

NRC INSPECTION MANUAL

IMNS

MANUAL CHAPTER 1220

PROCESSING OF NRC FORM 241, "REPORT OF PROPOSED ACTIVITIES IN NON-AGREEMENT STATES," AND INSPECTION OF AGREEMENT STATE LICENSEES OPERATING UNDER 10 CFR PART 150.20

1220-01 PURPOSE

To establish procedures for processing NRC Form 241 and revisions to NRC Form 241, and the frequencies and requirements for inspection of Agreement State licensees operating under reciprocity in areas of NRC jurisdiction.

1220-02 OBJECTIVES

02.01 To ensure that licensed material is used in accordance with regulatory requirements and that licensed operations are conducted in a manner to ensure protection of the public health and safety.

02.02 To ensure compliance with 10 CFR Part 150, Section 150.20, "Recognition of Agreement State licenses."

02.03 To provide information to appropriate State Radiation Control Departments and to NRC's Office of State Programs regarding Agreement State licensees operating in non-Agreement States.

1220-03 DEFINITIONS

03.01 Agreement State. Any State with which the Commission (or the Atomic Energy Commission) has entered into an effective agreement under subsection 274b, Cooperation with States, of the Atomic Energy Act of 1954, as amended.

03.02 Non-Agreement State. Any State that is not an Agreement State.

03.03 Reciprocity. Recognition by the Commission of certain Agreement State licenses for work performed in areas of NRC jurisdiction.

03.04 Reciprocity Activities. Activities conducted by Agreement State licensees in non-Agreement States or in offshore waters under the general license provisions of 10 CFR 150.20.

03.05 Filing. Filing by mail will be deemed to be complete as of the time of receipt by NRC.

03.06 Initial Filing. Receipt by NRC of NRC Form 241 filed by Agreement State licensees requesting reciprocity for activities conducted in non-Agreement States or in offshore waters. Filing by facsimile is considered an acceptable means of filing provided the facsimile contains a copy of the check that will be mailed to meet fee requirements, the licensee receives telephone

confirmation that NRC has received the facsimile, and the NRC receives, within 3 days, four copies of the Form 241 including the original, four copies of the Agreement State license, and the appropriate fee.

03.07 Revision. Filing of NRC Form 241 or letter for additional work locations, or for changes to the radioactive material, or work activities different from the information submitted on the initial NRC Form 241. Filing by facsimile is acceptable provided the facsimile contains a copy of the check that will be mailed to meet fee requirements, the licensee receives telephone confirmation that NRC has received the facsimile, and the NRC receives, within 3 days, NRC Form 241 or letter and the appropriate fee.

03.08 Clarification. Providing the Regional Office information that clarifies or deletes specific locations or work sites, work site contacts or dates of work. Clarification by facsimile is considered acceptable provided the licensee receives telephone confirmation that NRC has received the facsimile.

1220-04 RESPONSIBILITIES AND AUTHORITIES

04.01 Division of Industrial and Medical Nuclear Safety, NMSS

- a. Develop and maintain a computer-based Reciprocity Tracking System (RTS) to track reciprocity activities, in order to assist in the planning of inspections of those activities, and to provide summaries of reciprocity activities and inspections on an agency-wide basis.

04.02 Regional Offices

- a. Implement the RTS. Schedule, conduct, and track inspections to achieve the overall objectives of the inspection program, including the objectives of this chapter.
- b. Review NRC Form 241 when received to ensure that the proposed activities of Agreement State licensees are in accordance with 10 CFR 150.20 and are authorized under the Agreement State license in accordance with the procedures described in Appendix I. If not, contact the licensee regarding the lack of conformance with the NRC general license in 10 CFR 150.20.
- c. Enter the licensee information into the RTS, and distribute copies of the authorized NRC Form 241 (include a copy of the licensee's Agreement State specific license with the initial Forms) to appropriate authorities (as described in Appendix I), including the NRC Regional Office having jurisdiction in the area(s) in which the Agreement State licensee intends to operate.
- d. Inspect Agreement State licensees operating in non-Agreement States or in offshore waters under reciprocity using the same guidelines and procedures used for equivalent NRC-licensed activities. Carry out enforcement actions against those licensees when violations are found during an NRC inspection (See Appendix II for specific procedures).
- e. Maintain records of reciprocity activities in the RTS.

END

Appendices

Appendix I. "Procedures and Guidelines for
Processing NRC Form 241"

Appendix II. "Inspection of Agreement
State Licensees"

APPENDIX I

PROCEDURES AND GUIDELINES FOR PROCESSING NRC FORM 241

A. PURPOSE

To establish the procedures and guidelines for implementing the requirements of this chapter.

B. FILING OF INITIAL NRC FORM 241

The following points address requirements for filing the initial NRC Form 241.

1. Agreement State licensees requesting reciprocity for activities **conducted** in non-Agreement States or in offshore waters are subject to 10 CFR 150.20. The first time within a calendar year that an Agreement State licensee conducts activities in non-Agreement States or in offshore waters, it must file 4 copies of a completed NRC Form 241, four copies of its Agreement State license, and the appropriate fee as specified in fee category 16 of 10 CFR 170.31, unless the exemption in 10 CFR 170.11(a)(4) is applicable. See 10 CFR 150.20(b)(1) for further details.

Note: Verify that licensees engaging in radiography activities have a Quality Assurance (QA) Program approval number for transportation and a list of the Certificates of Compliance number(s) for the packagings they are registered to use, in accordance with the requirements of 10 CFR 71.12.

Note: A separate NRC Form 241 must be submitted for each Agreement State license used during the calendar year.

Note: All Fee payments and questions concerning fees should be referred to the License Fee and Debt Collection Branch (LFDCB).

2. In completing NRC Form 241, the Agreement State licensee must provide sufficient information to enable the NRC to conduct inspections.

Note: The Agreement State licensee should only identify work to be conducted during a single calendar year.

3. In general, the preferred method of filing is through the transmission by facsimile of NRC Form 241, the Agreement State license, and a copy of the check as this method avoids many timing problems which may be caused by the use of the mail. If the facsimile method is used, the transmission must be received by NRC 3 days before the licensee engages in the activity. In addition, the licensee must also file 4 copies of NRC Form 241, 4 copies of the Agreement State license, and the check for the fee within 3 days of facsimile transmission. Alternatively, the licensee may file the required information through the mail or other means as long as NRC receives the information at least 3 days before the licensee engages in the activity.

4. If the facsimile or other acceptable method for filing all of the required information is not available to the licensee due to an emergency or for other reasons, the Regional Administrator can waive the time requirements specified in 10 CFR 150.20(b)(1) for the filing of NRC Form 241 provided the Agreement State licensee:
 - a. informs the Region by telephone, facsimile, NRC Form 241 or letter of initial activities or revisions to the information submitted on the initial NRC Form 241 (e.g. additional locations of work or changes to the radioactive material or work activities) and
 - b. receives oral or written authorization for the activity(ies) from the Region, and
 - c. files 4 copies of the Form-241, 4 copies of the Agreement State license, and the check for the fee payment within 3 days after the telephone notification.

C. PROCESSING OF NRC FORM 241

Agreement State licensees are required to report their proposed activities in non-Agreement States to the NRC Regional Administrator of the Region in which the Agreement State is located. The Regional Office shall take the following actions in processing NRC Form 241.

1. RECEIPT

Verify that the filing is timely. Stamp or otherwise note the date of receipt on all copies of the form. The form must normally be received by NRC at least three calendar days prior to the licensee's beginning work.

Note: The Regional Administrator may waive the 3 day time requirement as discussed in B.4. above.

2. INITIAL NRC FORM 241

- a. As soon as the Form 241 is received, verify that the required information has been provided and that the certification block has been signed and dated by the RSO or management representative.
- b. Verify that a check for the appropriate fee and four complete copies of a valid, active Agreement State license are included with the initial NRC Form 241. See B.1., above for additional requirements for licensees performing radiography activities.

Note: For NRC Forms 241 received without a fee payment, notify the licensee by telephone that the required fee must be provided in order to continue NRC's review of the submission.

In cases where the Agreement State licensee seeks a waiver of the time requirements from the Regional Administrator, the reviewing personnel in the Region may authorize reciprocity

activities before receipt of the fee only after
contacting LFDCB for approval.

- c. Review the Agreement State license that was submitted with the NRC Form 241 to verify that the proposed activities are authorized by the license and that the license will be in effect during the time of the proposed activities.

Note: The Agreement State licensee cannot qualify for a general license under 150.20 if the specific license issued by the Agreement State limits the activity authorized by the license to specified installations or locations; only if the license authorizes temporary job site locations will the general license of 10 CFR 150.20 apply.

- d. For initial NRC Forms 241, enter the Agreement State license number and other information into the RTS.

Enter work location information into the RTS.

Note: The Control Number and Location Reference Number (LRN) are generated by the RTS and are necessary for the tracking of NRC Form 241 and any revisions to the Form 241 and are described in the RTS Users Manual. These numbers should be entered on the authorized Form 241 to be sent to the licensee.

- e. If the NRC Form 241 is deficient, see Item 4. When it is determined that the required information has been submitted and the fee payment has been provided, sign and date the NRC Form 241 indicating NRC authorization of reciprocity activities and forward a copy to the Agreement State licensee. This copy may be transmitted via facsimile.

Note: For cases where the NRC Form 241 is received and the filing indicates that the licensee does not qualify for a general license under 150.20, notify the licensee of this fact and forward the package to LFDCB for fee processing.

Note: Signature authority for authorizing reciprocity activities as requested by NRC Form 241 should be designated according to regional policy.

- f. Promptly notify the NRC Regional Office responsible for the area in which the activity will be conducted, if applicable, by telephone or facsimile and send a copy of the form by facsimile. The Agreement State license may be sent by facsimile or by mail.
- g. Forward the NRC's signature copy of NRC Form 241 and the fee payment to LFDCB for fee processing. After determining that the appropriate fee has been paid, LFDCB will enter the fee payment information on the NRC Form 241 and return the Form to the Regional Office for the official files.
- h. Distribute a copy of the NRC Form 241 to the state where the work is to be performed.

3. REVISION TO NRC FORM 241

- a. Verify that the NRC Form 241 indicates a request for a revision and that a check for the revision fee is included with the form.

Note: For revisions to NRC Form 241 that are received without the fee, notify the licensee by telephone that the required fee must be provided prior to NRC's review of the revision request.

Due to the time limitations often associated with reciprocity activities, revisions to NRC Form 241 may be authorized before receipt of the fee; however, the reviewer should first contact LFDCB for verbal approval before authorizing activities listed on NRC Form 241.

Note: Clarifications by the licensee that define or delete specific locations or work sites, work site contacts or dates of work do not constitute revisions and do not require additional specific authorization from NRC.

- b. Confirm that the information on file in the RTS for the initial NRC Form 241 is current and correct before revising the licensee's reciprocity record in RTS.
- c. Determine the number of total **usage days** to date (number of days activities are conducted and/or licensed material is stored in non-Agreement States) and record on NRC Form 241.
- d. For new locations of work, additional dates or different activities, enter the information into the RTS. Assign an LRN for each new location of work listed on the NRC Form 241.
- e. If the NRC Form 241 is deficient, see Item 4. When it is determined that the required information has been submitted and the fee payment has been provided, sign and date the NRC Form 241 or send a letter indicating NRC authorization of the revisions to the reciprocity activities submitted on the initial NRC Form 241 and forward a copy of the authorized NRC Form 241 to the Agreement State licensee. Authorized NRC Forms 241 may be transmitted via facsimile.

Note: For cases where revisions to NRC Form 241 are received and the filing indicates changes in activities that would no longer allow the licensee to qualify for a general license under 150.20, notify the licensee of this fact and forward the package to LFDCB for fee processing.

- f. Forward the NRC's signature copy of NRC Form 241 and the fee payment to LFDCB for fee processing. After determining that the appropriate fee has been paid, LFDCB will enter the fee payment information on the NRC Form 241 and return the Form to the Regional Office for the official files.
- g. Promptly notify the NRC Regional Office, if applicable, as described in Section C.2.f. above.
- h. Distribute the remaining copies of the NRC Form 241 to:
 - 1) The Agreement State where the work is to be performed.
 - 2) The NRC Regional Office responsible for the area in which the proposed activity will take place if applicable.

4. DEFICIENT NRC FORMS 241

- a. If the NRC Form 241 contains omissions or errors, try to resolve them by telephone with the Agreement State licensee. Mark the form with the corrections and emphasize to the licensee the need to comply with the requirements of Section 150.20. The Agreement State licensee must confirm, in writing or by facsimile, the information provided by telephone.
- b. If the discrepancies cannot be resolved with the Agreement State licensee by telephone, send a followup letter to the licensee identifying the errors, omissions or deficiencies and stating that the licensee has not submitted the required information and thus does not qualify for a general license under 150.20. Indicate that work is not to be performed in the non-Agreement State or in offshore waters until NRC receives the required information. Indicate to the licensee that further review will continue upon receipt of the required information. Send a copy of the follow-up letter and any fee payment to the License Fee and Debt Collection Branch.
- c. For Agreement State licensees whose proposed reciprocity activities are approaching or would exceed the 180-day limit, the licensee should be notified by telephone or mail that a specific NRC license must be applied for and obtained if activities in non-Agreement States in excess of 180 days are to be conducted within the calendar year.

5. APPARENT NON-COMPLIANCE WITH 10 CFR 150.20

If the NRC Form 241 describes activities that appear to be in noncompliance with the Agreement State specific license or other regulatory requirements, the following actions shall be taken:

- a. Where the Agreement State license limits use to a specific address or location, advise the licensee, by telephone or in writing (with a copy to the appropriate Agreement State), to apply to the Agreement State licensing authority for a license amendment permitting temporary job site locations or to the appropriate NRC Regional Office for a specific NRC license. The reviewer should note the resolution or proposed action on NRC Form 241 and send the fee payment with a copy of the Form 241 to the License Fee and Debt Collection Branch.
- b. Cases where activities were started before the initial NRC Form 241 was submitted; where the Agreement State license is expired, limits locations, or otherwise is ineligible for reciprocity; or where the 180-day limit is exceeded should be treated as noncompliance with the general license provisions of 10 CFR 150.20 and should be evaluated using NRC's Enforcement Policy Guidance (10 CFR Part 2, Appendix C).
- c. Cases where activities, because of their nature or necessity (e.g., emergencies, weekends), were started before revisions were phoned in or submitted (but the initial Form 241 was submitted) should be reviewed on a case-by-case basis when determining compliance with 10 CFR 150.20.

Note: Staff should consider other instances of failure to revise NRC Form 241 as noncompliance with the general license provisions of 10 CFR 150.20.

6. NRC FORMS 241 - EQUIVALENCE OR MISDIRECTION

- a. Equivalence - There may be cases where the Agreement State licensee submits a letter in lieu of the NRC Form 241. This is acceptable, provided that the submittal contains all of the information required by NRC Form 241, including 4 complete copies of a valid Agreement State license, if applicable, and the required fee.
- b. Misdirection of NRC Form 241 - If an Agreement State licensee inadvertently submits an NRC Form 241 to the NRC Office of Nuclear Material Safety and Safeguards or to the wrong NRC Regional Office, the receiving office shall promptly notify the appropriate NRC Regional Office, by telephone and send the NRC Form 241 to the appropriate NRC Regional Office by facsimile. The original NRC Form 241 and the backup documentation may be sent by mail.

END

APPENDIX II

INSPECTION OF AGREEMENT STATE LICENSEES

A. PURPOSE

To establish the policy and guidelines for performing inspections of Agreement State licensees working under reciprocity.

B. INSPECTION

The Regional Office(s) that has/have NRC jurisdiction in the area(s) in which the Agreement State licensee will operate shall take the following action:

1. FREQUENCY

Inspections of Agreement State licensees operating under the general license in 10 CFR 150.20 should be conducted using the same guidelines and procedures used for equivalent NRC-licensed activities (defined in NRC MC 2800). The percentage of reciprocity licensees to be inspected each year by program code and priority should be as follows with Priorities 1 through 3 as Core Inspections and the remaining Priorities as Non-Core Inspections:

Priority 1 program codes - 50% of licensees inspected each year

Priority 2 program codes - 50% of licensees inspected each year

Priority 3 program codes - 30% of licensees inspected each year

Priority 4 program codes - 25% of licensees inspected each year

All other program codes - 10% of licensees inspected each year

100% of all service licensees who perform teletherapy and panoramic irradiator source installations, changes, and removals are to be inspected each year.

NOTE: In cases where a licensee performs reciprocity activities in several regions, the region with the first opportunity to inspect the licensee at a work site or the home office should do so. The completed inspection should be recorded as a completion for the inspecting region.

2. LOCATION

Inspections of Agreement State licensees operating under reciprocity in areas of NRC jurisdiction pose many difficulties such as short lead time and logistics. Therefore, in order to meet the NRC's inspection goal, the following preference should be followed for inspection of reciprocity activities:

- a. Conduct unannounced inspections of actual field work locations
- b. Conduct announced inspections of actual field work locations

- c. Conduct unannounced inspections of the licensee's home office after completion of the activities conducted under reciprocity and after notifying the Agreement State Office
- d. Conduct announced inspections of the licensee's home office after completion of the activities conducted under reciprocity and after notifying the Agreement State Office

C. INSPECTION REPORTS AND ENFORCEMENT ACTION

- 1. Field notes (unless escalated enforcement action is anticipated) shall be prepared for all inspections of Agreement State licensee activities. Inspection documentation should be entered into the Inspection Followup System (IFS). Pertinent information (as described in the RTS Users Manual) about inspections and escalated enforcement actions should be entered into the RTS.
- 2. A copy of the inspection documentation with the authorized NRC Form 241 shall be sent to LFDCB for fee billing.
- 3. General Policy and Procedure for NRC Enforcement Actions, Appendix C to 10 CFR Part 2, shall be used as the policy and criteria for taking enforcement actions against the licensee.

In cases where NRC takes escalated enforcement action against an Agreement State licensee operating in areas of NRC jurisdiction, the Regions may choose to inspect this licensee at a greater frequency than previously stipulated.

- 4. Copies of the enforcement correspondence shall be sent to:
 - a. the Agreement State authority issuing the license under which the Agreement State licensee is operating;
 - b. the NRC Regional Office in which the Agreement State is located;
 - c. other distribution in accordance with existing procedures.

D. RESOURCE IMPLICATIONS

The proposed inspection frequencies do not pose an FTE burden above that already incorporated into the current operating plan.

END

ALL AGREEMENT STATES
OHIO, OKLAHOMA, PENNSYLVANIA

TRANSMITTAL OF STATE AGREEMENTS PROGRAM INFORMATION (SP-97-)

Your attention is invited to the enclosed correspondence which contains:

INCIDENT AND EVENT INFORMATION.....

PROGRAM MANAGEMENT INFORMATION.....

TRAINING COURSE INFORMATION.....

TECHNICAL INFORMATION.....XX

Guidance for Inspection
of Reciprocity Licensees-
MC 1220

OTHER INFORMATION.....

Supplementary Information: Management Directive 5.6, Integrated Materials Performance Evaluation Program (IMPEP), states that the frequency of inspections under the common performance indicator, Status of Materials Inspection Program, is specified in the NRC Inspection Manual, Chapter 2800. In conjunction with this chapter, NRC Inspection Manual Chapter 1220 (enclosed) establishes the frequencies and requirements for inspection of Agreement State licensees operating under reciprocity in areas of NRC jurisdiction. Appendix II specifically addresses NRC inspection of Agreement State licensees.

Recent IMPEP reviews have identified that a number of Agreement States are unaware of, or not following, this guidance. As IMPEP review teams are using MC 1220 as a guideline when conducting reviews, we recommend Agreement State programs use MC 1220 as guidance when developing state guidance for implementing their respective inspection programs.

If you have any questions regarding this correspondence, please contact me or the individual named below.

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DATE	06/24/97	06/24/97	06/24/97				

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EXECUTIVE TASK MANAGEMENT SYSTEM

<<< PRINT SCREEN UPDATE FORM >>>

TASK # - 7S123

DATE- 05/13/97

MAIL CTRL. - 1997

TASK STARTED - 05/13/97

TASK DUE - / /

TASK COMPLETED - / /

TASK DESCRIPTION - ALL AGREEMENT STATE LEETER NOTIFYING STATUS OF THE
REQUIREMENTS OF MC 1220 FOR RECIRPROCITY INSPECTION

REQUESTING OFF. - OSP REQUESTER - RLB2 WITS - 0 FYP - N

PROG. - PERSON - STAFF LEAD - PROG. AREA -

PROJECT STATUS - OSP DUE DATE:

PLANNED ACC. - N

LEVEL CODE - 1

Assign LJR