December 12, 2006

ALL AGREEMENT STATES, NEW JERSEY, PENNSYLVANIA, VIRGINIA

FINAL RULE: NATIONAL SOURCE TRACKING SYSTEM (FSME-06-110)

HIGH PRIORITY ACTION FOR THE FOLLOWING STATES: AZ, CA, GA, IL, KY, LA, MA, MD, NC, NY, OH, TX, WI

Purpose: To provide the Agreement States with a copy of the National Source Tracking System (NSTS) final rule (Enclosure 1) and a sample license condition for implementing the requirement that source manufacturers assign serial numbers to sources covered by the rule (Enclosure 2). To provide the Agreement States with the time frames to implement NSTS through legally binding requirements, noting that the compliance date for licensee reporting requirements has changed.

Background: The U.S. Nuclear Regulatory Commission (NRC) has published the final rule implementing the NSTS which amends Part 20 and Part 32. As described in the *Federal Register* Notice (71 FR 65685, November 8, 2006), Agreement States will need to take appropriate action to implement NSTS through legally binding requirements. As noted in the *Federal Register* Notice, the final rule is an immediate mandatory matter of compatibility. The Agreement States are expected to issue the legally binding requirements such that the compliance dates for the final rule and the legally binding requirements are the same. This will ensure that both NRC and Agreement State licensees all begin reporting at the same time.

Discussion: The final rule contains revisions to Part 20 and Part 32 which include the new definition of nationally tracked sources in 10 CFR 20.1003, the reporting requirements in 20.2207, the thresholds in Part 20, Appendix E, and the serialization requirements in 10 CFR 32.201. The final rule changed the basis of the rule from promotion of the common defense and security to protection of public health and safety and is a Compatibility Category ‘‘B’’ designation. NRC will operate and maintain the NSTS after it is developed and deployed.

Under the NSTS rule, source manufacturers are required to assign a unique serial number to each source subject to tracking. The serialization requirements in 10 CFR 32.201 for manufacturers need to be in place on or before February 6, 2007. The following Agreement States have licensees that are authorized to manufacture sources subject to tracking in the NSTS and will need to take appropriate action to implement this requirement on or before February 6, 2007: AZ, CA, GA, IL, KY, LA, MA, MD, NC, NY, OH, TX, and WI. We have drafted a proposed license condition that could be used by these Agreement States. We expect to review each Agreement State’s proposed requirements in a timely manner to ensure that the Category “B” compatibility designation is satisfied in accordance with the former Office of State and Tribal Programs (STP) Procedure SA-201, *Review of State Regulations*. Use of the suggested license condition will expedite our review. This process is consistent with that which we collectively used for the increased controls for certain radioactive materials.

As the result of changes to Federal information system security requirements, the startup of the NSTS computer database will necessarily be delayed. The current projected startup date is November 2007. The compliance dates for the licensee reporting provisions in 10 CFR 20.2207 are changed to November 15, 2007 for Category 1 sources and November 30, 2007 for Category 2 sources. All Agreement States will need to adopt requirements for licensee reporting by those dates to meet the Category "B" compatibility designation. We will provide you additional information as the NSTS is developed.

The serialization requirements in 10 CFR 32.201 for manufacturers will be classified as RATS ID 2006-2 in the Chronology of NRC Amendments Chart with a State implementation due date of February 6, 2007 for States with licensees that are authorized to manufacture sources subject to tracking in the NSTS. The remaining provisions of the NSTS will be classified as RATS ID 2006-3. Information on the Chronology of NRC Amendments and Summary of Change Document for RATS ID 2006-2 and 2006-3 will be sent in a future correspondence.

Action: For Agreement States with licensees that are authorized to manufacture sources subject to tracking in the NSTS, please submit either your proposed regulation or legally binding requirement for review in accordance with STP Procedure SA-201 to meet the February 6, 2007 implementation date. Draft license conditions should be submitted for review prior to amending existing licenses.

All Agreement States will need to adopt the remaining provisions of the NSTS requirements by November 15, 2007 for Category 1 sources and November 30, 2007 for Category 2 sources.

All submittals should be sent to Scott Moore, Deputy Director, Division of Materials Safety and State Agreements, Office of Federal and State Materials and Environmental Management Programs.

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

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/RA/
Janet R. Schlueter, Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Enclosures:
As stated

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License Conditions for Designating Serial Numbers to Category 2 and Above Sources Manufactured after February 6, 2007

To ensure nationwide implementation of the February 6, 2007, date for manufacturers to assign unique serial numbers to Category 2 and above sources as imposed by the National Source Tracking System's final rule, the following generic license condition can be used to implement this requirement:

"*The licensee shall comply with the requirements set forth in 10 CFR 32.201 – "Serialization of nationally tracked sources." The licensee shall assign a unique serial number, composed only of alpha-numeric characters, to each nationally tracked source manufactured after February 6, 2007. A nationally tracked source as defined in 10 CFR 32.2, refers to a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in Appendix E to 10 CFR Part 20 - "Nationally Tracked Source Thresholds*."

Radioactive Material	Category 1 (Tbq)	Category 1 (Ci)	Category 2 (Tbq)	Category 2 (Ci)
Actinium-227	20	540	0.2	5.4
Americium-241	60	1,600	0.6	16
Americium-241/Be	60	1,600	0.6	16
Californium-252	20	540	0.2	5.4
Cobalt-60	30	810	0.3	8.1
Curium-244	50	1,400	0.5	14
Cesium-137	100	2,700	1	27
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,200	0.8	22
Plutonium-238	60	1,600	0.6	16
Plutonium-239/Be	60	1,600	0.6	16
Polonium-210	60	1,600	0.6	16
Promethium-147	40,000	1,100,000	400	11,000
Radium-226	40	1,100	0.4	11
Selenium-75	200	5,400	2	54
Strontium-90	1,000	27,000	10	270
Thorium-228	20	540	0.2	5.4
Thorium-229	20	540	0.2	5.4
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81

Appendix E to 10 CFR Part 20 - "Nationally Tracked Source Thresholds." The Terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only and are rounded after conversion.

ENCLOSURE 2