

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF FEDERAL AND STATE MATERIALS
AND ENVIRONMENTAL MANAGEMENT PROGRAMS
WASHINGTON, D.C. 20555
October 3, 2008

**NRC REGULATORY ISSUE SUMMARY 2008-24
SECURITY RESPONSIBILITIES OF SERVICE PROVIDERS
AND CLIENT LICENSEES**

ADDRESSEES

All U.S. Nuclear Regulatory Commission (NRC) licensees that hire service providers to install, service, repair, maintain, relocate, exchange, or transport radioactive materials in quantities of concern, service provider licensees, Agreement State Radiation Control Program Directors, and State Liaison Officers.

INTENT

NRC is issuing this regulatory issue summary (RIS) to: (1) advise non-manufacturing and distribution (non-M&D) service provider licensees that upon your request NRC will issue an Order to establish the trustworthiness and reliability (T&R) of your employees; (2) advise licensees of certain measures that should be taken to assure compliance with security requirements during servicing of radioactive materials in quantities of concern; and (3) to remind licensees of the additional transportation security requirements for shipments of radioactive materials in quantities of concern. No specific action or written response is required. NRC is providing this RIS to Agreement States for their information and for distribution to their licensees, as appropriate.

BACKGROUND

Generally, the terms repair, source exchange, and maintenance are referred to as "service." As an option to developing and maintaining their own service capability, many licensees have engaged the services of "service provider" licensees. The term "service provider" as used in this RIS is defined in NUREG-1556, Volume 18, "Program-Specific Guidance About Service Provider Licenses."

Individuals who require unescorted access to radioactive materials in quantities of concern must be determined to be T&R by an NRC-required background investigation. Initially, Increased Controls (IC) licensees were authorized to accept a certification or attestation of the T&R determination by manufacturing and distribution licensees of their employees. IC licensees can use this T&R determination to grant unescorted access to the service representatives, in lieu of the IC licensee conducting its own background investigation. Service providers who were neither a manufacturing licensee nor a distribution licensee were not covered by the manufacturing and distribution Security Order (69 FR 3397; January 23, 2004), and therefore could not provide their own certification or attestation of the T&R of their service representatives to IC licensees. As a result IC licensees are required to escort non-M&D service providers when performing maintenance.

SUMMARY OF ISSUE

Individuals who require unescorted access to radioactive materials in quantities of concern must be determined to be trustworthy and reliable through completion of an NRC-required background investigation, which includes fingerprinting and a criminal history records check by the Federal Bureau of Investigation. Service representatives of manufacturing and distribution licensees that are implementing the manufacturing and distribution Security Order may have undergone an NRC-required background investigation for unescorted access to radioactive material in quantities of concern.

On December 5, 2007, the NRC modified IC1.c of the IC Order (EA-05-090) to allow IC licensees to grant unescorted access to service provider licensee employees whose employer certifies or attests that, based on an NRC-required background investigation, the employees are determined to be trustworthy and reliable. Since service representatives of licensees that are neither a manufacturing licensee nor a distribution licensee may want their employees to be able to have unescorted access to radioactive materials in quantities of concern, the NRC will issue, upon request, a new Order, "Non-Manufacturing and Distribution (non-M&D) Service Providers Security Order." The Order requires these service providers to conduct a T&R determination for employees that need unescorted access to radioactive materials in quantities of concern. Once the non-M&D service provider completes the T&R determination, IC licensees may accept the certification or attestation of T&R of the non-M&D service representative as the basis of granting the service representative unescorted access. Prior to a service provider representative being authorized unescorted access at an IC licensee's facilities, the IC licensee is required to obtain documentation from the service provider attesting to or certifying the individual's trustworthiness and reliability. As described in the enclosures to the Orders and questions and answers posted on the NRC website, the client licensee is expected to acquire from the service provider documentation attesting to or certifying the individual's trustworthiness and reliability.

The T&R determination is one element of a security program. The NRC security Orders also include, for example, requirements for monitoring, detection, assessment, and response to unauthorized access, establishment of a pre-arranged plan with the Local Law Enforcement Agency. These aspects of security are still required when service providers are present during periods of maintenance and source exchange. Service providers and client licensees need to establish who will be responsible for security during these periods. Licensees should consider documenting this delineation of responsibility.

For transport of radioactive material, the service provider and client licensees need to ensure that the appropriate security measures are implemented. Even if the service provider will package for transport and arrange for shipment of radioactive material in quantities of concern, the IC licensee is responsible for the secure transport of the radioactive material as required by IC3. If the service provider will transport the radioactive material, the IC licensee needs to ensure that the service provider will implement the transport security requirements.

As a reminder, if licensees intend to ship licensed material that exceeds 100 times the quantities in Table 1 of the IC Order (EA-05-090) per consignment, for domestic highway and rail shipments, they are required to implement the additional security measures in the NRC Security Order, EA-05-006, "Certain Licensees Authorized to Possess and Transfer Items Containing Radioactive Material Quantities of Concern" (RAM QC Order). Neither the IC Order nor either of the Orders to service providers substitutes for the implementation of the RAM QC Order. The

licensee that takes responsibility for the shipment of the material, whether the service provider or the client, must notify NRC in order to receive the RAM QC Order and must implement the requirements prior to the shipment of the material.

FEDERAL REGISTER NOTIFICATION

A notice of opportunity for public comment on this RIS was not published in the *Federal Register* because this RIS is informational and does not represent a departure from current regulatory requirements.

CONGRESSIONAL REVIEW ACT

This RIS is not a rule as designated in the Congressional Review Act (5 U.S.C. §§ 801-886) and, therefore is not subject to the Act.

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not contain information collections and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.).

CONTACT

This RIS requires no specific action or written response. If you have any questions about this summary, please contact the individual listed below or the appropriate regional office.

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