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UNITED STATES  
**NUCLEAR REGULATORY COMMISSION**

REGION III  
2443 WARRENVILLE ROAD, SUITE 210  
LISLE, ILLINOIS 60532-4352

**TELEFAX TRANSMITTAL**

DATE May 16, 2013

NUMBER OF PAGES 6

SEND TO Taso Sofikitis - President c/o Terry

LOCATION S.B. Ethanol Assets (formerly New Energy)- NRC General Licensee

FAX NUMBER (248) 569-9793

VERIFY BY CALLING

FROM: Bill Reichhold  
(Sender)

TELEPHONE NUMBER (630) 829-9839

FAX NUMBER (630) 515-1078

If you do not receive the complete fax transmittal, please contact the sender as soon as possible at the telephone number provided above.

MESSAGE See accompanying documents. Please call me at 630-829-9839 if you have any questions.



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Bill Reichhold

**NOTICE**

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this communication in error, please notify the sender immediately by telephone and return the original to the above address, by U.S. Mail. Thank You.

Please be reminded that you are responsible for the day-to-day compliance with the appropriate regulations and requirements for your generally licensed device(s) at S.B. Ethanol Assets (formerly New Energy).

Please make sure you do not abandon your generally licensed device.

Please ensure that any transfer, dispose of, etc., of the generally licensed device(s) must be done in accordance with 10 CFR 31.5.

Please ensure that the generally licensed device(s) are secured from unauthorized removal.

Please see the attached copy of 10 CFR 31.5. You may also obtain a copy of 10 CFR 31.5 from the NRC website at <http://www.nrc.gov/reading-rm/doc-collections/cfr/part031/part031-0005.html>. You may also find the "General License Uses Licensee Toolkit" helpful and can also be found on the NRC website at <http://www.nrc.gov/materials/miau/general-use/toolkit.html>.

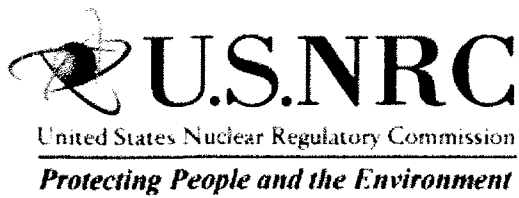
Please contact me at 630-829-9839 if you have any questions.

From the desk of:



Bill Reichhold

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## **§ 31.5 Certain detecting, measuring, gauging, or controlling devices and certain devices for producing light or an ionized atmosphere<sup>5</sup>**

(a) A general license is hereby issued to commercial and industrial firms and research, educational and medical institutions, individuals in the conduct of their business, and Federal, State or local government agencies to acquire, receive, possess, use or transfer, in accordance with the provisions of paragraphs (b), (c) and (d) of this section, byproduct material contained in devices designed and manufactured for the purpose of detecting, measuring, gauging or controlling thickness, density, level, interface location, radiation, leakage, or qualitative or quantitative chemical composition, or for producing light or an ionized atmosphere.

(b)(1) The general license in paragraph (a) of this section applies only to byproduct material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in—

(i) A specific license issued under § 32.51 of this chapter; or

(ii) An equivalent specific license issued by an Agreement State; or

(iii) An equivalent specific license issued by a State with provisions comparable to § 32.51 of this chapter.

(2) The devices must have been received from one of the specific licensees described in paragraph (b)(1) of this section or through a transfer made under paragraph (c)(9) of this section.

(c) Any person who acquires, receives, possesses, uses or transfers byproduct material in a device pursuant to the general license in paragraph (a) of this section:

(1) Shall assure that all labels affixed to the device at the time of receipt and bearing a statement that removal of the label is prohibited are maintained thereon and shall comply with all instructions and precautions provided by such labels;

(2) Shall assure that the device is tested for leakage of radioactive material and proper operation of the on-off mechanism and indicator, if any, at no longer than six-month intervals or at such other intervals as are specified in the label; however:

(i) Devices containing only krypton need not be tested for leakage of radioactive material, and

(ii) Devices containing only tritium or not more than 100 microcuries of other beta and/or gamma emitting material or 10 microcuries of alpha emitting material and devices held in storage in the original shipping container prior to initial installation need not be tested for any purpose;

(3) Shall assure that the tests required by paragraph (c)(2) of this section and other testing, installation, servicing, and removal from installation involving the radioactive materials, its shielding or containment, are performed:

(i) In accordance with the instructions provided by the labels; or

(ii) By a person holding a specific license pursuant to parts 30 and 32 of this chapter or from an Agreement State to perform such activities;

(4) Shall maintain records showing compliance with the requirements of paragraphs (c)(2) and (c)(3) of this section. The records must show the results of tests. The records also must show the dates of performance of, and the names of persons performing, testing, installing, servicing, and removing from the installation radioactive material and its shielding or containment. The licensee shall retain these records as follows:

(i) Each record of a test for leakage or radioactive material required by paragraph (c)(2) of this section must be retained for three years after the next required leak test is performed or until the sealed source is transferred or disposed of.

(ii) Each record of a test of the on-off mechanism and indicator required by paragraph (c)(2) of this section must be retained for three years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed of.

(iii) Each record that is required by paragraph (c)(3) of this section must be retained for three years from the date of the recorded event or until the device is transferred or disposed of.

(5) Shall immediately suspend operation of the device if there is a failure of, or damage to, or any indication of a possible failure of or damage to, the shielding of the radioactive material or the on-off mechanism or indicator, or upon the detection of 185 becquerel (0.005 microcurie) or more removable radioactive material. The device may not be operated until it has been repaired by the manufacturer or other person holding a specific license to repair such devices that was issued under parts 30 and 32 of this chapter or by an Agreement State. The device and any radioactive material from the device may only be disposed of by transfer to a person authorized by a specific license to receive the byproduct material in the device or as otherwise approved by the Commission. A report containing a brief description of the event and the remedial action taken; and, in the case of detection of 0.005 microcurie or more removable radioactive material or failure of or damage to a source likely to result in contamination of the premises or the environs, a plan for ensuring that the premises and environs are acceptable for unrestricted use, must be furnished to the Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: GLTS, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 within 30 days. Under these circumstances, the criteria set out in § 20.1402 of this chapter, "Radiological criteria for unrestricted use," may be applicable, as determined by the Commission on a case-by-case basis;

(6) Shall not abandon the device containing byproduct material;

(7) Shall not export the device containing byproduct material except in accordance with part 110 of this chapter:

(8)(i) Shall transfer or dispose of the device containing byproduct material only by export as provided by paragraph (c)(7) of this section, by transfer to another general licensee as authorized in paragraph (c)(9) of this section, or to a person authorized to receive the device by a specific license issued under parts 30 and 32 of this chapter, or part 30 of this chapter that authorizes waste collection, or equivalent regulations of an Agreement State, or as otherwise approved under paragraph (c)(8)(iii) of this section.

(ii) Shall, within 30 days after the transfer of a device to a specific licensee or export, furnish a report to the Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: Document Control Desk/GLTS, using an appropriate method listed in § 30.6(a) of this chapter. The report must contain—

(A) The identification of the device by manufacturer's (or initial transferor's) name, model number, and serial number;

(B) The name, address, and license number of the person receiving the device (license number not applicable if exported); and

(C) The date of the transfer.

(iii) Shall obtain written NRC approval before transferring the device to any other specific licensee not specifically identified in paragraph (c)(8)(i) of this section; however, a holder of a specific license may transfer a device for possession and use under its own specific license without prior approval, if, the holder:

(A) Verifies that the specific license authorizes the possession and use, or applies for and obtains an amendment to the license authorizing the possession and use;

(B) Removes, alters, covers, or clearly and unambiguously augments the existing label (otherwise required by paragraph (c)(1) of this section) so that the device is labeled in compliance with § 20.1904 of this chapter; however the manufacturer, model number, and serial number must be retained;

(C) Obtains the manufacturer's or initial transferor's information concerning maintenance that would be applicable under the specific license (such as leak testing procedures); and

(D) Reports the transfer under paragraph (c)(8)(ii) of this section.

(9) Shall transfer the device to another general licensee only if—

(i) The device remains in use at a particular location. In this case, the transferor shall give the transferee a copy of this section, a copy of § 31.2, 30.51, 20.2201, and 20.2202 of this chapter, and any safety documents identified in the label of the device. Within 30 days of the transfer, the transferor shall report to the Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: Document Control Desk/GLTS, using an appropriate method listed in § 30.6(a) of this chapter—

(A) The manufacturer's (or initial transferor's) name;

(B) The model number and the serial number of the device transferred;

(C) The transferee's name and mailing address for the location of use; and

(D) The name, title, and phone number of the responsible individual identified by the transferee in accordance with paragraph (c)(12) of this section to have knowledge of and authority to take actions to ensure compliance with the appropriate regulations and requirements; or

(ii) The device is held in storage by an intermediate person in the original shipping container at its intended location of use prior to initial use by a general licensee.

(10) Shall comply with the provisions of §§ 20.2201, and 20.2202 of this chapter for reporting radiation incidents, theft or loss of licensed material, but shall be exempt from the other requirements of parts 19, 20, and 21, of this chapter.

(11) Shall respond to written requests from the Nuclear Regulatory Commission to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Director, Office of Federal and State Materials and Environmental Management Programs, by an appropriate method listed in § 30.6(a) of this chapter, a written justification for the request.

(12) Shall appoint an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to comply with appropriate regulations and requirements. The general licensee, through this individual, shall ensure the day-to-day compliance with appropriate regulations and requirements. This appointment does not relieve the general licensee of any of its responsibility in this regard.

(13)(i) Shall register, in accordance with paragraphs (c)(13)(ii) and (iii) of this section, devices containing at least 370 megabecquerels (10 millicuries) of cesium-137, 3.7 megabecquerels (0.1 millicurie) of strontium-90, 37 megabecquerels (1 millicurie) of cobalt-60, 3.7 megabecquerels (0.1 millicurie) of radium-226, or 37 megabecquerels (1 millicurie) of americium-241 or any other transuranic (i.e., element with atomic number greater than uranium (92)), based on the activity indicated on the label. Each address for a location of use, as described under paragraph (c)(13)(iii)(D) of this section, represents a separate general licensee and requires a separate registration and fee.

(ii) If in possession of a device meeting the criteria of paragraph (c)(13)(i) of this section, shall register these devices annually with the Commission and shall pay the fee required by Sec. 170.31 of this chapter. Registration must be done by verifying, correcting, and/or adding to the information provided in a request for registration received from the Commission. The registration information must be submitted to the NRC within 30 days of the date of the request for registration or as otherwise indicated in the request. In addition, a general licensee holding devices meeting the criteria of paragraph (c)(13)(i) of this section is subject to the bankruptcy notification requirement in § 30.34(h) of this chapter.

(iii) In registering devices, the general licensee shall furnish the following information and any other information specifically requested by the Commission—

(A) Name and mailing address of the general licensee.

(B) Information about each device: the manufacturer (or initial transferor), model number, serial number, the radioisotope and activity (as indicated on the label).

(C) Name, title, and telephone number of the responsible person designated as a representative of the general licensee under paragraph (c)(12) of this section.

(D) Address or location at which the device(s) are used and/or stored. For portable devices, the address of the primary place of storage.

(E) Certification by the responsible representative of the general licensee that the information concerning the device(s) has been verified through a physical inventory and checking of label information.

(F) Certification by the responsible representative of the general licensee that they are aware of the requirements of the general license.

(iv) Persons generally licensed by an Agreement State with respect to devices meeting the criteria in paragraph (c)(13)(i) of this section are not subject to registration requirements if the devices are used in areas subject to NRC jurisdiction for a period less than 180 days in any calendar year. The Commission will not request registration information from such licensees.

(14) Shall report changes to the mailing address for the location of use (including change in name of general licensee) to the Director, Office of Federal and State Materials and Environmental Management Programs, ATTN: GLTS, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 within 30 days of the effective date of the change. For a portable device, a report of address change is only required for a change in the device's primary place of storage.

(15) May not hold devices that are not in use for longer than 2 years. If devices with shutters are not being used, the shutter must be locked in the closed position. The testing required by paragraph (c)(2) of this section need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two-year time limit if the general licensee performs quarterly physical inventories of these devices while they are in standby.

(d) The general license in paragraph (a) of this section does not authorize the manufacture or import of devices containing byproduct material.

[39 FR 43532, Dec. 16, 1974, as amended at 40 FR 8785, Mar. 3, 1975; 40 FR 14085, Mar. 28, 1975; 42 FR 25721, May 19, 1977; 42 FR 28896, June 6, 1977; 43 FR 6922, Feb. 17, 1978; 53 FR 19246, May 27, 1988; 56 FR 23471, May 21, 1991; 56 FR 61352, Dec. 3, 1991; 58 FR 67659, Dec. 22, 1993; 64 FR 42275, Aug. 4, 1999; 65 FR 79188, Dec. 18, 2000; 68 FR 58804, Oct. 10, 2003; 72 FR 55926, Oct. 1, 2007; 72 FR 58486, Oct. 16, 2007; 73 FR 5718, Jan. 31, 2008; 73 FR 42673, July 23, 2008]

<sup>5</sup> Persons possessing byproduct material in devices under a general license in § 31.5 before January 15, 1975, may continue to possess, use, or transfer that material in accordance with the labeling requirements of § 31.5 in effect on January 14, 1975.

*Page Last Reviewed/Updated Tuesday, May 14, 2013*