

U.S. NUCLEAR REGULATORY COMMISSION

Date: May 20, 2009

TELEPHONE CONVERSATION RECORD

Time: 09:15 a.m.

Mail Control
or Report No(s).

N/A

License No(s). SNM-362

Docket No(s). 07000398

Name of Licensee: U.S. Dept. of Commerce
National Institute of Standards and TechnologyName of Participant(s): David Brown, Assistant Radiation Safety Officer
Steven R. Courtemanche, Health Physicist NRC RITelephone No. 301-975-5810
610-337-5075

Subject: Need for a 30-day report concerning leaking source.

(NOTE: This will be used as the
Documents Title in ADAMS)

I was informed by the receptionist that Tim Mengers, Radiation Safety Officer, was in Colorado and would be unavailable until next week. I was referred to David Brown, the Assistant Radiation Safety Officer. I spoke with Mr. Brown about Event Notification No. 45070, which describes the actions taken by the licensee to modify an instrument and its sealed radioactive source on January 31, 2008 and the discovery of removable contamination in excess of 0.005 microcuries. The report indicated that the licensee's belief at the time was that the licensee's actions of attempting to modify the source changed the designation from sealed source to unsealed material. I informed Mr. Martin that the licensee's actions under its broad scope license did take the licensee out of the leak test requirements found under 10 CFR Part 31 for generally-licensed items. The Nickel-63 foiled source has its own sealed source device registration sheet and is considered a sealed source on its own merits. The device has a registration sheet because Smiths Detection incorporated the Nickel-63 foil within its device and had to get the device registered with the NRC. Ordinarily, broad scope licenses issued by the Regions have a leak test condition requiring that licensee's report leaking sealed sources within 30 days of the discovery of the leaking sealed source. Since NIST's license is issued by NRC headquarters because of the criticality issue of the uranium, it does not have the above leak test condition. My supervisor indicated that NIST should file a written report to the Region with the information required in 10 CFR 31.5. If the licensee believes that a report does not need to be sent in, then a written request to have the matter reviewed by the Office of the General Counsel should be submitted to the Region by NIST. Mr. Brown stated that he was concerned that the 30-day period had passed and that the licensee was in noncompliance. I informed Mr. Brown that since a decision about the applicability of the licensee making a report was not made until recently and they were informed on 5/20/09, they could use today's date as the starting date for the requirement unless they request a ruling from OGC. Mr. Brown stated that the RSO would get back in touch with me next week.

Action Required: Place in ADAMS

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Prepared & SUNSI Review Completed By: Steven R. Courtemanche / RA / Date: May 20, 2009