

COMPLETION OF NATURALLY OCCURRING RADIOACTIVE MATERIAL (NARM) LICENSING GUIDANCE

The U. S. Nuclear Regulatory Commission (NRC) has published its final rule expanding the definition of byproduct material subject to its regulatory authority, implementing certain provisions of the Energy Policy Act (EPA) of 2005. The final regulation establishing requirements for licensing and regulating Section 11e.(3) and 11e.(4) byproduct material, as required by Section 651(e) of the EPA, was published on October 1, 2007 (Volume 72, pages 55863-55937, of the Federal Register (72 FR 55863)). Within this final regulation, the definition of "byproduct material" was expanded to include certain naturally occurring and accelerator-produced radioactive material, commonly referred to as NARM. These final regulations became effective on November 30, 2007. The final regulations can be accessed on the NRC's Public Involvement Rulemaking Web site, which is located at <http://www.nrc.gov/about-nrc/regulatory/rulemaking/public-involvement.html>.

As part of this rulemaking effort, the NRC also evaluated the need to revise certain licensing guidance to provide necessary guidance to applicants in preparing license applications to include the use of NARM. Two

NUREG-1556 documents were revised to provide additional guidance to licensees: (1) NUREG-1556, Volume 13, Revision 1, "Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Commercial Radiopharmacy Licenses," and (2) NUREG-1556, Volume 9, Revision 2, "Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical Use Licenses." Additionally, a new NUREG-1556 volume was developed to address production of radioactive material using an accelerator. This NUREG-1556 volume is entitled: Volume 21, "Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Possession Licenses for Production of Radioactive Material Using an Accelerator."

Each of these NUREG volumes was noticed for public comment in the Spring/Summer of 2007 and finalized in October/November of 2007 and in January of 2008. The NUREGs are available in ADAMs, on the NRC website page at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/>, as well as on the NARM Toolbox at <http://nrc-stp.ornl.gov/narmtoolbox/narmguidance.html>.

(Contact: Torre Taylor; Office of Federal and State Materials and Environmental Management Programs; 301-415-7900; email: tmt@nrc.gov)

INSIDE THIS ISSUE

Completion of Naturally Occurring Radioactive Material (NARM) Licensing Guidance	1
Decommissioning Planning Proposed Rule.....	1
Medical Events Involving Samarium-153 Dosages: Differences in Containers and Geometry Result in Inaccurate Activity Measurements	2
NRC Terminates Cabot Reading Site License.....	2
From the Desk of the FSME Director ...	3
NRC Completes the Commonwealth of Pennsylvania Agreement.....	4
NRC Proposes Expansion of National Source Tracking System	5
National Research Council's Committee On Radiation Source Use And Replacement Recommendations.....	5
Generic Communications Issued.....	6
Significant Enforcement Actions	7
Select Federal Register Notices	9

DECOMMISSIONING PLANNING PROPOSED RULE

On December 10, 2007, the Commission approved publication of a proposed rule on Decommissioning Planning, and the proposed rule appeared in the Federal Register on January 22, 2008 (73 FR 3812). The proposed rule would make amendments to NRC's License Termination Rule (10 CFR Part 20) and amendments to the decommissioning financial assurance requirements under 10 CFR Parts 30, 40, 50, 70, and 72.

The License Termination Rule established 10 CFR 20.1406 specifying that license applications

must describe how the facility design and operating procedures will minimize contamination of the facility and the environment, facilitate decommissioning, and minimize the generation of radioactive waste. The proposed Part 20 changes clarify that these requirements apply to existing facilities as well. Under current regulations, contamination that enters the ground at a site may go undetected because there are generally no NRC requirements to monitor the ground water and soils onsite for contamination. Based on past NRC experience, significant concentrations or quantities of undetected and unmonitored contamination have been a major contributor to a site becoming a legacy site and a potential radiological hazard. Changes to 10 CFR 20.1406 would require that licensees conduct their operations, to the extent practical, to minimize the introduction of residual radioactivity into the site, including the subsurface. Changes to 10 CFR 20.1501 survey and monitoring requirements would retain all previous survey requirements and would replace the term "radioactive material" with the defined term "residual radioactivity" which includes radioactivity in subsurface soils and groundwater. The amended 20.1501(b) would require licensees to document survey records as records important for decommissioning, under 10 CFR 30.35(g), 40.36(f), 50.75(g), 70.25(g), and 72.30(d). The intent of 10 CFR Part 20 changes is to address onsite subsurface residual radioactivity that would later require remediation during decommissioning to meet the unrestricted use criteria of 10 CFR 20.1402.

The changes to decommissioning financial assurance would require licensees to use the results of the Part 20 requirements in defining decommissioning work scope, report this to the NRC with cost estimates, and that decommissioning financial assurance will be available when needed, even if the licensee enters bankruptcy with its assets vulnerable to attachment by creditors. The amended regulations would eliminate the escrow account and the line-of-credit, and would modify the Parent Company Guarantee and Self-Guarantee to ensure the payment of funds in cases of financial distress by the licensee or the guarantor. The amended regulations would require licensees with power reactors in a decommissioning status to report information annually on the costs of decommissioning and spent fuel management.

(Contact: Kevin O'Sullivan, Office of Federal and State Materials and Environmental Management Programs, 301-415-8112; email: kro2@nrc.gov)

MEDICAL EVENTS INVOLVING SAMARIUM-153 DOSAGES: DIFFERENCES IN CONTAINERS AND GEOMETRY RESULT IN INACCURATE ACTIVITY MEASUREMENTS

An Agreement State recently notified the NRC of possible medical events involving up to eight patients treated with Samarium-153 (Sm-153) since late 2006 at a licensee's medical center. Sm-153 has a combined beta and gamma decay spectrum and is used to treat pain caused by cancer that has spread to the bone.

The medical event was caused by the licensee's failure to take into account the important effects of containers and volume geometry on dose calibrator measurements, which resulted in administered activities of approximately 30% less than those prescribed in the written directives. The licensee measured the activity of each Sm-153 dosage in a syringe instead of a vial; however, the dose calibrator was calibrated for Sm-153 using a vial. Measuring the activity of a beta- and low-energy gamma-emitting dosage using a container that differs in material and/or geometry from the container for which the dose calibrator was calibrated can result in inaccurate activity measurements because of the geometrical and attenuation differences. More information about medical events caused by inaccurate activity measurements of Sm-153 can be found in Information Notice 2002-19: Medical Misadministrations Caused by Failure to Properly Perform Tests on Dose Calibrators for Beta- and Low-Energy Photon-Emitting Radionuclides (ML021620486).

(Contact: Donna-Beth Howe, Office of Federal and State Material and Environmental Management Programs, 301-415-7848; e-mail: dbh@nrc.gov)

NRC TERMINATES CABOT READING SITE LICENSE

On March 24, 2008, FSME terminated the Cabot Reading site license SMC-1562. This action completes the decommissioning of the former source materials facility at the site near Reading, PA.

The land, approximately 2/3 of an acre, is below NRC safety

continued on page 4



From the Desk of the FSME Director

My job is interesting because of the wide range of challenges we, in the Office of Federal and State Materials and Environmental Management Programs (FSME), get to face. We have regulatory responsibility for the safe and secure uses of nuclear material. Our partners in 35 Agreement States share this responsibility. We work on 30 or more rulemaking actions yearly. We include stakeholders in our decision-making. We are actively engaged in review and

development of international standards and have the lead representation on international committees. We make licensing decisions to ensure safe and environmentally-sound operations for the uranium mill industry. We perform environmental reviews as appropriate to ensure compliance with the National Environmental Policy Act. We consult with the Department of Energy (DOE) on waste determinations and monitor certain waste management activities at the Savannah River Site and Idaho National Laboratory. We manage the NRC's low-level waste (LLW) program, which includes developing guidance and providing assistance to Agreement States on LLW issues. In addition, we oversee NRC's decommissioning program activities. In this Newsletter, I would like to tell you more about our decommissioning program.

NRC's decommissioning program has matured since its inception in the early 1990's, from a program that focused on problematic sites, through the mid-to-late 1990's, where the focus was the development of guidance and processes to ensure effective decommissioning, to the present, where the focus is on the effective management of current sites and implementation of ways to prevent problematic sites in the future.

Last year, NRC successfully completed decommissioning actions at 11 complex sites (2 power reactors, 3 research and test reactors, and 6 materials sites). In FY 2008, we have been working with licensees at 15 decommissioning power and early demonstration reactors, 11 test and research reactors, 29 complex materials sites, and 32 decommissioning uranium recovery facilities.

In the past six months, staff completed decommissioning activities at the Connecticut Yankee reactor facility and at the Cabot site in Pennsylvania, and expects to complete activities at the Battelle, Homer Laughlin, UNC Naval and Fort McClellan materials facilities later this year. In fact, some of these may be completed by the time you read this article. Last year, NRC published a proposed rule to prevent future legacy site for public comment. The final rule is scheduled to be published in 2008.

Recently, Exelon proposed a new approach for the Zion site, consisting of the transfer of the Zion license to Energy Solutions for decommissioning. This will involve considerable external stakeholder involvement and the potential for a hearing. This new approach, if successful, could become the model for the decommissioning of other power reactors in the future.

As the program moves forward, FSME will strive to effectively manage current and future complex sites and focus on ways to prevent future legacy sites. We will receive comments, evaluate them, and use them as appropriate to finalize and implement the rule on legacy sites (10 CFR 20.1406).

In summary, decommissioning is a mature program focused on the prevention of legacy sites. Due to investments made in the decommissioning regulatory infrastructure in the past, we have made considerable progress, but more work lies ahead of us. If you would like to know more about this topic, please contact Larry Camper, our Director of the Division of Waste Management and Environmental Protection, or Keith McConnell, his Deputy in this area.

Charles L. Miller

Charles L. Miller, Director

continued from page 2

requirements that allow a maximum radiation dose of 25 millirem per year from residual contamination. Release of this land for unrestricted use poses no threat to public health and safety.

Cabot's license had previously been modified by release of the main processing building and surrounding area of the Reading site in 1995, and removal of the Revere site in 2000.

Slag at the Reading site was generated from the processing of tin ore residue for production of tantalum in 1967 and 1968. The slag was disposed of on an existing slope of non-radiologically contaminated industrial waste at one end of the former site. Additional radiologically contaminated material was placed on the site in 1977 and 1978, when the main process building was decontaminated, and contaminated soils containing tin ore residues from decontamination at the former Canton Yards site in Baltimore, MD. The total amount of contaminated material encompasses 180,000 cubic feet.

Cabot installed an NRC approved long term riprap cover made of diabase stone on the slag pile to prevent erosion from precipitation or floods. The riprap cover installation was completed in January 2008. Cabot's dose analysis considered exposures from recreational visitors, and workers under existing conditions and in both major and minor excavation scenarios. NRC staffs independent bounding analysis, site inspections during construction of the rip rap cover, and site verification survey concluded the dose would

meet NRC's 25 millirem per year requirement.

*(Contact: Theodore Smith, FSME/
DWMEP/DURLD/RDB, 301-415-6721;
e-mail: tbs1@nrc.gov)*

NRC COMPLETES THE COMMONWEALTH OF PENNSYLVANIA AGREEMENT

On February 12, 2008, the U.S. Nuclear Regulatory Commission (NRC) approved an Agreement with the Commonwealth of Pennsylvania under Section 274b. of the Atomic Energy Act of 1954, as amended (the Act). Under the Agreement, Pennsylvania assumes regulatory authority over byproduct materials as defined in Sections 11e.(1), 11e.(3), and 11e.(4) of the Act; source materials; special nuclear materials in quantities not sufficient to form a critical mass; and land disposal of all waste for such materials. The Agreement became effective on March 31, 2008.

Upon the effective date of the Agreement, the NRC also terminated the time-limited waivers of the requirements in the Energy

Policy Act of 2005 granted by the NRC (70 FR 51581; August 31, 2005) to Pennsylvania for byproduct material, as defined in Sections 11e.(3) and 11e.(4) of the Act.

By letter dated November 9, 2006, Governor Edward Rendell requested that the NRC enter into a Section 274b. Agreement with Pennsylvania. Before approving the Agreement, the NRC reviewed Pennsylvania's radiation control program to ensure it was adequate to protect public health and safety and was compatible with NRC's program for regulating the radioactive materials covered in the Agreement. The proposed Agreement, along with a summary of the NRC's assessment of the proposed Pennsylvania program, was published in the Federal Register for public comment as required by Section 274e. of the Act. After careful review by an interoffice review team, NRC determined that the Pennsylvania program for the regulation of Agreement materials is adequate to protect public health and safety and is compatible with NRC's program. To ensure that the terms of the Agreement continue to



Pennsylvania becomes the 35th Agreement State.

be met after the effective date of the Agreement, NRC staff will conduct periodic reviews of the Pennsylvania program.

Approximately 650 licenses, most for medical, industrial, commercial, and research and development uses of radioactive material, have been transferred to Pennsylvania's jurisdiction. The NRC is retaining jurisdiction over a number of activities identified in 10 CFR Part 150, including regulation of commercial nuclear power plants and federal agencies using certain nuclear material in Pennsylvania. In addition, NRC is retaining authority for byproduct material, as defined in Section 11e.(2) of the Act (uranium recovery), and the review, evaluation, and approval of sealed sources and devices containing certain nuclear materials manufactured in Pennsylvania and distributed throughout the country.

(Contact: Kim Lukes, Office of Federal and State Materials and Environmental Management Programs, 301-415-6701; e-mail: kxk2@nrc.gov)

NRC PROPOSES EXPANSION OF NATIONAL SOURCE TRACKING SYSTEM

The Nuclear Regulatory Commission is proposing to expand its National Source Tracking System (NSTS) to include an additional 3,500 NRC and state licensees and nearly 17,000 additional radioactive sources, to improve accountability and control of radioactive materials.

A proposed rule, to be published shortly in the Federal Register, would require the additional licensees to report information on the manufacture, transfer, receipt,

disassembly and disposal of these radioactive sources to the NSTS. Manufacturers will be required to assign a unique serial number to each nationally tracked source.

"An expanded National Source Tracking System will enable the NRC and its federal and state partners to improve the security of radioactive materials while ensuring their continued beneficial use in industry, research and medicine," NRC Chairman Dale E. Klein said.

As established in a final rule published Nov. 8, 2006, the NSTS covers radioactive sources in Categories 1 and 2 as determined by the International Atomic Energy Agency. These sources are typically used in radiothermal generators, irradiators, radiation therapy, industrial gamma radiography and high- and medium-dose-range brachytherapy cancer treatments. That rule covers approximately 1,350 licensees nationwide who possess Category 1 and 2 sources. The system is to be implemented by Jan. 31, 2009.

The proposed rule would expand the NSTS to include Category 3 sources as well as sources in the upper range of Category 4 – or at about 1/10 of the activity threshold for Category 3. These sources include fixed industrial gauges (level gauges, conveyor gauges, thickness gauges, blast furnace gauges, dredger gauges, and pipe gauges); well-logging devices; medium- and low-dose-range brachytherapy; and certain radiography devices.

The NRC considers Category 1 and 2 sources to be the most significant from a security perspective. Expanding the NSTS

will guard against the possibility that a small number of Category 3 or 4 radioactive sources could be collected to form a Category 2 amount of radioactive material.

The NRC believes the additional cost to the agency and licensees of an expanded NSTS are reasonable given the additional improvement in accountability and control of radioactive sources.

The NRC will accept public comments on the proposed rule for 75 days following publication. Comments may be mailed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, ATTN: Rulemakings and Adjudications Staff; or e-mailed to SECY@nrc.gov. Each submission should be labeled RIN 3150-A129.

(Contact: Michael K. Williamson, Office of Federal and State Materials and Environmental Management Programs, 301-415-6234; e-mail: Michael.williamson@nrc.gov)

NATIONAL RESEARCH COUNCIL'S COMMITTEE ON RADIATION SOURCE USE and REPLACEMENT RECOMMENDATIONS

The Energy Policy Act of 2005 directed the NRC to request the National Research Council of the National Academies of Science (NAS) to review the civilian uses of radiation sources. In addition, the Council was also asked to recommend potential replacements for those sources that pose the highest risk to public health and safety in the event of an accident or attack. The NAS released their report – Radiation Source Use and Replacement – in February, 2008.

The National Academies study significantly advanced the NRC's knowledge of alternative technologies to radiation sources and addressed the Congressional mandate in Section 651(d) of the Energy Policy Act of 2005 (EPAAct). This report, in combination with two other studies mandated by EPAAct, provides technical information and independent insights that are useful to the NRC and its Federal and State partners that are working to further enhance security of radiation sources and prevent misuse of those sources by terrorists. Specifically, the NAS report reviewed the current industrial, research, commercial and medical uses of radiation sources and identified approaches for replacing such sources with lower risk alternatives. It provides an overview of the technical and economic feasibility and risks to workers from such replacements, and recommends options for implementing the identified replacements.

The report recommends:

- Replacement of some radionuclide radiation sources with alternatives should be implemented with caution, ensuring that the essential functions that the radionuclide radiation sources perform are preserved.
- For prioritizing efforts to reduce risks from malicious use of radiation sources, the U.S. Nuclear Regulatory Commission (NRC) should consider radiation sources potential to cause contamination of large areas resulting in economic and social disruption to determine what, if any, additional security

measures are needed. Having taken essential first step in considering deterministic health effects from possible radiation exposure from an incident involving radiation sources, the NRC should now include economic and social disruption in its risk analyses of radiation sources.

- In view of the overall liabilities of radioactive cesium chloride, the U.S. Government should implement options for eliminating Category 1 and Category 2 cesium chloride sources from use in the US and to the extent possible, elsewhere.
- In addition to actions related to radioactive cesium chloride, the U.S. government should adopt policies that provide incentives to facilitate the introduction of replacements and reduce the attractiveness and availability of high risk radionuclide sources.
- The Society of Petrophysicists and Well Log Analysts should task an industry working group, called a Special Interest Group (SIG), such as the Nuclear Logging SIG, to address the technical obstacles to implementing replacements for the americium-beryllium sources used in well logging and the challenges of data interpretation.

The U. S. Environmental Protection Agency, the U.S. Department of Energy, and the Radiation Source Protection and Security Task Force have active programs on alternative technologies to radiation sources that will benefit from this report. Federal and State representatives plan to review

this report and identify areas that require further analysis to support their alternative technology programs. For example, the Task Force plans to systematically advance the information contained in the NAS report for decision making and identification of long term solutions, with the goal of submitting a report to Congress in 2010. To meet this goal, the Task Force plan to supplement information in the NAS report regarding worker risks, economic costs, implementation methods and schedules, and viable research and development programs on alternative technologies.

As these actions demonstrate, the NRC is dedicated to ensuring the security of these radiation sources. The NRC welcomes recommendations from all collaborative efforts on alternative technologies to enhance security while meeting its Strategic Goals.

GENERIC COMMUNICATIONS ISSUED

(January 1, 2008 - March 31, 2008)

The following are summaries of U.S. Nuclear Regulatory Commission (NRC) generic communications issued by the Office of Federal and State Materials and Environmental Management Programs. If one of these documents appears relevant to your needs and you have not received it, please call one of the technical contacts listed below. The Internet address for the NRC library of generic communications is <http://www.nrc.gov/reading-rm/doc-collections/gen-comm/index.html>. Please note that this address is case-sensitive and must be entered exactly as shown.

Bulletins (BLs)

None.

Generic Letters (GLs)

None.

Information Notices (INs)

None.

Regulatory Issue Summaries (RIS)

RIS 2008-02, "Actions to Increase the Security of High Activity Radioactive Sources,"

was issued February 1, 2008. This RIS was issued to all All U.S. Nuclear Regulatory Commission Materials and Master Materials Licensees; and to Agreement State Radiation Control Program Directors and State Liaison Officers.

(Technical contact: William Ward, FSME, (301) 415-7038; e-mail wrw1@nrc.gov; and John Jankovich, FSME, (301) 415-7904; e-mail jjp2@nrc.gov)

(General Contact: Angela R. McIntosh, FSME, (301) 415-5030; arm@nrc.gov)

SIGNIFICANT ENFORCEMENT ACTIONS

The U.S. Nuclear Regulatory Commission's (NRC's) enforcement

program can be accessed via NRC's homepage [<http://www.nrc.gov/>] under "What We Do." Documents related to cases can be accessed at [<http://www.nrc.gov/>], "Electronic Reading Room," "Documents in ADAMS." ADAMS is the Agency-wide Document Access and Management System. Help in using ADAMS is available from the NRC Public Document Room, telephone: 301-415-4737 or 1-800-397-4209.

Alpha Omega Services, Inc.

(EA-07-215)

On December 20, 2007, a Notice of Violation and Proposed Imposition of Civil Penalty in the amount of \$19,200 were issued for a Severity Level II violation. In January 2003, the company deliberately provided materially inaccurate information to an NRC licensee and to a contractor for the licensee in violation of 10 CFR 71.8(b)(2). The company Operations Manager/ Assistant Radiation Safety Officer signed a maintenance checklist indicating that a package was in compliance with the NRC Certificate of Compliance and

approved for use, when he knew it was not. Additionally, in violation of 10 CFR 71.8(b)(1), Alpha Omega Services deliberately caused the NRC licensee to violate NRC requirements for a license when the licensee exported licensed material in nonconforming packages.

Accurate NDE and Inspection, LLC.

(EA-06-281; EA-07-289)

On February 20, 2008, a Confirmatory Order (effective immediately) was issued to confirm commitments made as a result of an Alternative Dispute Resolution (ADR) settlement agreement. The licensee requested ADR following the NRC's March 20, 2007, Notice of Violation and Proposed civil penalty of \$13,000 for a willful violation involving the failure to secure from unauthorized removal or access licensed material that was stored in an unrestricted area; failure to wear required personnel dosimetry during radiographic operations; and failure to provide complete and accurate information on documents provided to an

NOTE TO READERS: In an attempt to keep the FSME Licensee Newsletter relevant, useful and informative, feedback on the content of the newsletter is welcome. Readers desiring to contribute articles, self-explanatory diagrams, suggestions for future articles, bulletins, web-site postings, and other items of interest to the FSME Licensee Newsletter readership, should contact Michael Williamson or Gwendolyn Davis, from the Office of Federal and State Materials and Environmental Management Programs, Rulemaking Branch A. Mr. Williamson may be contacted at (301) 415-6234 or Michael.williamson@nrc.gov. Ms. Davis may be contacted at (301) 415-8165 or Gwendolyn.davis@nrc.gov. In addition, to ensure proper delivery of the FSME Licensee Newsletter, please report any address changes to Mr. Williamson to prevent any interruption of service.



Please send written correspondence and requests to:
Michael K. Williamson, Editor
FSME Licensee Newsletter
Office of Federal and State Materials and Environmental Management Programs
U.S. Nuclear Regulatory Commission
Two White Flint North, Mail Stop: T-8-F42
Washington, D.C. 20555-0001

NRC inspector. As part of the agreement, Accurate NDE agreed to additional management review and oversight programs that will include implementation of amended procedures for offshore radiographic operations, implementation of a training program, and increased audits of the program. Accurate NDE will also submit an article in the company newsletter regarding this case and the consequences of wrongdoing. In exchange for Accurate NDE's extensive corrective actions, the NRC agreed to reduce the civil penalty originally proposed to \$500.

CTI and Associates, Inc.
(EA-07-300)

On January 15, 2008, a Notice of Violation was issued for a Severity Level III violation involving the failure by the authorized gauge operator to control and maintain constant surveillance of a portable nuclear gauge. Specifically, the gauge, which contained NRC-licensed radioactive material, was damaged when it was run over by a bulldozer after the authorized gauge operator had left it unattended while he was preparing for another test at a temporary job site.

Western X-Ray Corporation
(EA-07-277; EA-07-278)

On February 15, 2008, a Notice of Violation was issued for two Severity Level III violations. The first violation involved a failure to certify an individual who acted as the radiographer of record while performing industrial radiography. The second violation involved a failure to wear an operating alarm ratemeter by an individual who acted as the radiographer's

assistant during radiographic operations. Specifically, on April 23, 2007, the individual acting as the radiographer of record was not certified as a radiographer and the individual acting as the assistant radiographer of record was not wearing an operating ratemeter at all times during radiographic operations, while performing industrial radiography on an offshore platform in federal waters.

Mattingly Testing Services, Inc.
(EA-07-303)

On January 23, 2008, a Demand for Information (DFI) was issued to Mattingly Testing Services, Inc. (Mattingly Testing) in response to the information obtained during November 7, 2007, inspection and investigation of Mattingly Testing's licensed activities. While the inspection and investigation activities continue, the DFI required Mattingly Testing to provide information in order for the NRC to evaluate and determine the appropriateness of Mattingly Testing's licensed material program at temporary job sites. The DFI also required Mattingly Testing to provide information in order for the NRC to evaluate the depth and completeness of Mattingly Testing's work environment and its determination that it maintains an environment where employees can raise safety concerns without fear of retaliation. Specifically, the DFI required Mattingly Testing to provide additional details relative to the establishment, implementation and maintenance of a program designed to provide and support such a work environment. Mattingly Testing is required to submit the information in writing within 20 days of the date of this DFI. After reviewing

Mattingly Testing's response to the DFI, the NRC will determine whether further action is necessary to ensure compliance with regulatory requirements.

Individual Actions

Luis Fernandez
(IA-07-026)

On January 22, 2008, a Confirmatory Order (Effective Immediately) was issued to Mr. Luis Fernandez, a former security Project Manager for the Wackenhut Corporation, as a result of a settlement agreement entered into following the conclusion of Alternative Dispute Resolution, requested by the individual. This Confirmatory Order relates to a series of actions taken by Mr. Fernandez that resulted in the deliberate documentation of damage to a contingency response weapon in a licensee Condition Report, which was incomplete and inaccurate. The Condition Report, which is required to be maintained by the licensee, was provided to the NRC staff during an ongoing inspection and investigation. As a result, the actions of Mr. Fernandez placed the licensee in violation of 10 CFR 50.9. During the mediation session, Mr. Fernandez agreed, among other things, to: 1) he has no intention of working or seeking employment in any activities or at any facility subject to NRC regulations, and that he will not seek employment requiring his participation in NRC-regulated activities before June 30, 2008, 2) should he seek employment with an entity involved in NRC-regulated activities and requiring unescorted access authorization prior to June 30, 2010, he will provide the NRC with a letter discussing the steps he has taken

to assure his understanding of the importance of completeness and accuracy of information at facilities subject to NRC regulation, 3) make himself available to participate in training to discuss lessons learned from this matter and the importance of completeness and accuracy of condition reports and other internal documents, 4) should he seek employment with any NRC-regulated entity prior to June 30, 2010, to provide to the NRC a letter discussing the steps he has taken to assure his understanding of NRC requirements in effect at the time, is sufficient to address all Agency concerns regarding his involvement in the matter discussed in the NRC's letter of May 30, 2007. In consideration of the above, the NRC agreed to forego issuance of a Notice of Violation or take other enforcement action against Mr. Fernandez in this matter.

Jon Brumer
(IA-07-027)

On January 22, 2008, an Immediately Effective Order prohibiting an individual, a contract security Lieutenant with the Wackenhut Corporation, from involvement in all NRC-licensed activities for a period of five years from the date the Order was issued. The Order was issued based on activities that occurred on or about August of 2005. Specifically, Mr. Brumer deliberately removed and broke a firing pin from a contingency response weapon, rendering the weapon non-functional. As a result, Mr. Brumer caused FPL to be in violation of 10 CFR Part 73. Mr. Brumer's actions in this regard were in violation of 10 CFR 50.5(a)(1), which states that an employee of a licensee

or contractor, who knowingly provides to any licensee, applicant, contractor, or subcontractor, any components, equipment, materials, or other goods or services that relate to a licensee's activities in this part, may not engage in deliberate misconduct that causes or would have caused, if not detected, a licensee or applicant to be in violation of any rule, regulation, or order. Additionally, on or about February 19, 2006, Mr. Brumer provided a transcribed statement to an NRC Office of Investigations (OI) agent regarding his involvement in the breaking of a firing pin that was later determined to be incomplete and inaccurate. Mr. Brumer's actions in this regard were in violation of 10 CFR 50.5(a)(2), which states, in part, that an employee of a licensee or contractor may not deliberately submit to the NRC, a licensee, or a licensee's contractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the NRC.

Oscar Aguilar
(IA-07-029)

On January 22, 2008, an Immediately Effective Order prohibiting an individual, a contract security officer with the Wackenhut Corporation, from involvement in all NRC-licensed activities for a period of five years from the date the Order was issued. The Order was issued based on activities that occurred on or about April of 2004. Specifically, Mr. Aguilar deliberately removed firing pins from two contingency response weapons, rendering the weapons non-functional. As a result, Mr. Aguilar caused FPL to

be in violation of NRC Order for Interim Compensatory Measures, dated February 25, 2002, Section B.4(f). Mr. Aguilar's actions in this regard constituted a violation of 10 CFR 50.5.

SELECTED FEDERAL REGISTER NOTICES

January 1, 2008 – March 31, 2008

"Part 72, List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 4" Confirmation of Effective Date" 73 FR 17, January 2, 2008.

(Contact: Jayne M. Mc Causland, Office of Federal and State Materials and Environmental Management Programs, 301-415-6219; e-mail: jmm2@nrc.gov)

"Transportation of Radioactive Material in Quantities of Concern (Meeting) (RAMQC)" 73 FR 826, January 4, 2008.

(Contact: Susan Bagley, Office of Nuclear Security and Incident Response, 301-415-5378; e-mail: shb@nrc.gov)

"Training and Qualification of Security Personnel at Nuclear Power Reactor Facilities; Issuance of Draft Regulatory Guide" 73 FR 2435, January 15, 2008.

(Contact: Dennis Gordon, U.S. Nuclear Regulatory Commission, 301-415-6671 or email: dxg@nrc.gov)

"George Barnet; Denial of Petition for Rulemaking" 73 FR 3221, January 17, 2008.

(Contact: Frank Cardile, Office of Federal and State Materials and Environmental Management Programs, 301-415-6272; e-mail: fpc@nrc.gov)

"10 CFR Parts 20, 30, 40 50, 70, 72, Decommissioning Planning" 73 FR 3811, January 22, 2008.

(Contact: Kevin O'Sullivan, Office of Federal and State Materials and Environmental Management Programs, 301-415-8112; e-mail: kro2@nrc.gov)

"10 CFR Chapter I, Minor Amendments, Re-organization" 73 FR 5709, January 31, 2008.

(Contact: Angella Love-Blair, Office of Administration, 301-415-5661; e-mail: alb5@nrc.gov)

"State of Nevada; Denial of Petition for Rulemaking" 73 FR 5762, January 31, 2008.

(Contact: Jerry Bonanno, Office of the General Counsel, 301-415-1328 or Toll Free: 1 800-368-5642, e-mail: jxb5@nrc.gov)

"Guidance on the Treatment of Uncertainties Associated with Risk-Informed Decision Making, Draft Report for Comment (NUREG-1855)" 73 FR 6746, February 2, 2008.

(Contact: Mary Drouin, Office of Nuclear Regulatory Research, 301-415-6675; email: mxd@nrc.gov)

"North Carolina Utilities Commission Public Staff; Withdrawal of Petition for Rulemaking"

(Contact: Michael T. Lesar, Office of Administration, 301-415-7163, or toll free: 800-368-5642, email: mtl@nrc.gov)

"Withdrawal of Regulatory Guide (RG 1.176 and RG-1.150)" 73 FR 7766, February 11, 2008.

(Contact: Christina Antonescu, Office of Nuclear Regulatory Research, 301-415-6792; email: cea1@nrc.gov)

"10 CFR Parts 170,171, Revision of Fee Schedules; Fee Recovery for FY 2008" 73 FR 8507, February 13, 2008.

(Contact: Renu Suri, Office of the Chief Financial Officer, 301-415-0161; email: rxs6@nrc.gov)

"10 CFR Parts 19, 20, 50, Occupational Dose Records, Labeling Containers, and the Total Effective Dose Equivalent; Confirmation of Effective Date" 73 FR 8588; February 2, 2008.

(Contact: Steward Schneider, Office of Nuclear Reactor Regulation, 301-415-4123; email: sxs4@nrc.gov)

"10 CFR Part 35, Medical Use of Byproduct Material-Amendments/ Medical Event Definitions" 73 FR 8830, February 15, 2008.

(Contact: Edward M. Lohr, Office of Federal and State Materials and Environmental Management Programs, 301-415-0253; email: eml1@nrc.gov)

"NUREG-1556, Volume 9, Revision 2, "Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Medical use Licenses" 73 FR 8909, February 15, 2008.

(Contact: Torre Taylor, Office of Federal and State Materials and Environmental Management Programs, 301-415-7900; email: tmt@nrc.gov; or Donna-Beth Howe, Office of Federal and State Materials and Environmental Management Programs, 301-415-7848; email: dbh@nrc.gov)

"Strategic Plan for Fiscal Years 2008-2013, NUREG-1614, Volume 4; Availability" 73 FR 9362, February 20, 2008.

(Contact: Tamara Trocki, Office of the Chief Financial Officer, 301-415-

7439; email: tlt1@nrc.gov)

10 CFR Parts 60, 63, 73, 74, Geologic Repository Operations Area Security and Material Control and Accounting Requirements; Extension of Comment Period" 73 FR 10187, February 26, 2008.

(Contact: Merri Horn, Office of Federal and State Materials and Environmental Management Programs, 301-415-8126, e-mail: mlh1@nrc.gov)

"10 CFR Part 2, Delegated Authority to Order Use of Procedures for Access to Certain Sensitive Unclassified Information" 73 FR 10978, February 29, 2008.

(Contact: Tison Campbell, Office of the General Counsel, 301-415-8579, e-mail: tison.campbell@nrc.gov)

"10 CFR Part 2, Interlocutory Review of Rulings on Requests by Potential Parties for Access to Sensitive Unclassified Non-Safeguards Information and Safeguards Information" (AI08) (F), 73 FR 12627, March 10, 2008.

(Contact: Tison Campbell, Office of the General Counsel, 301-415-8579, e-mail: tison.campbell@nrc.gov.)

"10 CFR Part 72, List of Approved Spent Fuel Storage Casks: HI-STORM 100 Revision 5; Withdrawal of Direct Final Rule" (AI24) (DF) 73 FR 13071, March 12, 2008.

(Contact: Jayne M. McCausland, Office of Federal and State Materials and Environmental Management Programs, 301-415-6219, e-mail: jmm2@nrc.gov).

"10 CFR Part 50, Enhancements to Emergency Preparedness Regulations (Availability of preliminary draft rule language)(AI10) (P)" 73 FR 13157, March 12, 2008.

(Contact: Lauren Quinones-Navarro, Office of Nuclear Reactor Regulation, 301-415-2007, e-mail, lqn@nrc.gov; or Kathryn Brock, Office of Nuclear Security and Incident Response, (301) 415-2015, e-mail, kmb3@nrc.gov.)

"10 CFR Chapter I, RIN 3130-AH84, Expanded Definition of Byproduct Material; Notification of Impending Waiver Termination (AH84)" 73 FR 14376, March 18, 2008.

(Contact: Kim K. Lukes, Office of Federal and State Materials and Environmental Management Programs, 301-415-6701; e-mail: KXK2@NRC.GOV.)

"Draft Regulatory Guide: Issuance, Availability (DG-3032)" 73 FR 14501, March 18, 2008.

(Contact: B. Von Till, Office of Federal and State Materials and Environmental Management Programs, 301-415-0598, email: RWV@nrc.gov.)

"10 CFR Parts 20, 30, 40, 50, 70, 72 (P), Decommissioning Planning: Extension of Comment Period (AH45)" 73 FR 14946, March 20, 2008

(Contact: Kevin O'Sullivan, Office of Federal and State Materials and Environmental Management

Programs, 301 415-8112, e-mail, kro2@nrc.gov.)

"10 CFR Part 26, Fitness for Duty Programs" (AF12) (F) 73 FR 16965, March 31, 2008.

(Contact: David Diec, Office of Nuclear Reactor Regulation, 301-415-2834; Timothy McCune, Office of Nuclear Security and Incident Response, 301-415-6474; Dr. David R. Desaulniers, Office of New Reactors, 301-415-1043, or Dr. Valerie Barnes, Office of Nuclear Regulatory Research, 301-415-5944. All of the above contacts may also be reached by e-mail to FITNESSFORDUTY@NRC.GOV.)



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, DC 20555-0001

OFFICIAL BUSINESS