

From: [O'Brien, Thomas](#)
To: [Struckmeyer, Richard](#)
Cc: [Kayser, Richard F.](#); [Karam, Lisa R. Dr.](#); [Unterweger, Michael P.](#); [Mejias, Manny](#); [McGiff, Thomas James](#)
Subject: RE: NIST Distribution of Ra-226 and Am-241 - Exempt Distribution license (19-23454-01 E)
Date: Tuesday, August 06, 2013 10:33:28 AM

Richard-

NIST is providing the responses below to your two questions.

1. In order for us to proceed with the necessary modification to your license, we request that you describe the action you have taken.

We confirmed that our internal procedure for processing requests to ship radioactive Standard Reference Material (SRM) only permits Ra-226 and Am-241 SRMs to be sent to Agreement State or NRC licensees.

2. In addition, please specify whether you are distributing Ra-226 and Am-241, and if so, please indicate under what authority this is occurring.

We are not currently *distributing* SRMs containing Ra-226 or Am-241 under the E-license. However, under our SNM-362 license, we do *transfer* SRMs (including Ra-226 or Am-241) to Agreement State or NRC licensees.

With respect to the options you provided for distribution of Ra-226 and Am-241 in your email dated 7/15/13, we do not plan to pursue either option at this time.

R/Tom

Tom O'Brien M.S., CHP
Radiation Safety Officer
Chief, Radiation Safety Division
Office of Safety, Health and Environment
National Institute of Standards & Technology
100 Bureau Drive, Mail Stop 1731
Gaithersburg, MD 20899-8462

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Radiation Safety Website: http://safety.nist.gov/radiation_safety/

From: Struckmeyer, Richard [mailto:Richard.Struckmeyer@nrc.gov]
Sent: Wednesday, July 31, 2013 9:40 AM
To: O'Brien, Thomas
Cc: Kayser, Richard F.
Subject: RE: NIST Distribution of Ra-226 and Am-241 - Exempt Distribution license (19-23454-01 E)

Mr. O'Brien:

In order for us to proceed with the necessary modification to your license, we request that you describe the action you have taken.

In addition, please specify whether you are distributing Ra-226 and Am-241, and if so, please indicate under what authority this is occurring.

Thank you,

Richard K. Struckmeyer
Division of Materials Safety and State Agreements
Office of Federal and State Materials and Environmental Management Programs
U.S. Nuclear Regulatory Commission
301-415-5477

From: O'Brien, Thomas [mailto:thomas.obrien@nist.gov]
Sent: Friday, July 19, 2013 4:05 PM
To: Struckmeyer, Richard
Cc: Kayser, Richard F.
Subject: RE: NIST Distribution of Ra-226 and Am-241 - Exempt Distribution license (19-23454-01 E)

Richard,

Thank you for the response and clarification. We have taken appropriate action with respect to this clarification.

R/Tom

From: Struckmeyer, Richard <Richard.Struckmeyer@nrc.gov>
Sent: Monday, July 15, 2013 2:15 PM
To: O'Brien, Thomas
Cc: Kotzalas, Margie; Xu, Shirley
Subject: RE: NIST Distribution of Ra-226 and Am-241 - Exempt Distribution license (19-23454-01 E)

Mr. O'Brien:

I have re-evaluated your request of distribution of Ra-226 and Am-241 under NRC license 19-23454-01 E. It appears that we likely erred by including your August 13, 2007, letter as a license condition on amendment #6 of your exempt distribution license without any

modification of the information it contained concerning distribution of Ra-226 and Am-241. We will have to take license action to modify your exempt distribution license to remove the implication that the license authorizes distribution of Ra-226 and Am-241.

Here are options for distribution of Rd-226 and Am-241:

(1) You may distribute these byproduct materials in accordance with 10 CFR 32.57. Such distribution must in be accordance with a specific license issued by (in this case) NRC Region I. You would have to apply to them for such a license. I do not believe your Special Nuclear Materials License Number SNM-362 authorizes such distribution.

(2) You may request an exemption concerning your current exempt distribution license in accordance with 10 CFR 30.11(a); such a request is subject to review by the NRC's Office of General Counsel, with uncertain outcome.

I regret the inconvenience this causes. Please let me know if you become aware of any provision of the regulations in 10 CFR that might have bearing on your situation.

Thank you,

Richard K. Struckmeyer
Division of Materials Safety and State Agreements
Office of Federal and State Materials and Environmental Management Programs
U.S. Nuclear Regulatory Commission
301-415-5477

From: O'Brien, Thomas [<mailto:thomas.obrien@nist.gov>]
Sent: Thursday, July 11, 2013 8:56 AM
To: Struckmeyer, Richard
Subject: RE: NIST Distribution of Ra-226 and Am-241 - Exempt Distribution license (19-23454-01 E)

Richard- In response to your two recent email questions:

The company wants the SRMs as soon as possible. The SRMs are:

SRM #4965 has about 155 Bq of Ra-226
SRM #4969 has about 15 Bq of Ra-226.

R/Tom

Tom O'Brien M.S., CHP
Radiation Safety Officer
Chief, Radiation Safety Division

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Radiation Safety Website: http://safety.nist.gov/radiation_safety/

From: Struckmeyer, Richard [<mailto:Richard.Struckmeyer@nrc.gov>]
Sent: Tuesday, July 09, 2013 4:10 PM
To: O'Brien, Thomas
Subject: RE: NIST Distribution of Ra-226 and Am-241 - Exempt Distribution license (19-23454-01 E)

Mr. O'Brien:

Another question: What are the quantities of Am-241 and Ra-226 that you want to distribute? I did not see this information in the enclosure to the August 13, 2007 letter.

Thank you again

From: O'Brien, Thomas [<mailto:thomas.obrien@nist.gov>]
Sent: Tuesday, July 09, 2013 10:34 AM
To: Struckmeyer, Richard
Cc: Kayser, Richard F.; Karam, Lisa R. Dr.; Unterweger, Michael P.; Mejias, Manny; McGiff, Thomas James; Baryoun, Adel; Brown, David R.
Subject: NIST Distribution of Ra-226 and Am-241 - Exempt Distribution license (19-23454-01 E)

Richard-

In amendment #6 of NRC form 374 for our Exempt Distribution license (19-23454-01 E), item 6 states that the material we can distribute is limited to that specified to Section 30.71, Schedule B of 10 CFR 30.

Item 13C of the above license references an August 13, 2007 letter (attached). In item 1 of enclosure 2 to this letter, we indicate that we intend to distribute Ra-226 and Am-241 (which are not listed in Section 30.71, Schedule B of 10 CFR 30). As this letter is part of our current license, we consider the Ra-226 and Am-241 to be within the scope of our license (subject to the requirements of 10 CFR 31.8).

In the interest of ensuring our interpretation is consistent with NRC's view of our Exempt Distribution license, we request your agreement that the distribution of Ra-226 and Am-241 is within the scope of our license.

Regards,

Tom