requirements of 10 CFR 70.74 upon issuance of an NRC licensing action to effect this change. It should also be noted that additional immediate reporting requirements in 10 CFR 20.2202(a) and 10 CFR 70.50(a) still apply.

A new facility would require submittal of an ISA Summary prior to being licensed, and thus, for a new Part 70 facility, all the provisions of Appendix A to Part 70 apply.

Regulatory Basis:

Each licensee shall report to the NRC Operations Center the events described in Appendix A to

Part 70. [10 CFR 70.74(a)(1)]

Per Appendix A to Part 70, licensees must comply with the reporting requirements in this appendix, except for (a)(1), (a)(2), and (b)(4), after they have submitted an ISA Summary in accordance with 10 CFR 70.62(c)(3)(ii). However, after October 18, 2000, licensees must comply with (a)(1), (a)(2), and (b)(4).

Specific reporting requirements are contained in paragraphs (a), (b), and (c) of Appendix A to Part 70.

Technical Review Guidance:

The staff has concluded that a licensee complies with the reporting requirements of its license and 10 CFR Part 70 provided that the following is met:

- An existing licensee has committed to report the events listed under paragraphs (a)(1), (a)(2), and (b)(4), of Appendix A of Part 70.

- An existing licensee has committed to reporting all events listed under Appendix A of Part 70 upon complete submittal of its ISA Summary, as required under 10 CFR 70.62(c)(3)(ii).

- An existing licensee has committed to reporting the loss of double contingency protection, as required by its license commitments to follow NRC

Bulletin 91-01, until such time that an NRC licensing action has eliminated the reference to NRC Bulletin 91-01 requirements.

C A new applicant has committed to reporting all events listed under Appendix A of Part 70 upon complete submittal of its ISA Summary as required under 10 CFR 70.62(c)(3)(ii).

Recommendation:

Whereas the complete submittal of a licensee's ISA Summary was required no later than October 18, 2004 (per 10 CFR 70.62(c)(3)(ii)), no change to NUREG-1520 is warranted to reference NRC Bulletin 91-01. All the provisions of Appendix A of Part 70 will apply upon complete submittal of the ISA Summary. In addition, current license provisions requiring additional reporting will remain in effect until issuance of an NRC licensing action to effect this change.

References:

NRC Bulletin 91-01, "Reporting Loss of Criticality Safety Controls," October 18, 1991.

NRC Bulletin 91-01, Supplement 1, "Reporting Loss of Criticality Safety Controls," July 27,1993.

Approved: _____/RA/____ Date: _02/28/06____

Director, NMSS/FCSS