

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555

June 3, 1997

NRC INFORMATION NOTICE 97-30: CONTROL OF LICENSED MATERIAL DURING REORGANIZATIONS, EMPLOYEE-MANAGEMENT DISAGREEMENTS, AND FINANCIAL CRISES

Addressees

All material and fuel cycle licensees.

Purpose

The U.S. Nuclear Regulatory Commission is issuing this information notice to alert addressees to potential loss of control of licensed material during periods of reorganization, employee-management disagreements, and financial crises. It is expected that recipients will review the information for applicability to their facilities and consider actions, as appropriate, to avoid similar problems. However, suggestions contained in this information notice are not NRC requirements; therefore, no specific action nor written response is required.

Description of Circumstances

Case 1: On June 12, 1996, NRC was notified that the employees of an NRC-licensed laboratory were leaving the facility because they claimed that they had not been paid in over a month. The licensee analyzed environmental and bioassay samples containing small amounts of byproduct, source, or special nuclear material. Before their departure, the employees informed the parent company that they had arranged for their customers to pick up their samples, containing small amounts of source material; locked and secured the building; and sent the facility keys to the parent company. The management of the parent company promptly sent someone to ensure that the facility was properly secured from unauthorized access. The management of the laboratory said that the employees had been paid and the problems were a result of a reorganization.

Case 2: On September 19, 1996, NRC was informed that a licensee had filed an involuntary petition for bankruptcy on April 30, 1996, without notifying NRC, and that the trustee intended to abandon the property. The licensee possessed two portable moisture/density gauges, each containing megabecquerel (millicurie) quantities of cesium-137 and americium-241/beryllium sealed sources. NRC efforts to contact the licensee were unsuccessful. Communications with the trustee revealed that one of the gauges was stored at the licensee's facility; and the licensee's former radiation safety officer (RSO) possessed the other gauge. The former RSO had formed his own company and maintained possession of the gauge after his company took over a project that the licensee had been working on at the time of the bankruptcy filing. The gauge was being stored

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at the home of an engineering technician, an employee of the former RSO's company. At NRC's request, the former RSO relocated the gauge to the NRC-licensed property where the other gauge was in storage.

Discussion

These cases demonstrate the potential for the security and control of licensed material to be compromised during periods of organizational instability. Licensees are reminded that in controlled or unrestricted areas, 10 CFR 20.1801 and 20.1802 requires them to secure stored material, and to control and maintain, under constant surveillance, licensed material that is not in storage. In addition, licensees must control access to restricted areas to protect individuals against undue risks from exposure to radiation and radioactive material. These requirements are especially important during periods of reorganization, employee-management disagreements, and financial crises, since these situations may result in decreased financial and personnel resources that may impact the ability to properly maintain control of the licensee's material.

During times of instability, licensees are encouraged to take prompt and comprehensive inventories of all licensed material to ensure that all material is accounted for and properly secured. In addition, licensees should consider notifying NRC of such situations, so that NRC can verify that the material is properly secured and has not been released into the public domain in an uncontrolled manner. If notified early, NRC can help ensure that all necessary regulatory actions are completed. In cases of bankruptcy, licensees are required to make an immediate notification to NRC, pursuant to the regulations in 10 CFR 30.34(h), 40.41(f), and 70.32(a)(9). The actions that both the employees and management took in case 1 are a good example of how to properly maintain control of licensed material during a period of organizational instability. Licensees are ultimately responsible for the security and control of their licensed material regardless of their financial, staffing, or organizational situation.

Licensees seeking to transfer control of a license are reminded of the regulation in 10 CFR 30.34(b), which requires them to obtain written consent from the Commission when transferring control of a license. Licensees seeking to transfer control of licensed material only must verify that the transferee's license authorizes the receipt of the type, form, and quantity of material to be transferred pursuant to 10 CFR 30.41(c), 40.51(c), and 70.42(c). This type of transfer allows NRC to ensure that the transferee is aware of the safety and regulatory requirements, associated with the material, that occur during the licensing and inspection processes. Both the transferor (i.e., the shipper) and transferee (i.e., the recipient) may be subject to enforcement actions in cases where a licensee transfers licensed material to unlicensed or unauthorized entities.

In the case where a licensee abandons its licensed material instead of properly disposing of, or transferring, the material to another licensed entity, public health and safety may be greatly compromised. Irretrievable well-logging sealed sources are the only type of material that may be abandoned, pursuant to the regulations in 10 CFR 39.15. All other licensed material may not be abandoned since members of the public, unaware of the radiological hazards, may handle these materials and be exposed to ionizing radiation unnecessarily. A licensee that abandons licensed

abandons licensed material is subject to substantial civil penalties, up to \$100,000 per day, as well as criminal sanctions. In addition, a licensee may lose its license to use radioactive material since abandoning licensed material demonstrates both a fundamental breakdown in the licensee's ability to control material and, at least, careless disregard for public health and safety. Action may also be taken against the persons involved in the abandonment.

Related Generic Communications

Other instances that may affect a licensee's ability to properly maintain control of licensed material, such as bankruptcy, are addressed in Information Notices 93-100, "Reporting Requirements for Bankruptcy," issued December 22, 1993.

This information notice requires no specific action nor written response. If you have any questions about the information in this notice, please contact the technical contact listed below or the appropriate regional office.

/s/
 Donald A. Cool, Director
 Division of Industrial and
 Medical Nuclear Safety
 Office of Nuclear Material Safety
 and Safeguards

Technical contact: Mark A. Sitek, NMSS
 301-415-6155
 E-mail: mas6@nrc.gov

Attachments:

1. List of Recently Issued NMSS Information Notices
2. List of Recently Issued NRC Information Notices

Attachment filed in Ticket

* SEE PREVIOUS CONCURRENCE DOCUMENT NAME: 97-30.IN

OFC	IMOB	E	Tech Editor		IMOB		IMAB	E	OE*	
NAME	MSitek/II		EKraus*		JPiccone*		LCamper*		JLieberman	
DATE	4/22/97		4/9/97		4/24/97		4/25/97		4/28/97	
OFC	FCSS*		IMNS*		OGC*					
NAME	LETenEyck		DCool		STreby					
DATE	5/06/97		5/06/97		5/22/97					

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LIST OF RECENTLY ISSUED
 NMSS INFORMATION NOTICES

Information Notice No.	Subject	Date of Issuance	Issued to
97-24	Failure of Packing Nuts on One-Inch Uranium Hexafluoride Cylinder Valves	05/08/97	All U.S. Nuclear Regulatory Commission licensees and certificates authorized to handle uranium hexafluoride in 30- and 48-inch diameter cylinders
97-23	Evaluation and Reporting of Fires and Unplanned Chemical Reaction Events at Fuel Cycle Facilities	05/07/97	All fuel cycle conversion, enrichment, and fabrication facilities
97-20	Identification of Certain Uranium Hexafluoride Cylinders that do not Comply with ANSI N14.1 Fabrication Standards	04/17/97	Registered users of transportation packages for uranium hexafluoride
97-04	Implementation of a New Constraint on Radioactive Air Effluents	02/24/97	All materials, fuel cycle, and non-power reactor licensees
97-03	Defacing of Labels to Comply with 10 CFR 20.1904(b)	02/20/97	All material licensees involved with disposal of medical waste
96-72	Undetected Failures that May Occur During Patient Treatments with Teletherapy Devices	12/24/96	All teletherapy licensees
96-70	Year 2000 Effect on Computer System Software	12/24/96	All U.S. Nuclear Regulatory Commission licensees, certificate holders, and registrants

LIST OF RECENTLY ISSUED
 NRC INFORMATION NOTICES

Information Notice No.	Subject	Date of Issuance	Issued to
97-29	Containment Inspection Rule	05/30/97	All holders of OLs or CPs for nuclear power reactors
97-28	Elimination of Instrument Response Time Testing Under the Requirements of 10 CFR 50.59	05/30/97	All holders of OLs or CPs
97-27	Effect of Incorrect Strainer Pressure Drop on Available Net Positive Suction Head	05/16/97	All holders of OLs or CPs for light-water power reactors, except those licensees who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel
97-26	Degradation in Small-Radius U-Bend Regions of Steam Generator Tubes	05/19/97	All holders of OLs or CPs for pressurized-water reactors
87-10, Sup. 1	Potential for Water Hammer During Restart of Residual Heat Removal Pumps	05/15/97	All holders of OLs or CPs for boiling-water reactors
97-25	Dynamic Range Uncertainties in the Reactor Vessel Level Instrumentation	05/09/97	All holders of OLs or CPs for Westinghouse pressurized-water reactors

OL = Operating License
 CP = Construction Permit

Related Generic Communications:

Other instances that may affect a licensee's ability to properly maintain control of licensed material, such as bankruptcy, are addressed in Information Notices 93-100, "Reporting Requirements for Bankruptcy," issued December 22, 1993.

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OFC	IMOB	E	Tech Editor	IMOB	IMAB	E	OE*
NAME	MSitek/II		EKraus*	JPiccone*	LCamper*		JLieberman
DATE	4/22/97		4/9/97	4/24/97	4/25/97		4/28/97
OFC	FCSS*		IMNS*	OGCC			
NAME	LETenEyck		DCool	STreby			
DATE	5/06/97		5/06/97	5/14/97			

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5/22/97 ready
 (called for pickup)

Related Generic Communications:

Other instances that may affect a licensee's ability to properly maintain control of licensed material, such as bankruptcy and change of ownership issues, are addressed in Information Notices 93-100, "Reporting Requirements for Bankruptcy," issued December 22, 1993; and 89-25, Rev. 1, "Unauthorized Transfer of Ownership or Control of Licensed Activities," issued December 7, 1994.

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DATE	4/22/97		4/9/97	4/24/97	4/25/97		4/28/97
OFC	FCSS		IMNS				
NAME	ETenEyck		PC661				
DATE	5/6/97		5/6/97				

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OFC	IMOB	E	Tech Editor	IMOB	IMAB	E	OE	IMNS
	<i>M Sitek/II</i>		E Kraus*	<i>Piccone</i>	<i>Camper</i>		<i>J Lieberman</i>	DCool
DATE	4/22/97		4/9/97	4/24/97	4/19/97		4/19/97	4/19/97

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