UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

(FSME-10-019, March, Training, Industrial Radiography)

March 12, 2010

ALL AGREEMENT STATES, MICHIGAN

REPORTING REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHY (FSME-10-019)

Purpose: To notify the Agreement States that the U.S. Nuclear Regulatory Commission's (NRC) Office of Federal and State Materials and Environmental Management Programs (FSME), FSME Licensee Newsletter, Summer 2009 edition featured an article that was written to clarify the requirements for a 24-hour report for certain industrial radiography events in addition to the 30-day written report requirement in 10 CFR 34.101. The newsletter was distributed to all NRC materials licensees. The NRC believes that this article could be useful to industrial radiography licensees in the Agreement States particularly to users of Industrial Nuclear Company Inc. (INC) IR-100 device models. The NRC asks that this information be disseminated to industrial radiography licensees in the Agreement States especially users of the INC IR-100 model.

Background: The goal of the FSME Licensee Newsletter was to clarify some confusion that exists as to when an industrial radiography licensee is required to make 24-hour reports under 10 CFR 30.50(b)(2). Contrary to the requirements some licensees have been not making the required 24-hour notification for events in which the sealed source assembly did not return to the fully shielded position within the exposure device.

Discussion: NRC requirements in 10 CFR 30.50(b)(2) state, in part, that a 24-hour report is required when equipment is disabled or fails to function as designed when the equipment is required by regulations to prevent unnecessary exposures to radiation. The equipment is required to be operable when it is disabled or fails to function and no redundant equipment is available to perform the required safety function. Contrary to this requirement the NRC has encountered some instances where a licensee was unable to retract a source to the fully shielded position because the safety latch mechanism engaged prematurely leaving the source not in the fully shielded position. In one situation a licensee determined that the reason for the malfunction was due to sand deposits within the latch mechanism. The licensee was able to remove the sand deposits and was able to retract the source to the fully shielded position. However, contrary to the regulations the licensee did not make the 24-hour report. The licensee thought that since they were able remove the sand deposits from the latch mechanism while in the field and were able fully retract the source a 24-hour report was not necessary. The reporting requirements pertain to all industrial radiography device models, however there have been several recent events involving the safety latch engaging early in INC IR-100 models. As discussed in the FSME Licensee Newsletter licensees may not be aware of the requirements to report these cases as events in addition to making the 24-hour report. The NRC is interested in collecting data related to sources not being able to be retracted into the fully shielded position to determine whether there is a generic particularly with the INC IR-100 models. In order to further clarify the 24-hour reporting requirement the NRC will consider amending 10 CFR 34.101 to fully articulate all the reporting requirements for radiography in a future revision to 10 CFR 34.

The article can be found beginning on pages 5 and 6 of the newsletter at: http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0117/09-02.pdf.

NRC Point of Contact: If you have any questions on this correspondence, please contact me at 301-415-3340 or the individual named below.

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Enclosure: As Stated

U.S.NRC
United States Nuclear Regulatory Commission
Protecting People and the Environment

Office of Federal & State Materials & Environmental Management Programs

LICENSEE NEWSLETTER

NUREG/BR-0117, No. 09-02 Summer 2009

NEW CHAIRMAN FOR THE NRC

Chairman Gregory B. Jaczko

On May 13, 2009, President Barack Obama designated Dr. Gregory Jaczko as Chairman of the U.S. Nuclear Regulatory Commission (NRC). As Chairman, Dr. Jaczko is the principal executive officer and the official spokesperson for the NRC.

The NRC is headed by five Commissioners appointed by the President and confirmed by the Senate for 5 year terms. The NRC Chairman serves at the pleasure of the President and does not require additional Senate confirmation.

In commenting on his nomination to the NRC staff, Chairman Jaczko stated that he had first-hand knowledge of the staff's dedication and expertise. He said that he looks forward to working with staff to successfully address the challenges and opportunities ahead. In an effort to meet staff, Chairman Jaczko hosted an open house on June 18, 2009 for all NRC Headquarters staff members to visit his new suite of offices. Chairman Jaczko took the opportunity to personally express his appreciation for the staff's hard work to protect public health and safety.

Chairman Jaczko's professional career has been devoted to the use and impact of science in the public policy arena. Before assuming the post of Commissioner, Dr. Jaczko served as appropriations director for U.S. Senator Harry Reid of Nevada and also served as the Senator's science policy advisor.

Chairman Jaczko was born in Pennsylvania and raised in upstate New York. He earned a bachelor's degree in physics and philosophy from Cornell University and a doctorate in physics from the University of Wisconsin-Madison. Chairman Jaczko is married and resides in the District of Columbia, where he has been an adjunct professor at Georgetown University, teaching science and policy.

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INSIDE THIS ISSUE

GENERALLY LICENSED DEVICE RESTRICTIONS PROPOSED RULE PUBLISHED FOR PUBLIC COMMENT

On August 3, 2009 (74 FR 38372), the NRC published in the *Federal Register* a notice of the Generally Licensed (GL) Device Restrictions proposed rule. This proposed rule would amend 10 CFR 31.5 to limit the quantity of byproduct material contained in a GL device to below one-tenth of the International Atomic Energy Agency (IAEA) Category 3 thresholds. As a result of this amendment, individuals possessing devices with byproduct material meeting or exceeding these thresholds would be required to apply for and obtain a specific license. In a Staff Requirement Memorandum dated May 1, 2009, the Commission also directed the staff to propose to further clarify the requirements that apply when a device authorized to be used under the general license is instead held under a specific license.

In a petition dated June 27, 2005, the Organization of Agreement States (OAS) requested that the NRC revise 10 CFR 31.5 and change the compatibility category of 10 CFR 31.6 from "B" to "C." Also, in its letter of June 3, 2005, the State of Florida asked to change the compatibility category of 10 CFR 31.5(c)(13)(i) from "B" to "C." The GL rulemaking considers these issues.

The NRC has also sent out hard copies of the *Federal Register* notice to general licensees and manufacturers and/or distributors of GL devices who could be impacted by the rule to inform them of the opportunity to comment on the proposed rule.

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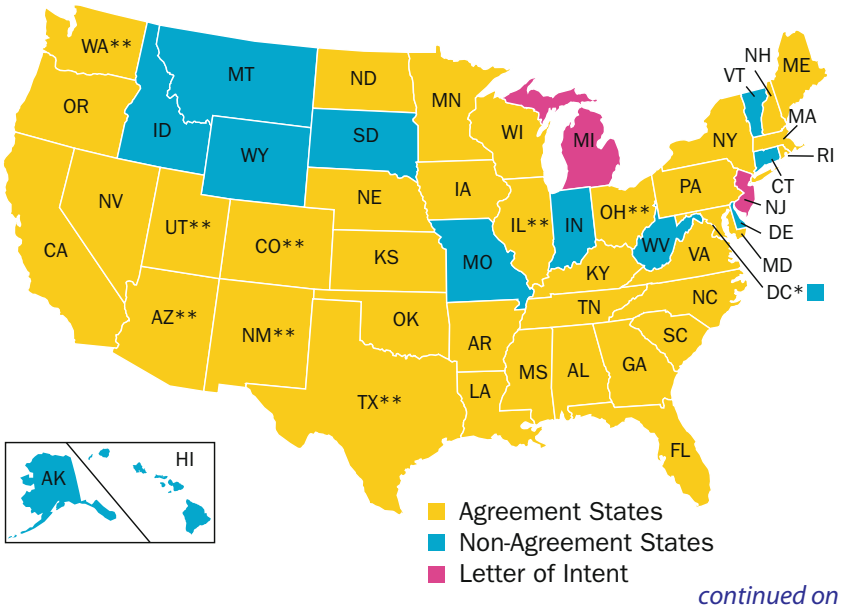
WHY DO STATES BECOME AN "AGREEMENT STATE?"

With the recent additions of the States of Pennsylvania and Virginia as "Agreement States," one may question why any State would want to become an Agreement State, especially during these difficult economic times. Here is some background information on the Agreement State program and a few reasons that have prompted States to enter into Agreements with the NRC.

The Agreement State program came into existence in 1959 with the adoption of Section 274 of the Atomic Energy Act. Under this program, the NRC will relinquish authority to regulate certain radioactive materials (i.e., byproduct, source, and certain special nuclear materials) and give this responsibility to any State government that meets the established criteria for protecting public health and safety. The Chairman of the NRC and the Governor of the State formalize the discontinuance of NRC authority by signing an Agreement. To date, 36 States have entered into such an agreement with the NRC: Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Virginia, Washington, and Wisconsin). The number will rise to 37 if the the NRC approves the State of New Jersey's application, currently under review.

Besides the obvious advantage of having control over all things radioactive in their jurisdiction, most States opt to become an Agreement State because they feel that they can provide a closer



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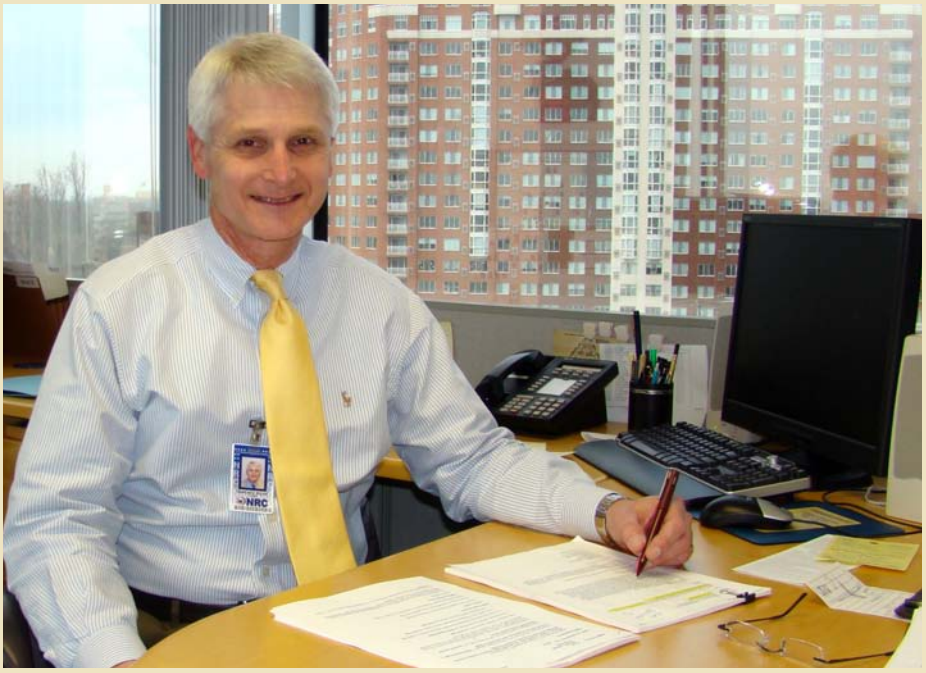

FROM THE DESK OF THE FSME DIRECTOR

In FSME Newsletter 08-03, an article about the National Source Tracking System (NSTS) announced that the development of the NSTS was complete and that licensees must begin reporting to the system in January 2009 via (1) the internet; (2) batch load using electronic file submission; (3) mail; (4) facsimile; or (5) telephone, with followup by fax or mail.

As many of you already know, the system experienced early glitches, particularly related to user credentialing. Because the NSTS was a first-of-its kind system with a number of unique security features, some startup issues were reasonably expected, but that did not lessen the level of frustration for those who were unable to access the system. If you were one of those who experienced early problems, we hope that we resolved them and that you will give the system a second chance now. We think that online reporting to the NSTS can be a great tool to provide more real-time tracking of sources, and thus it will greatly enhance the security of radioactive sources nationally.

As of early July 2009, the NRC invited approximately 3,100 individuals to enroll for smart cards, and about 1,600 had begun the enrollment process. About 1,000 individuals were approved to receive their smart cards. Among those approved, about 500 individuals have downloaded their digital certificates and all have access to the NSTS. Of those who have been approved, 30 agencies (Agreement States and the NRC) and approximately 200 companies were represented. The NRC's Office of Information Services is contacting those that have been sent smart cards but have not yet downloaded their certificates.

My staff is continuing to have monthly calls with the States to discuss NSTS status and to address any concerns that they may have. During the recent batch upload pilot testing, FSME received significant suggestions from two participating licensees. We are currently negotiating the technical approach with our contractor in an effort to integrate these suggestions.

We pledge to do whatever is necessary to make the NSTS work in a manner that minimizes the impact to users while providing a life history of each tracked source possessed by NRC and Agreement State licensees.

Charles L. Miller

Charles L. Miller, Director

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relationship with their licensees than a Federal Agency, and that states provide these services at a reduced cost in most situations (a plus for the licensee). This thought is echoed by Julia Schmitt, Chairperson of the OAS. Ms. Schmitt believes that with the State regulation of x-ray machines in the 1960s and 1970s, the States saw the regulation of byproduct materials as a natural extension of this health and safety function. In addition, States feel that emergency response to radiation incidents is made more expeditious and comprehensive by having State responders who are more familiar than a Federal Agency with the location and scope of their licensees' programs. Furthermore, a reason not to be overlooked in these times, becoming an Agreement State can result in the creation of additional jobs within the State.

Although the operational costs of maintaining an Agreement State program are the responsibility of each State, another advantage to becoming an Agreement State is that the NRC pays a portion of the cost of training State personnel. The cost of training a single inspector can be expensive, often exceeding $25,000. With the NRC often paying for the training and associated travel costs, the State's costs for their Agreement State program are reduced. Both the NRC and Agreement State personnel receive the same technical training and are required to pass the same examinations.

More recently, the passage of the Energy Policy Act of 2005 (EPAct) influenced some States to seek Agreements with the NRC. The EPAct expanded the definition of byproduct materials to include radium 226 and certain naturally occurring and accelerator produced materials (NARM) that were already regulated by States. While this expansion of the NRC regulatory authority did not impact the existing Agreement States, which maintain their authority, non-Agreement States that did license radium and NARM would have to turn over their licensees to the NRC by August 2009. The EPAct prompted the Commonwealth of Pennsylvania to complete its Agreement and the Commonwealth of Virginia and the State of New Jersey to initiate the process to become an Agreement State. All three of these States have active and well-established licensing programs for NARM and radium.

Agreement State personnel participate in the NRC's Integrated Materials Performance Evaluation Program (IMPEP) program. IMPEP is the NRC's program to provide oversight by periodically reviewing both NRC and Agreement State radiation control programs for adequacy and compatibility. Being a member of an IMPEP team offers a unique conduit for the exchange of information, ideas, and initiatives between Agreement States and NRC personnel. As IMPEP team members, State personnel can observe practices and policies in their fellow regulatory programs and often get ideas to enhance their own programs. With the increase in both the number of Agreement States and expertise among their personnel, States envision that they will provide greater input in shaping regulations in the future.

As State budgets continue to tighten with the current economic crisis, the NRC will place more importance than ever on maintaining close and careful oversight of Agreement State programs to ensure that they remain compatible with NRC requirements and adequate to protect public health and safety and the environment.

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NSTS EXPANSION DISSAPROVED

In a Staff Requirements Memorandum dated June 30, 2009, the Commission stated that it was unable to reach a decision on the staff's recommendation to publish the final rule on the National Source Tracking System (NSTS) Expansion. The rule would have required additional specific licensees to report information concerning the location of sealed sources containing radioactive materials in quantities reaching the International Atomic Energy Agency (IAEA) Category 3 threshold. Because the Commission did not reach a decision, the staff's recommendation to publish the final rule was not approved.

Currently, about 1,350 Agreement State and NRC licensees possess a nationally tracked source, defined in 10 CFR Part 20 as a sealed source containing IAEA Category 1 and Category 2 threshold quantities of radioactive material. Licensees who possess a nationally tracked source are required to report to the NRC details of source transactions, from manufacture of the source

through disposal, as specified in the final rule establishing these reporting requirements (71 FR 65686, November 8, 2006). The licensees must also have reported their initial inventories of sealed radioactive sources by January 31, 2009 (72 FR 59162, October 19, 2007), with annual inventory reconciliation by January 31 in each year thereafter comparing licensee possession against the data reported in the NSTS.

The NSTS Expansion final rule would have broadened the definition of a nationally tracked source to include Category 3 sources, requiring an additional 1,000 Agreement State and NRC licensees to report to the NRC details of source transactions. The NRC published the NSTS Expansion proposed rule on April 11, 2008 (73 FR 19749) and received 19 comment letters. Most of the commenters opposed the rule because they believed more operating experience was needed in tracking Category 1 and 2 sources before expanding to Category 3 threshold values. Members of the working group for the final rule evaluated the public comments, prepared responses to each of the topical areas of concern, and submitted the draft final rule to the Commission in SECY-09-0086 dated June 10, 2009. In that Commission paper, the NRC staff noted that the Agreement States had received a draft of the Commission paper for their review and that the NRC received comment letters on the draft paper from the Executive Board of the Organization of Agreement States, the Executive Board of the Conference of Radiation Control Program Directors (CRCPD), and 26 individual States. Many of these letters also expressed opposition to the final rule.

Details on the Commission vote regarding the final rule for NSTS expansion are available on the NRC Web site at: http://www.nrc.gov/reading-rm/doc-collections/commission/combined/2009/.

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IN-SITU LEACH URANIUM MILLING

On June 5, 2009, the NRC placed a notice in the *Federal Register* concerning the availability of NUREG-1910, "Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities–Final Report" (GEIS). The NRC staff prepared the GEIS with the assistance of a contractor, the Center for Nuclear Waste Regulatory Analyses, and the State of Wyoming Department of Environmental Quality. The NRC also issued a press release on June 4, 2009, regarding this matter.

In the GEIS, the NRC staff assessed the potential environmental impacts from the construction, operation, aquifer restoration, and decommissioning of in-situ leach (ISL) uranium milling facilities located in four specific regions of the western United States. The GEIS addressed environmental issues common to ISL milling facilities to aid in making more efficient environmental reviews of individual site-specific ISL license applications. The NRC staff will use the GEIS in environmental reviews of license applications for new ISL uranium milling facilities, as well as for applications for the renewals or amendments of current licenses for ISL facilities. Based on letters of intent from uranium recovery companies, industry may submit approximately 25 ISL-related applications for NRC review before October 2011. To date, the NRC has received five license applications for new ISL facilities, two applications for the expansion of currently licensed ISL facilities, and one application for the restart of an ISL facility on standby.

The final GEIS is available at http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1910/.

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REPORTING REQUIREMENTS

In recent months, the NRC staff has recognized that some confusion exists as to when industrial radiography licensees are required to make reports under 10 CFR 30.50(b)(2). Specifically, some licensees are not making the required 24-hour notification for incidents in which the sealed source assembly does not return to the fully shielded position within the exposure device.

For example, one licensee could not retract the sealed source assembly within the exposure device because the safety latch mechanism tripped prematurely, locking the source assembly outside of the exposure device. The licensee determined that the cause of the safety latch malfunction resulted from sand deposits within the latch

mechanism and decided not to make a 24-hour notification of the event because the device worked appropriately once the sand was blown out. However, 10 CFR 30.50(b)(2) states, in part, that a 24-hour report is required when equipment is disabled or fails to function as designed when the equipment is required by regulations to prevent unnecessary exposures to radiation. The equipment is required to be operable when it is disabled or fails to function and no redundant equipment is available to perform the required safety function.

In the above example, the safety latch mechanism failed to function as designed, because the source assembly was locked outside of the exposure device instead of inside the device in the fully shielded position. This safety latch is required by regulations, as described in 10 CFR 34.20. Specifically, 10 CFR 34.20(c)(2) states that the radiography exposure device must automatically secure the source assembly when cranked back into the fully shielded position within the device; the safety latch is intended to fulfill this requirement. In addition, no redundant equipment was available to perform the function of the safety latch mechanism. Therefore, this event would require both a 24-hour notification under 10 CFR 30.50(b)(2), as well as a 30-day written report, described in 10 CFR 34.101 and in 10 CFR 30.50(c)(2).

Another example of a radiography incident that is reportable under both 10 CFR 30.50(b)(2) and 10 CFR 34.101 occurred in March 2009 and involved a malfunction of the key-lock mechanism of the exposure device. In this event, the radiographer locked the device and removed the key before realizing that the source assembly was still outside of the exposure device in the unshielded position. Once locked, however, the radiographer was unable to unlock the device so that the source assembly could be returned to the shielded position. Encountering this scenario, the radiographer contacted the radiation safety officer, who in turn contacted the device manufacturer for assistance. Over the telephone, the device manufacturer explained the steps to dismantle the locking mechanism, and return the source assembly to the fully shielded position within the exposure device. From the manufacture's comments, the licensee believed that the malfunction was caused by ice on the device and was not reportable under 10 CFR 30.52(b)(2). However, the NRC wants to point out that whether the cause of the inability to retract the source assembly was caused by sand, ice, or any other contaminant, the malfunction is still considered an inability to retract the source assembly and represents a failure of a safety mechanism on the exposure device to function as designed. Therefore, the licensee is required to report the incident to the NRC or Agreement States within 24 hours of the occurrence.

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THIRD REVIEW MEETING

The Third Review Meeting Opening Session

During the week of May 11, 2009, FSME staff members participated in the Third Review Meeting of the Contracting Parties[1] on the Joint Convention for the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (Joint Convention) at the International Atomic Energy Agency (IAEA) in Vienna, Austria. The FSME staff performed technical reviews, provided technical support and presented the interests of the United States.

As a Contracting Party member, the United States has benefited in many ways, such as by working with other Contracting Parties to harmonize international approaches to achieve strong and effective nuclear safety programs on a global scale. Also, U.S. participation has stimulated initiatives to improve safety systems within it's own domestic programs while learning about technical innovations by other Contracting Parties that could be useful in managing safety and associated costs in U.S. spent fuel and waste management activities. U.S. participation in the Joint Convention has

[1]A contracting party to the Joint Convention is an IAEA Member State that has ratified the Joint Convention before the peer review meetings.

also provided opportunities to identify future areas of bilateral and multilateral technical and regulatory cooperation with other Contracting Parties. The United States participated in the meeting to collaborate with other Contracting Parties concerning elements of successful regulatory program.

A senior executive from the U.S. Department of Energy delivered the U.S. presentation, supported by staff from the NRC, U.S. Environmental Protection Agency, and U.S. Department of State. The presentation addressed such safety-related points as the status of the proposed Yucca Mountain high-level waste repository, low-level waste disposal capacity, and management of greater than Class C low-level waste. The U.S. representatives participated actively and raised important questions, leading the other Contracting Parties to offer their thanks for providing greater clarity in understanding the different safety programs. The next Review Meeting will take place in 2012.

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THE LAST PHASE OF WAIVER TERMINATIONS

The Energy Policy Act (EPAct) of 2005 gave the NRC regulatory authority over naturally occurring and accelerator-produced radioactive materials (NARM). The NRC's final rule implementing this authority became effective on November 30, 2007 (72 FR 55863). While developing the regulatory framework, the NRC issued a waiver to licensees on August 31, 2005, which allowed continued use and possession of NARM. The NRC terminated the waiver in phases, with Phase 1 ending November 30, 2007, and Phase 2 ending September 30, 2008. The final phase terminated on August 7, 2009 (74 FR 5797), and included Alaska, Connecticut, Hawaii, Michigan, New Jersey, and NRC licensees with headquarters in Canada.

For non-Agreement States and U.S. territories, NARM users with new byproducts materials are required to apply for license amendments within 6 months (February 7, 2010) if they hold an NRC-specific byproduct materials license, or submit a license application within 12 months (August 7, 2010) from the date the waiver is terminated. Existing NRC licensees should submit a new license application to obtain authorization for the production of radioactive materials using an accelerator. New NRC license applicants that are seeking authorization to produce radioactive materials using an accelerator should submit a license application as well as a separate license application for any other radioactive materials authorizations that they may be seeking (e.g., manufacturing of radiopharmaceuticals, medical use of byproduct material).

As of August 8, 2009, the State of New Jersey has approximately 500 NARM licensees under the jurisdiction of the NRC. All persons that possess byproduct materials must be in compliance with NRC regulations, including reporting and recordkeeping requirements. The NRC and the State of New Jersey are working toward an effective date in which the state would become An Agreement State with a target date of September 30, 2009. During this 7-week period, NRC staff will work closely with New Jersey regarding NARM activities. New Jersey and the NRC have agreed that the NARM licensees' files will stay in New Jersey and the NRC will have access as needed. During this interim period, the impact to New Jersey NARM licensees will be minimal, since the New Jersey regulations that will come into force on the effective date of the Agreement are essentially the same as the NRC regulations they will replace.

For more information on NARM-related activities, access the "NARM Toolbox" at the FSME Web site at: http://nrc-stp.ornl.gov/narmtoolbox.html.

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EMPLOYEE RECOGNITION

Congratulations to Ms. Patricia Pelke of the Region III Division of Nuclear Materials Safety for recently receiving the Chicago Federal Executive Board Outstanding Supervisory Award for 2009. The Federal Executive Board awards are presented in recognition of outstanding service by area Federal employees.

Currently, Ms. Pelke is the Chief of the Materials Licensing Branch in the Region III office. She has held a number of progressively responsible positions throughout

Ms. Patricia Pelke of the Region III Division of Nuclear Materials Safety

her 28-year career with the NRC. Moreover, Ms. Pelke is a proud graduate of Purdue University.

NOTE TO OUR READERS: PAPER REDUCTION

Do you want to reduce your environmental impact? Are you doing all you can to conserve paper? In these tough economic times, what ways can you help your organization maintain or stretch limited resources?

By reducing the amount of paper used, an organization can benefit from potential savings and help the environment. Paper reduction not only saves natural resources, it also decreases office costs and the volume of office paper that needs to be handled.

Since most people read their e-mail, distributing information such as the FSME Newsletter by e-mail is a practical way to reduce paper consumption. E-mail also gives the advantage of fast delivery and the ability to forward copies to others.

We want to do our part to reduce our carbon footprint and support greener business practices by reducing the number of paper copies of the FSME Newsletter. Please send your name and e-mail address, to FSME_Newsletter@nrc.gov. Thank you for all your assistance and efforts.

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SIGNIFICANT ENFORCEMENT ACTIONS

Information about the NRC's enforcement program can be accessed at http://www.nrc.gov/about-nrc/regulatory/enforcement/current.html under "Recently Issued Significant Enforcement Actions." Documents related to cases can be accessed at http://www.nrc.gov/reading-rm/adams.html. ADAMS is the Agencywide Document Access and Management System. Help in using ADAMS is available from the NRC Public Document Room, telephone: 301-415-4737 or 1-800-397-4209.

Medical

S&M Testing Laboratory (EA-08-332)

On June 8, 2009, the NRC issued an Order Imposing Civil Monetary Penalty to S&M Testing Laboratory (S&M). Because S&M failed to comply with an NRC letter dated March 23, 2009, the agency issued a Notice of Violation and Proposed Imposition of a Civil Penalty (Notice) in the amount of $16,250. S&M failed to respond to the Notice and the proposed civil penalties. The NRC issued the Notice for the licensee's deliberate failure to confine possession of byproduct material to only those locations authorized by the NRC license; the deliberate failure to provide the NRC an opportunity to inspect byproduct material and the premises where the byproduct material was stored, as required by 10 CFR 30.52(a); and the failure to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever the gauges were not under the control and constant surveillance of the licensee, as required by 10 CFR 30.34(i). Accordingly, the NRC concluded that the violation remains valid and issued an order imposing Civil Monetary Penalty in the amount of $16,250.

Central Indiana Cancer Centers (EA-09-067)

On May 27, 2009, the NRC issued a Notice of Violation to Central Indiana Cancer Centers for a Severity Level (SL) III violation involving the failure to implement 10 CFR 20.1802. Specifically, as of February 18, 2009, on several occasions while transporting a high dose-rate afterloader unit, the licensee left the unit in an unlocked vehicle for several minutes while retrieving other associated equipment. During these periods, the licensee did not control or maintain constant surveillance over the licensed material.

Department of the Army Walter Reed Army Medical Center (EA-09-039)

On May 22, 2009, the NRC issued a Notice of Violation to Walter Reed Medical Center (WRAMC) for a Severity Level (SL) III problem

involving: (1) the failure to control radioactive material not in storage as required by 10 CFR 20.1802 and (2) a failure to provide adequate radiation safety instruction to a medical student who provided care to a brachytherapy patient; and a SL III violation involving a failure to provide event notification as required in a timely manner. Specifically, on November 14, 2008, the licensee lost control of the brachytherapy sources for approximately 5.5 hours when a medical student, who had not been trained on the safe handling and shielding of brachytherapy sources, inadvertently removed three ribbons containing iridium-192 from a patient's bandage and improperly disposed of the sources. Consequently, the sources were improperly transported to the trash compactor, an uncontrolled area, on WRAMC's hospital loading dock. In addition, WRAMC did not notify the NRC until November 19, 2008, 5 days after this event.

Memorial Hospital of Sweetwater County (EA-09-071)

On May 14, 2009, the NRC issued a Notice of Violation to Memorial Hospital of Sweetwater County for a Severity Level III violation involving the failure to implement 10 CFR 20.1801. Specifically, on February 12, 2009, the licensee stored radioactive materials in a hospital hot lab, a designated controlled area, and did not secure the materials therein from unauthorized removal or access by failing to lock the hot lab door.

KAM Engineering Services, P.C. (EA-09-034)

On May 6, 2009, the NRC issued a Notice of Violation to KAM Engineering Services (KAM-ES) for two Severity Level III violations. The first violation involved the failure to file NRC Form 241, "Report of Proposed Activities in Non-Agreement States," at least 3 days before engaging in licensed activities within NRC jurisdiction. Specifically, from March 1, 2008, until January 21, 2009, KAM-ES, a holder of a North Carolina license, stored or used portable gauges in an area of exclusive Federal jurisdiction without a specific license issued by the NRC and did not file Form 241 with the NRC. The second violation involved a failure to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever the gauges were not under the control and constant surveillance of the licensee, as required by 10 CFR 30.34(i). Specifically, KAM-ES periodically stored two portable gauges in a trailer-type container, and the trailer only had a single lock on the door to secure gauges from unauthorized removal whenever they were not under the control and constant surveillance of KAM-ES.

S&M Testing Laboratory (EA-08-332)

On March 23, 2009, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of $16,250 to S&M Testing Laboratory (S&M) for three Severity Level III violations. The first violation involved a deliberate failure to confine possession of byproduct material to only those locations authorized by the NRC license. Specifically, from May 1, 2007, through September 23, 2008, S&M stored portable gauges at a location in Gurabo, Puerto Rico which was not an authorized storage location on the license. The second violation involved a deliberate failure to provide the NRC an opportunity to inspect byproduct material and the premises where the byproduct material was stored, as required by 10 CFR 30.52(a). Specifically, from May 1, 2007, through August 6, 2008, S&M failed to respond to NRC letters and telephone calls that requested information regarding licensed activities and storage of licensed material. The third violation involved a failure to use a minimum of two independent physical controls that form tangible barriers to secure portable gauges from unauthorized removal whenever the gauges were not under the control and constant surveillance of the licensee, as required by 10 CFR 30.34(i). Specifically, between May 1, 2007, and September 23, 2008, the portable gauges were stored in locked metal boxes located in an unrestricted area, but the keys to the boxes were left in another unrestricted area. During this period, the gauges were not under the control and constant surveillance of S&M.

Quality Inspection Services, Inc. (EA-08-158)

On March 10, 2009, the NRC issued a Confirmatory Order (effective immediately) to Quality Inspection Services, Inc. to

confirm commitments made as a result of an Alternative Dispute Resolution (ADR) settlement agreement. QISI requested an ADR after receiving a Notice of Violation and Proposed Civil Penalty in the amount of $6,500 from the NRC on September 15, 2008. The NRC issued the notice because the licensee willfully violated 10 CFR 34.71, in its failure to maintain utilization logs of radiographic activities and three other related violations. As part of the agreement, QISI agreed to take a number of actions, including revising its existing Operations and Emergency Manual, adding a radiation safety component to its existing newsletter, developing a video presentation at a national industry conference, increasing audits of the radiographers' working areas, and conducting an inquiry of all radiographers during the next two annual radiation safety program reviews. In recognition of QISI's proposed extensive corrective actions and actions already taken, the NRC agreed to reduce the civil penalty originally proposed to $500.

Radiography

Advex Corporation (EA-09-030)

On July 2, 2009, the NRC issued a Notice of Violation for two Severity Level III violations to Advex Corporation (Advex). The first violation involved the failure of an assistant radiographer to wear an alarming ratemeter while performing radiography, as described in Condition 19 of Advex's license. Specifically, on January 22, 2008, an assistant radiographer worked in a restricted area (permanent radiography vault) and did not wear an alarm ratemeter. The second violation involved the deliberate failure of the lead radiographer and the assistant radiographer to follow the Operating & Emergency (O&E) Procedure and 10 CFR 34.47(d) requirements when the assistant radiographer had an off-scale pocket dosimeter. Specifically, on January 22, 2008, neither individual notified the radiation safety officer after the radiographers realized the assistant radiographer's dosimeter was off scale. The assistant did not remove himself from the restricted area, and he was allowed to continue working with and around radioactive material although the radiation safety officer had not authorized his return to work, as required by the O&E procedure and 10 CFR 34.47(d).

Individual Actions

Jennifer O'Neill-Torres (IA-08-072)

On March 23, 2009, the NRC issued an Order to Ms. Jennifer O'Neil-Torres who is the radiation safety officer, president, and owner of S&M Testing Laboratory (S&M), prohibiting her from involvement in NRC-licensed activities for a period of 5 years from the date the Order was issued. The NRC issued the Order based on her engagement in deliberate misconduct, that caused the licensee to be in violation of 10 CFR 30.34(c) and 10 CFR 30.52(a). Specifically, Ms. O'Neill-Torres deliberately failed to obtain NRC approval via an amendment to S&M's NRC license to authorize storage of licensed gauges at an alternate location before moving all gauges from an authorized storage location to an unauthorized storage location. She failed to provide the NRC an opportunity to inspect the gauges, failed to respond to repeated contact attempts by the NRC, and refused to provide an NRC inspector information regarding the licensed gauges, including their location and conditions of storage. In this case, she not only deliberately failed to respond to repeated NRC correspondence and communication attempts, but also failed to address or correct the violations.

Dhiraj Soni (IA-08-022)

On February 10, 2009, the NRC issued an Immediately Effective Order to Mr. Dhiraj Soni, vice president of Eastern Testing and Inspection Inc. (ETI), to prohibit him from involvement in NRC-licensed activities for a period of 1-year from the date the Order went into effect. The NRC issued the Order because Mr. Dhiraj Soni violated 10 CFR 30.10, when he caused ETI, to be in violation of 10 CFR 30.9, in two separate communications to the NRC regarding its actions toward compliance with an NRC Order. Mr. Dhiraj Soni also engaged in deliberate misconduct in violation of 10 CFR 30.10 by deliberately providing inaccurate information in verbal statements made to an NRC inspector on September 20, 2006.

Himat Soni (IA-08-023)

On February 10, 2009, the NRC issued an Effective Order to Mr. Himat Soni, president and part owner of Eastern Testing and Inspection, Inc. (ETI), to prohibit him from involvement in

NRC-licensed activities for a period of 1-year from the date the Order went into effect. The NRC issued the Order because Mr. Himat Soni violated 10 CFR 30.10, when he caused ETI to be in violation of an NRC Order.

(Contact: Michele Burgess, FSME, 301-415-5868, e-mail: Michele.Burgess@nrc.gov)

GENERIC COMMUNICATIONS ISSUED

(March 31, 2009-June 30, 2009)

The following are summaries of the NRC generic communications issued by FSME. If any of these documents appears relevant to your needs and you have not received it, please call one of the technical contacts listed below. The Internet address for the NRC library of generic communications is http://www.nrc.gov/reading-rm/doc-collections/gen-comm/index.html.

Bulletins

None.

Generic Letters

None.

Information Notices (INs)

The NRC issued IN 2009-07, "Withholding of Proprietary Information from Public Disclosure," on March 30, 2009, to all current holders of and potential applicants for licenses, certificates of compliance, permits, or standard design certifications, as well as any other persons submitting a request that information be withheld from public disclosure under the provisions of CFR 2.390.

(Technical Contact: T.D. Naquin, NMSS, 301-492-3187, e-mail: Tyrone.Naquin@nrc.gov)

Regulatory Issue Summaries (RIS)

The NRC issued RIS 2009-05, "Uranium Recovery Policy Regarding: (1) The Process for Scheduling Licensing Reviews of Applications for New Uranium Recovery Facilities, and (2) The Restoration of Groundwater at Licensed Uranium In-Situ Recovery Facilities" on April 29, 2009. The NRC issued this RIS to all holders of operating licenses for uranium recovery facilities and all companies who have submitted applications to construct new uranium recovery facilities of all types (conventional mills, heap leach operations, and in situ recovery facilities) or letters of intent to submit such applications. (Technical Contact: Bill von Till, FSME, 301-415-0598, e-mail: Bill.VonTill@nrc.gov).

The NRC issued RIS 2009-07, "Status Update for the Implementation of NRC Regulatory Authority for Certain Naturally Occurring and Accelerator-Produced Radioactive Material" on May 7, 2009. The NRC issued this RIS to all NRC material and fuel cycle licensees along with all Radiation Control Program Directors and State Liaison Officers.

(Technical Contact: Shirley Xu, FSME, 301-415-7640, e-mail: Shirley.Xu@nrc.gov)

(General Contact: Angela R. McIntosh, FSME, 301-415-5030, email: Angela.McIntosh@nrc.gov)

SIGNIFICANT EVENT

Date and Place: February 3, 2009, Richland, WA

Nature and Probable Causes: On February 12, 2009, the licensee sent an employee for a lung bioassay because airborne contamination levels exceeded action levels. The employee's first lung count detected an average of approximately 14.8 becquerels (Bq) (0.4 nanocuries (nCi) of americium-241 (Am-241)). Assuming exposure occurred 10 days earlier (based on postexposure investigation findings), the intake was approximately 70 Bq (1.9 nCi) of Am-241. In the United States, the annual limit on intake for Am-241 is 222 Bq (6 nCi) (1 micron activity median aerodynamic diameter particle size). The estimated dose was about one-third of the annual limit, or 0.16 sievert (Sv) (16 radiation equivilent in man (rem)) committed dose equivalent, which exceeded the statutory annual limit of 0.5 Sv (50 rem). The worker had previous whole-body exposure, but this added amount did not cause the statutory limit to be exceeded.

On March 25, 2009, the licensee employer informed the Washington State Department of Health that further testing necessitated a revision to the original calculated dose and the new calculated dose would exceed the 0.5 Sv (50 rem) committed dose equivalent limit. The licensee employer assumed that the date of exposure was February 3, 2009. Fecal bioassay results from one other employee who was also in the containment showed a small amount of activity, and a dose was assigned to this second worker that did not exceed

regulatory limits. The second employee's lung bioassay was less than detection limits.

On June 22, 2009, the licensee informed the Washington State Department of Health that the committed effective dose equivalent for the employee was 68 millisieverts (mSv) (6.8 rem) and the committed dose equivalent was 1.2 Sv (120 rem) to the bone surface. The employee's deep dose equivalent from his dosimetry for the first quarter of 2009 was 0.3 mSv (30 mrem). Intake was calculated using the methodology of the International Commission on Radiological Protection 30, modified for clearance function. Intake for Am-241 was calculated from lung deposition and calculated clearance rates. Intake of plutonium was inferred from excreta bioassay results and assumed ratios of Am-241 to plutonium. The dose was calculated using the computer based internal dosimetry code (CINDY) version 1.2. The particle size was considered, and a 1-micron activity median aerodynamic diameter was chosen as the most appropriate particle size.

Although the exact cause of the incident is unknown, the assumed cause is a failure of the respiratory protection system.

The licensee implemented several corrective actions. These include: testing each worker with a challenge gas before high-risk work; implementing increased engineering controls to mitigate airborne contaminants; providing training using phosphorescent powder and black lights for workers; performing more frequent bioassay samples, including nasal smears for immediate detection of intakes; using supplied air respirators for high-risk work; and training workers, managers and health physics staff. The licensee resumed work in the area, and no further exposures have occurred.

(Contact: Angela R. McIntosh, FSME, 301-415-5030, e-mail: Angela.McIntosh@nrc.gov)

SELECTED *FEDERAL REGISTER* NOTICES

Notice of Availability of Draft NUREG-1536, Revision 1A, "Standard Review Plan for Spent Fuel Dry Storage Systems at a General License Facility," and Opportunity to Provide Comments (NRC-2009-0164), 74 FR 17546 and 74 FR 17696, April 15, 2009.

(Contact: Ron Parkhill, NMSS, 301-492-3324, fax number: 301-492–3342, e-mail: ron.parkhill@nrc.gov)

Physical Protection of Byproduct Material (availability of preliminary draft rule language) (RIN AI12) (NRC-2008-0120), 74 FR 17794, April 17, 2009.

(Contact: Merri Horn, FSME, 301-415-8126, e-mail: Merri.Horn@nrc.gov)

Physical Protection of Byproduct Material (availability of preliminary draft rule language) (RIN AI12) (NRC-2008-0120), 74 FR 20235, May 1, 2009.

(Contact: Robert MacDougall, FSME, 301-415-5175, e-mail: robert.macdougall@nrc.gov)

Unified Agenda of Federal Regulatory and Deregulatory Actions, 74 FR 22070, May 11, 2009.

(Contact: Michael T. Lesar, ADM, 301-492-3663, e-mail: Michael.Lesar@nrc.gov)

Draft Regulatory Guide: Issuance, Availability (DG-1237) (NRC-2008-0122), 74 FR 23220, May 18, 2009,

Enhancements to Emergency Preparedness Regulations (NRC-2008-0122), 74 FR 23253, May 18, 2009,

and

Draft Regulatory Guide: Issuance, Availability; Correction (RG 1237) (NRC-2008-0122), 74 FR 24884, May 26, 2009.

(Contact: Steven F. LaVie, NSIR, 301-415-1081, e-mail: Steven.LaVie@nrc.gov)

List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 6 (RIN AI60) (NRC-2009-0132), 74 FR 26285, June 2, 2009,

and

List of Approved Spent Fuel Storage Casks: HI-STORM 100, Revision 6 (RIN AI60) (NRC-2009-0132), 74 FR 26310, June 2, 2009.

(Contact: Jayne M. McCausland, FSME, 301-415-6219, e-mail: Jayne.McCausland@nrc.gov)

Notice of Issuance of Regulatory Guide (RG 3.52, Rev. 2) (NRC-2008-0506), 74 FR 26737, June 3, 2009.

(Contact: Breeda Reilly, NMSS, 301-492-3110, e-mail: Breeda.Reilly@nrc.gov)

NRC Enforcement Policy Revision (NRC-2008-0497), 74 FR 27191, June 8, 2009.

(Contact: Doug Starkey, OE, 301-415-3456, e-mail: Doug.Starkey@nrc.gov)

List of Approved Spent Fuel Storage Casks: Transnuclear, Inc., Standard NUHOMS System, Revision 10 (RIN AI62) (NRC-2009-0162), 74 FR 27423, June 10, 2009.

(Contact: Jayne M. McCausland, FSME, 301-415-6219, e-mail: Jayne.McCausland@nrc.gov)

and

List of Approved Spent Fuel Storage Casks: Transnuclear, Inc., Standard NUHOMS System, Revision 10 (RIN AI62) (NRC-2009-0162), 74 FR 27469, June 10, 2009.

(Contact: Jayne M. McCausland, FSME 301-415-6219, e-mail: Jayne.McCausland@nrc.gov)

Revision of Fee Schedules; Fee Recovery for FY 2009 (RIN AI52) (NRC-2008-0620), 74 FR 27641, June 10, 2009.

(Contact: Rebecca I. Erickson, OCF, 301-415-7126, e-mail: Rebecca.Erickson@NRC.gov)

Export and Import of Nuclear Equipment and Material; Updates and Clarifications (RIN AI16) (NRC-2008-0567), 74 FR 29614, June 23, 2009.

(Contact: Brooke G. Smith, OIP, 301-415-2347, e-mail: brooke.smith@nrc.gov)

Limiting the Quantity of Byproduct Material in a Generally Licensed Device, (RIN 3150-A133) (NRC-2008-0272), 74 FR 38372, August 3, 2009.

(Contact: Solomon Sahle, FSME, 301-415-3781, e-mail: solomon.sahle@nrc.gov)

DESIGNATED E-MAIL ADDRESS FOR IDENTIFIED ERRORS IN NUREG-1556 DOCUMENTS

Occasionally, stakeholders have identified typographical errors or inconsistencies in the NUREG-1556 "Consolidated Guidance About Materials Licenses." The NRC invites stakeholders to submit suggested corrections to any of the 21 volumes of the NUREG-1556 series to a designated e-mail address, nureg1556.resource@nrc.gov.

(Contact: Lisa Dimmick, FSME, 301-415-0694, e-mail: lisa.dimmick@nrc.gov)

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