

March 1, 2006

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

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

SUBJECT: FEBRUARY 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, a Technical Assistants briefing, and Commission memoranda. The staff is also continuing to provide monthly updates on the status of ongoing U.S. Nuclear Regulatory Commission (NRC) and Agreement State activities relative to the increased controls. The staff's last monthly update was dated January 23, 2006.

The staff notes that the State of Minnesota will likely become the 34<sup>th</sup> Agreement State on March 31, 2006. The staff is working closely with Minnesota staff to ensure a smooth transition of regulatory authority over all areas covered by the Section 274b Agreement. Minnesota plans to issue NRC-approved increased controls to affected licensees on March 31, 2006. Once the staff receives confirmation that the Minnesota licensees have been issued the increased controls, the staff will relax the NRC issued Order EA-05-090, imposing increased controls on these licensees.

Several activities are currently underway which involve implementation of the increased controls, and the status of these activities will continue to be addressed in future updates. As noted in the January update, the staff established a working group composed of NRC managers and a representative of the Organization of Agreement States, Inc., (OAS) to ensure regulatory consistency by reviewing and dispositioning implementation issues identified by the NRC staff, the Agreement State Radiation Control Programs and licensees. During the initial

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meeting of the working group, the members decided that the Conference of Radiation Control Program Directors, Inc., should also be represented on the group. Initially, the working group is meeting on a weekly basis to review and disposition implementation issues. The working group plans to make the disposition of all issues available to the NRC staff and the Agreement States, and to make the disposition of non-sensitive issues available on the NRC public web site as additional "question and answer" guidance for licensees.

Currently, four additional training courses on inspections for the increased controls are scheduled for NRC and Agreement State inspectors in FY 2006. The first training course was conducted February 13-17, 2006, at the Sandia National Laboratory in Albuquerque, New Mexico. The staff received requests from the Agreement States of Texas and California to host training courses in their respective States, due to the large number of personnel in these States that need the training. Staff has finalized arrangements with the State of Texas to conduct the next course in April 2006, in Austin, Texas. The remaining two courses are scheduled for May and June 2006, and staff is working with the State of California and Sandia National Laboratory to finalize the logistics for these courses. Two additional courses are planned for FY 2007. The staff has worked with the OAS, Agreement States and NRC Regions to identify training needs for conducting the increased controls inspections in FY 2006 and FY 2007, and determined that the currently scheduled courses are sufficient to meet inspection schedules. Attendance at the training courses is independent of the scheduling of inspections.

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 continue to track licensee compliance with the increased controls and continue 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 outlined in the Order. The NRC and Agreement State staff are establishing inspection schedules for the higher risk licensees that need to be inspected within the first year of implementation, based on the prioritization methodology. These inspections will commence in some Agreement States as early as March 2006, and by the NRC Regional Offices no later than May 2006.

Information provided by the Agreement States, and NRC staff indicates that, as of February 1, 2006, approximately 80 percent of NRC and Agreement State licensees issued increased controls have responded to the requirements. The staff estimates that of the approximately 2,900 NRC and Agreement State licensees issued the increased controls, approximately 1,700 will be implementing the requirements, and thus need to be inspected. The Agreement States and NRC staff continue to follow up with licensees who have not yet responded.

The next update will be provided in the quarterly report which will include the status of all actions completed to date on this effort.

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