

to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* Requests to Non-Agreement States for Information.

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* 6 times per year.

5. *Who will be required or asked to report:* The 18 States (16 Non-Agreement States and 2 territories, the District of Columbia and the Commonwealth of Puerto Rico) that have not signed 274(b) Agreements with NRC. **Note:** Minnesota became an Agreement State effective March 31, 2006.

6. *An estimate of the number of annual responses:* 108.

7. *The estimated number of annual respondents:* 18 States (16 Non-Agreement States and 2 territories, the District of Columbia and Commonwealth of Puerto Rico).

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 891 hours.

9. *An indication of whether section 3507(d), Public Law 104-13 applies:* Not applicable.

10. *Abstract:* Requests may be made of States that are similar to those of Agreement States to provide a more complete overview of the national program for regulating radioactive materials. This information would be used in the decisionmaking of the Commission. With Agreement States and as part of the NRC cooperative post-agreement program with the States pursuant to section 274(b), information on licensing and inspection practices, and/or incidents, and other technical and statistical information are exchanged. Agreement State comments are also solicited in the areas of proposed implementing procedures relative to NRC Agreement State program policies. With the enactment of the Energy Policy Act of 2005, specifically section 651(e), NRC now has regulatory authority over use of accelerator-produced radioactive materials and discrete sources of radium-226 and other naturally occurring radioactive material as specified by the Commission. Therefore, information requests sought may take the form of surveys, e.g., telephonic and electronic surveys/polls and facsimiles.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O-1 F21, Rockville, MD

20852. OMB clearance requests are available at the NRC worldwide Web site: <http://www.nrc.gov/public-involve/doc-comment/omb/index.html>. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by May 18, 2006. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

John A. Asalone, Office of Information and Regulatory Affairs (3150-0200), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to [John\\_A.\\_Asalone@omb.eop.gov](mailto:John_A._Asalone@omb.eop.gov) or submitted by telephone at (202) 395-4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301-415-7233.

Dated at Rockville, Maryland, this 11th day of April, 2006.

For the Nuclear Regulatory Commission.

**Brenda Jo. Shelton,**

*NRC Clearance Officer, Office of Information Services.*

[FR Doc. E6-5743 Filed 4-17-06; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

### **NRC Enforcement Policy: Extension of Discretion Period of Interim Enforcement Policy**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Policy Statement: Revision.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is revising the NRC "Interim Enforcement Policy Regarding Enforcement Discretion for Certain Fire Protection Issues," to extend the enforcement discretion period to 3 years for those licensees that commit to transition to 10 CFR 50.48(c), and to provide clarification and enhancements predominately in the areas of existing non-compliances and the treatment of non-compliances if a licensee withdraws from the transition.

**DATES:** This revision is effective April 18, 2006. Comments on this revision to the Enforcement Policy may be submitted on or before May 18, 2006.

**ADDRESSES:** Submit written comments to: Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T6D59, U.S. Nuclear Regulatory Commission,

Washington, DC 20555-0001. Hand-deliver comments to: 11555 Rockville Pike, Rockville, MD 20852, between 7:30 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, Room O1F21, 11555 Rockville Pike, Rockville, MD 20852. You may also e-mail comments to [nrcprep@nrc.gov](mailto:nrcprep@nrc.gov).

The NRC maintains the current Enforcement Policy on its Web site at <http://www.nrc.gov>, select "What We Do," then "Enforcement Policy."

**FOR FURTHER INFORMATION CONTACT:** Michael Johnson, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, (301) 415-2741, e-mail [mrj1@nrc.gov](mailto:mrj1@nrc.gov).

**SUPPLEMENTARY INFORMATION:** On June 16, 2004, the NRC published, in the **Federal Register**, a final rule amending 10 CFR 50.48 (69 FR 33536). This rule became effective on July 16, 2004, and allows licensees to adopt 10 CFR 50.48(c), a voluntary risk-informed, performance-based alternative to current fire protection requirements. The NRC concurrently revised its Enforcement Policy (69 FR 33684) to provide interim enforcement discretion during a "transition" period. The interim enforcement discretion policy includes provisions to address: (1) Noncompliances identified during the licensee's transition process; and (2) existing identified noncompliances.

In accordance with the current Enforcement Policy, for those noncompliances identified during the transition to 10 CFR 50.48(c), the enforcement discretion policy will be in effect for up to 2 years from the date of a licensee's letter of intent to adopt the requirements of 10 CFR 50.48(c). In addition, when the licensee submits a license amendment request to complete the transition to 10 CFR 50.48(c), the enforcement discretion will continue in effect until the NRC completes its review of the license amendment request.

The second element of the interim policy provides enforcement discretion for licensees that wish to take advantage of the rule to resolve existing noncompliances. The original rule required licensees wishing to take advantage of this interim policy to submit a letter of intent to adopt 10 CFR 50.48(c), within 6 months of the effective date of the final rule. However, the Nuclear Energy Institute (NEI) (ADAMS Accession No. ML042010132) sent a letter dated July 7, 2004, requesting that the NRC extend the deadline for the letter of intent to be

sent from 6 months to 18 months. Subsequently, the extension was granted and was published in the **Federal Register** as a revision to the interim enforcement policy regarding enforcement discretion for certain issues involving fire protection programs at operating nuclear power plants. The revision was effective on January 14, 2005 (70 FR 2662).

As a result, if a licensee submitted a letter of intent by December 31, 2005, in order to meet the second element of the interim enforcement policy, the NRC would exercise enforcement discretion for existing noncompliances that could reasonably be corrected under 10 CFR 50.48(c).

The NRC is revising the Enforcement Policy to extend the current 2-year period of enforcement discretion, for the transition to this voluntary, performance-based regulation, to 3 years for licensees that commit, in their letters of intent, to adopt 10 CFR 50.48(c) requirements.

Many licensees have requested additional time, beyond the 2-year discretion period, to properly evaluate their existing fire analyses and to develop fire probabilistic risk assessments (PRA). Based on these requests, the staff considered the extension of the current enforcement discretion period from 2 years to 3 years. The extension in time is appropriate in light of the level of effort required to transition to this risk-informed approach, including the implementation of plant modifications that may be required as a result of the licensee's evaluation. In addition, this change will not adversely impact public health and safety because the discretion policy does not apply to the most risk-significant findings (*i.e.*, violations characterized as Red or Severity Level I). For those findings where the policy does apply, licensees are required to implement and maintain immediate compensatory measures to qualify for discretion. This extension would facilitate a regulatory approach that encourages licensees to find and resolve their own issues in ways consistent with Enforcement Policy goals. During the discretion period, licensees are required to maintain their current fire protection plans, including maintaining appropriate compensatory measures. In addition to the 3-year discretion period, the NRC staff may grant item-specific extensions, on a case-by-case basis, to the discretion policy, when the licensee provides adequate justification (*e.g.*, a modification that can only be implemented during an outage).

Normal inspection and enforcement will continue to be applied to all plants

that are not actively transitioning to 10 CFR 50.48(c).

Minor editorial changes have also been made to the current "Interim Enforcement Policy Regarding Enforcement Discretion for Certain Fire Protection Issues" (10 CFR 50.48), to provide clarification and enhancements predominately in the areas of existing non-compliances and the treatment of non-compliances if a licensee withdraws from the transition.

**Paperwork Reduction Act**

This policy statement does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). Existing requirements were approved by the Office of Management and Budget (OMB), approval number 3150-0136. The approved information collection requirements contained in this policy statement appear in Section VII.C.

**Public Protection Notification**

The NRC may not conduct or sponsor, and a person is not required to respond to, collection of information, unless it displays a currently valid OMB control number.

**Small Business Regulatory Enforcement Fairness Act**

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Accordingly, the NRC Enforcement Policy is amended to read as follows:

NRC Enforcement Policy

\* \* \* \* \*

Interim Enforcement Policies

\* \* \* \* \*

Interim Enforcement Policy Regarding Enforcement Discretion for Certain Fire Protection Issues (10 CFR 50.48)

This section sets forth the interim enforcement policy that the U.S. Nuclear Regulatory Commission (NRC) will follow to exercise enforcement discretion for certain noncompliances of requirements in 10 CFR 50.48, "Fire protection," (or fire protection license conditions) that are identified as a result of the transition to a new risk-informed, performance-based fire protection approach included in paragraph (c) of 10 CFR 50.48 and for certain existing identified noncompliances that reasonably may be resolved by

compliance with 10 CFR 50.48(c). Paragraph (c) allows reactor licensees to voluntarily comply with the risk-informed, performance-based fire protection approaches in National Fire Protection Association Standard 805 (NFPA 805), "Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants," 2001 Edition (with limited exceptions stated in the rule language).

For those noncompliances identified during the licensee's transition process, this enforcement discretion policy will be in effect for up to 3 years from the date specified by the licensee in their letter of intent to adopt the requirements in 10 CFR 50.48(c), and will continue to be in place, without interruption, until NRC approval of the license amendment request to transition to 10 CFR 50.48(c). This enforcement discretion policy may be extended on a case-by-case basis, by request, with adequate justification, from the licensee.

If, after submitting the letter of intent to comply with 10 CFR 50.48(c) and before submitting the license amendment request, the licensee decides not to complete the transition to 10 CFR 50.48(c), the licensee must submit a letter stating its intent to retain its existing license basis and withdrawing its letter of intent to comply with 10 CFR 50.48(c). After the licensee's withdrawal from the transition process, the staff, as a matter of practice, will not take enforcement action against any noncompliance that the licensee corrected during the transition process and should, on a case-by-case basis, consider refraining from taking action if reasonable and timely corrective actions are in progress (*e.g.*, an exemption has been submitted for NRC review). Noncompliances that the licensee has not corrected, as well as noncompliances identified after the date of the above withdrawal letter, will be dispositioned in accordance with normal enforcement practices.

**A. Noncompliances Identified During the Licensee's Transition Process**

\* \* \* \* \*

(1) It was licensee-identified, as a result of its voluntary initiative to adopt the risk-informed, performance-based fire protection program included under 10 CFR 50.48(c) or, if the NRC identifies the violation, it was likely in the NRC staff's view that the licensee would have identified the violation in light of the defined scope, thoroughness, and schedule of the licensee's transition to 10 CFR 50.48(c) provided the schedule reasonably provides for completion of the transition within 3 years of the date specified by the licensee in their letter

of intent to implement 10 CFR 50.48(c) or other period granted by NRC;

\* \* \* \* \*

## B. Existing Identified Noncompliances

\* \* \* \* \*

(3) It was not willful; and

(4) The licensee submits a letter of intent by December 31, 2005, stating its intent to transition to 10 CFR 50.48(c).

After December 31, 2005, as addressed in (4) above, this enforcement discretion for implementation of corrective actions for existing identified noncompliances will not be available and the requirements of 10 CFR 50.48(b) (and any other requirements in fire protection license conditions) will be enforced in accordance with normal enforcement practices. However, licensees that submit letters of intent to transition to 10 CFR 50.48(c) with existing noncompliances will have the option to implement corrective actions in accordance with the new performance-based regulation. All other elements of the assessment and enforcement process will be exercised even if the licensee submits its letter of intent before the NRC issues its enforcement action for existing noncompliances.

Dated at Rockville, MD, this 11th day of April, 2006.

For the Nuclear Regulatory Commission.

**Andrew L. Bates,**

*Acting Secretary of the Commission.*

[FR Doc. E6-5706 Filed 4-17-06; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-04530]

### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for U.S. Department of Agriculture Facility in Mission, TX

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

#### FOR FURTHER INFORMATION CONTACT:

Sattar Lodhi, Materials Security & Industrial Branch, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania, 19406, telephone (610) 337-5364, fax (610) 337-5269; or by e-mail: [asl@nrc.gov](mailto:asl@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the

issuance of a license amendment to U.S. Department of Agriculture (USDA) for Materials License No. 19-00915-03, to authorize remediation activities at its radioactive waste burial site located at Moore Air Base (MAB) in Mission, Texas. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate.

#### II. EA Summary

The purpose of the proposed action is to authorize remediation activities at the licensee's radioactive waste burial site at MAB in Mission, Texas. USDA was authorized initially by the U.S. Atomic Energy Commission in the mid 1950's and later by the NRC to use radioactive materials for research and development purposes at the site. On May 5, 2005, USDA requested that NRC authorize remediation activities at the burial site. USDA has submitted to the NRC a plan to remediate the burial site.

The NRC staff has prepared an EA in support of the license amendment. The NRC staff has reviewed the information contained in the licensee's remediation plan. Based on its review, the staff has determined that the licensee has developed adequate procedures to ensure that the digging, removing and transporting the waste from the burial site will not have a significant impact on the environment and the workers. The staff has also determined that no additional information is necessary to complete the proposed action. Therefore, the staff considered the impact of the remediation activities at the facility and concluded that a Finding of No Significant Impact is appropriate.

#### III. Finding of No Significant Impact

The NRC staff has prepared the EA (summarized above) in support of the license amendment request. On the basis of the EA, the NRC has concluded that there are no significant environmental impacts from the proposed action, and has determined not to prepare an environmental impact statement for the proposed action.

#### IV. Further Information

Documents related to this action, including the application for the license amendment and supporting documentation, 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 numbers for the documents related to this Notice are: USDA's plan to remediate the radioactive waste burial site at MAB (ML051300095), EA in support of the amendment request (ML060940281), review of EA by the State of Texas (ML053120414). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at (800) 397-4209 or (301) 415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov). These documents may also be viewed electronically on public computers located at the NRC's PDR, 01F21, One White Flint, 11555 Rockville Pike, Rockville, MD 20852. The PDR contractor will copy documents for a fee.

Documents related to operations conducted under this license not specifically referenced in this Notice may not be electronically available and/or may not be publicly available. Persons who have an interest in reviewing these documents should submit a request to NRC under the Freedom of Information Act (FOIA). Instructions for submitting a FOIA request can be found on the NRC's Web site at <http://www.nrc.gov/reading-rm/foia/foia-privacy.html>.

Dated at King of Prussia, Pennsylvania this 6th day of April, 2006.

For the Nuclear Regulatory Commission.

**John D. Kinneman,**

*Chief, Materials Security & Industrial Branch, Division of Nuclear Materials Safety, Region I.*

[FR Doc. E6-5715 Filed 4-17-06; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-08219]

### U.S. Environmental Protection Agency, Denver Federal Center, Building 53: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Issuance of Environmental Assessment and Finding of No Significant Impact.

**FOR FURTHER INFORMATION CONTACT:** D. Blair Spitzberg, Ph.D., Chief, Fuel Cycle and Decommissioning Branch, Division