

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
OFFICE OF NUCLEAR REACTOR REGULATION
WASHINGTON, DC 20555-0001

July 11, 2005

**NRC REGULATORY ISSUE SUMMARY 2005-11
REQUIREMENTS FOR POWER REACTOR LICENSEES IN
POSSESSION OF DEVICES SUBJECT TO THE GENERAL LICENSE
REQUIREMENTS OF 10 CFR 31.5**

ADDRESSEES

All holders of operating licenses for nuclear power reactors and generally licensed device vendors.

INTENT

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to remind and/or inform addressees of the requirements for the receipt, possession, use, and transfer of generally licensed devices as described in 10 CFR 31.5 and 10 CFR 32.52. No specific action nor written response is required.

BACKGROUND

During a recent NRC radiation safety inspection at a commercial nuclear power plant, it was discovered that generally licensed devices used in the operation of the plant, as required by 10 CFR 73.55, were not being maintained in accordance with the requirements in 10 CFR 31.5. The licensee incorrectly assumed that these devices were not under the jurisdiction of NRC, and therefore did not include them in its radiation protection program required by its 10 CFR Part 50 license. Additionally, the licensee failed to include the devices in any program that would ensure they were maintained in accordance with regulatory requirements. Since the devices at issue are possessed and used as part of the operation of a production or utilization facility (i.e., the nuclear power plant), to comply with NRC requirements in 10 CFR 73.55, the NRC has exclusive jurisdiction over the byproduct material contained in these devices. Accordingly, a violation of NRC requirements was identified in the above-mentioned inspection.

ML051290143

SUMMARY OF ISSUE

All Part 50 licensees are required to comply with the regulations in 10 CFR 31.5, if they possess and use byproduct material contained in devices subject to general licenses to support the operation of their facilities.

Section 31.5 contains the regulatory requirements for issuing a general license to commercial and industrial firms to acquire, receive, possess, use, or transfer in accordance with the provisions in paragraphs (b), (c), and (d) of this section byproduct material contained in certain measuring, detecting, and gauging devices. Some key examples of these requirements are stated, in part, below:

Section 31.5(c)(1) requires assuring that labels are affixed at the time of receipt and bear statements that removals of such labels are prohibited;

Section 31.5(c)(2) requires assuring the devices are tested for leakage of radioactive material and proper operation of the on-off mechanisms and indicators, if any, at no longer than 6 month intervals, or at such other intervals as specified on the labels;

Section 31.5(c)(4) requires maintaining records showing compliance with testing requirements;

Section 31.5(c)(12) requires appointment of an individual responsible for having knowledge of the appropriate regulations and requirements and the authority for taking required actions to ensure the day-to-day compliance with appropriate regulations.

Commercial power reactor licensees are hereby informed that generally licensed devices used to support reactor operations are under exclusive Federal jurisdiction and are subject to NRC inspections. Vendors are hereby informed that generally licensed devices transferred to power reactor licensees need to be reported in their NRC quarterly reports in accordance with 10 CFR 32.52.

FEDERAL REGISTER NOTICE

A notice of opportunity for public comment was not published in the *Federal Register* because this RIS provides information that does not represent a departure from current regulatory requirements.

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT

NRC has determined that this action is not subject to the Small Business Regulatory Enforcement Fairness Act of 1996.

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not request any information collection and, therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, et seq.).

BACKFIT DISCUSSION

This RIS requires no specific action nor written response.

CONTACT

Please direct any questions about this matter to the technical contact(s) or the Lead Project Manager listed below, or to the appropriate Office of Nuclear Reactor Regulation (NRR) project manager.

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Attachment: List of Recently Issued NMSS Generic Communications

Note: NRC generic communications may be found on the NRC public Web site, <http://www.nrc.gov>, under Electronic Reading Room/Document Collections.

Recently Issued NMSS Generic Communications

Date	GC No.	Subject	Addressees
06/10/05	RIS-05-10	Performance-Based Approach for Associated Equipment in 10 CFR 34.20	All industrial radiography licensees and manufacturers and distributors of industrial radiography equipment.
04/18/05	RIS-05-06	Reporting Requirements for Gauges Damaged at Temporary Job Sites	All material licensees possessing portable gauges, regulated under 10 CFR Part 30.
04/14/05	RIS-05-04	Guidance on the Protection of Unattended Openings that Intersect a Security Boundary or Area	All holders of operating licenses or construction permits for nuclear power reactors, research and test reactors, decommissioning reactors with fuel on site, Category 1 fuel cycle facilities, critical mass facilities, uranium conversion facility, independent spent fuel storage installations, gaseous diffusion plants, and certain other material licensees.
6/23/05	IN-05-17	Manual Brachytherapy Source Jamming	All medical licensees authorized to possess a Mick applicator.
05/17/05	IN-05-013	Potential Non-conservative Error in Modeling Geometric Regions in the Keno-v.a Criticality Code	All licensees using the Keno-V.a criticality code module in Standardized Computer Analyses for Licensing Evaluation (SCALE) software developed by Oak Ridge National Laboratory (ORNL)
05/17/05	IN-05-012	Excessively Large Criticality Safety Limits Fail to Provide Double Contingency at Fuel Cycle Facility	All licensees authorized to possess a critical mass of special nuclear material.
04/07/05	IN-05-010	Changes to 10 CFR Part 71 Packages	All 10 CFR Part 71 licensees and certificate holders.

Note: NRC generic communications may be found on the NRC public website, <http://www.nrc.gov>, under Electronic Reading Room/Document Collections.