

[help/e-submittals/install-viewer.html](http://www.nrc.gov/site-help/e-submittals/install-viewer.html). Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

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A person filing electronically using the agency's adjudicatory e-filing system may seek assistance through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html> or by calling the NRC Meta-System Help Desk, which is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays. The Meta-System Help Desk can be contacted by telephone at 1-866-672-7640 or by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov).

Participants who believe that they have good cause for not submitting documents electronically must file a motion, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited

delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville, Pike, Rockville, Maryland, 20852, attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, Participants are requested not to include copyrighted materials in their works.

If a person (other than the Certificate holder or Licensee) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If the hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this order.

Dated this 13th day of August, 2009.

For the Nuclear Regulatory Commission.

**Cynthia A. Carpenter,**

*Director, Office of Enforcement.*

[FR Doc. E9-20331 Filed 8-21-09; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 030-34325; License No. 03-23853-01VA; EA-08-353; NRC-2009-0367]

### In the Matter of National Health Physics Program, Department of Veterans Affairs, Veterans Health Administration, North Little Rock, AZ; Order Imposing Civil Monetary Penalty

#### I

The Department of Veterans Affairs (DVA: Licensee) is the holder of Master Materials License No. 03-23853-01VA issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30 on March 17, 2003. The license authorizes the DVA to issue permits to individual DVA medical centers for the possession and use of licensed material, and ties the Licensee to a framework of oversight consistent with NRC regulations, inspection, enforcement policies, procedures, and guidance.

#### II

An inspection of the Licensee's activities was conducted on November 18, 2008, with continued NRC in-office review through December 16, 2008, at the DVA Medical Center, Iowa City, Iowa (permittee). The results of this inspection indicated that the permittee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated April 10, 2009. The Notice states the nature of the violation, the provision of the NRC's requirements that the Licensee violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in a letter dated May 4, 2009. In its response, the Licensee denied the violation and requested that the NRC withdraw the escalated enforcement citation, and remove the civil penalty. The Licensee provided a supplemental response on June 4, 2009, to clarify information provided in the May 4, 2009, response. In the supplemental letter, the Licensee disputed the Severity Level of the violation, based upon the new information provided.

#### III

After consideration of the Licensee's responses and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff determined, as set forth in the non-publicly available security related Appendix to this Order, that the

violation occurred, as modified in the Appendix, and that the penalty proposed for the violation designated in the Notice should be imposed. The results of the NRC review of the information contained in the Licensee's letter and the basis for the NRC taking the actions described in this Order are set forth in the Appendix to this Order.

#### IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee shall pay, within 20 days of the date of this Order, a civil penalty in the amount of \$6,500, in accordance with NUREG/BR-0254. In addition, at the time payment is made, the Licensee shall submit a statement indicating when and by what method payment was made to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

#### V

In accordance with 10 CFR 2.202, the Licensee must submit an answer to this Order within 20 days of its publication in the **Federal Register**. The answer should be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission.

In accordance with 10 CFR 2.205, the Licensee and any other person adversely affected by this Order may request a hearing on this Order within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to answer this Order and/or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d).

If a hearing is requested by the Licensee, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, an Order will be issued after the hearing by the Commission dismissing the proceeding or imposing, mitigating, or remitting the civil penalty. If the Licensee fails to request a hearing within 20 days of the date of this Order, or if written approval of an extension of time in which to request a hearing has not been granted,

the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

- (a) Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and
- (b) whether, on the basis of such violation, this Order should be sustained.

A request for a hearing must be filed in accordance with the NRC E-Filing rule, which the NRC promulgated in August 28, 2007; 72 FR 49139. The E-Filing process requires participants to submit and serve documents over the internet or, in some cases, to mail copies on electronic optical storage media. Participants may not submit paper copies of their filings unless they seek a waiver in accordance with the procedures described below.

To comply with the procedural requirements associated with E-Filing, at least ten (10) days prior to the filing deadline the requestor must contact the Office of the Secretary by e-mail at [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV), or by calling (301) 415-1677, to request: (1) A digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any NRC proceeding in which it is participating; and/or (2) creation of an electronic docket for the proceeding (even in instances when the requestor (or its counsel or representative) already holds an NRC-issued digital ID certificate). Each requestor will need to download the Workplace Forms Viewer™ to access the Electronic Information Exchange (EIE), a component of the E-Filing system. The Workplace Forms Viewer™ is free and is available at <http://www.nrc.gov/site-help/e-submittals/install-viewer.html>. Information about applying for a digital ID certificate also is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>.

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[ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, an Atomic Safety and Licensing Board, or a Presiding Officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their works.

Dated this 14th day of August 2009.

For the Nuclear Regulatory Commission.

**Cynthia A. Carpenter,**

*Director, Office of Enforcement.*

[FR Doc. E9-20333 Filed 8-21-09; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[NRC-2009-0365]

### Proposed Generic Communication; NRC Regulatory Issue Summary 2005-02, Revision 1, Clarifying the Process for Making Emergency Plan Changes

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of opportunity for public comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is proposing to issue a regulatory issue summary (RIS) to clarify the process for making emergency plan changes. This FRN version of the draft Regulatory Issue Summary (RIS) does not include the Attachments and Enclosures as described in the body of the RIS. To view these attachments and enclosures, refer to the NRC's Agencywide Documents Access and Management System (ADAMS), document number ML080710029. The NRC's internal non-concurrence process "Draft Management Directive 10.158, 'NRC Non-Concurrence Process'," has been invoked by a member of the NRC staff regarding draft RIS 2005-01, Revision 1. The non-concurrence and supporting information is publically available through ADAMS Accession No. ML092250622.

**DATES:** Comment period expires October 8, 2009. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

**ADDRESSES:** You may submit comments by any one of the following methods.

Please include Docket ID NRC-2009-0365 in the subject line of your comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site *Regulations.gov*. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

*Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2009-0365. Address questions about NRC dockets to Carol Gallagher at 301-492-3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

*Mail comments to:* Michael T. Lesar, Chief, Rulemaking and Directives Branch (RDB), Division of Administrative Services, Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by fax to RDB at (301) 492-3446.

**FOR FURTHER INFORMATION CONTACT:** Don A. Johnson at 301-415-4040 or by e-mail at [don.johnson@nrc.gov](mailto:don.johnson@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

### NRC Regulatory Issue Summary 2005-02, Revision 1; Clarifying the Process for Making Emergency Plan Changes

#### Addressees

All holders of licenses for nuclear power reactors under the provisions of Title 10 of the *Code of Federal Regulations* (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," including those that have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

All holders of licenses for research and test reactors under Part 50.

All holders of and applicants for nuclear power plant construction permits, early site permits and limited work authorizations under Part 50.

All holders of a combined license for a nuclear power plant under the provisions of 10 CFR part 52, "Licenses,

Certifications, and Approvals for Nuclear Power Plants."

All holders of licenses for fuel facilities under the provisions of 10 CFR part 40 "Domestic Licensing of Source Material" required to have an emergency plan under § 40.31(j)(1)(ii).

All holders of licenses for fuel facilities under the provisions of 10 CFR part 70 "Domestic Licensing of Special Nuclear Material" required to have an emergency plan under § 70.22(i)(1)(ii).

All holders of certifications for gaseous diffusion plants under the provisions of 10 CFR part 76 "Certification of Gaseous Diffusion Plants" required to have an emergency plan under § 76.35(f).

All holders of site-specific licenses for Independent Spent Fuel Storage Installations under 10 CFR part 72 "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste, and Reactor-Related Greater Than Class C Waste."

#### Intent

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) revision to inform stakeholders that reactor emergency plan changes that require prior NRC approval, in accordance with 10 CFR 50.54(q), will need to be submitted as license amendment requests in accordance with 10 CFR 50.90, "Application for Amendment of License, Construction permit, or Early Site Permit." In addition, this revision will (1) clarify the meaning of "decrease in effectiveness", as stated in 10 CFR 50.54(q); (2) clarify the process for evaluating proposed changes to emergency plans; (3) provide a method for evaluating proposed changes to emergency plans; (4) provide clarifying guidance on the appropriate content and format of applications submitted to the NRC for approval prior to implementation; and (5) clarify what constitutes a report of emergency plan changes to be submitted to the NRC in accordance with 10 CFR 50.54(q). This revision supersedes RIS 2005-02, dated February 14, 2005, in its entirety due to the extent of changes.

(1) For non-reactor facilities, the regulations in 10 CFR 40.35(f), 70.32(i), and 76.91(o) provide direction to licensees seeking to revise their emergency plan. An emergency plan includes the plan as originally approved by the NRC and all subsequent changes made by the licensee with, and without, prior NRC review and approval under these regulations. The current practice for non-reactor facilities concerning emergency plan changes that require