

DPC



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

FEB 15 2000

Jose O. Morales, M.D.
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IN RESPONSE REFER
TO FOIA/PA 99-009A
(FOIA/PA 99-252)

Dear Dr. Morales:

I am responding to your letter of June 14, 1999, to the U.S. Nuclear Regulatory Commission (NRC), in which you appealed Russell Powell's response of June 7, 1999, to your Freedom of Information Act (FOIA) request (FOIA/PA 99-252). In his letter, Mr. Powell indicated that no agency records were located relating to the use of depleted uranium bullets or projectiles by the U.S. Navy on the island of Vieques, Puerto Rico, during the past 10 years.

Although our initial search of the NRC Public Document Room (PDR) database did not locate any records, the additional information provided in your appeal letter enabled the staff to locate records responsive to your request.

Copies of the records identified in Appendices A and B are enclosed and are being made publicly available. Records A-10 and A-37 are copyrighted documents and are available for inspection only at the PDR under this appeal (FOIA/PA 99-009A). The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction.

The records identified on the enclosed Appendix B are being withheld, in part, pursuant to Exemption 5 of the Freedom of Information Act (5 U.S.C. 552 (b)(5)). The Appendix C records are being withheld in their entirety under Exemptions 5 and 6 of the FOIA (5 U.S.C. 552 (b)(5) and (6)). The purposes of the Exemption 5 deliberative process privilege are to encourage open, frank discussion on matters of policy between subordinates and superiors; to protect against premature disclosure of proposed policies before they are finally adopted; and to protect against public confusion that might result from disclosure of reasons and rationales that were not in fact ultimately the grounds for an agency's action. The purpose of Exemption 6 is to protect information the release of which would result in a clearly unwarranted invasion of personal privacy. The denying official for records B-4, C-2, and C-4 is Dennis K. Rathbun, Director, Office of Congressional Affairs. William F. Kane, Director, Office of Nuclear Material Safety and Safeguards is the denying official for records B-1 through B-3, C-1, C-3, and C-5 through C-11. This determination may be appealed within 30 days by writing to the

Dr. Jose O. Morales

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FOIA/PA Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. You should clearly state on the envelope and letter that it is a "FOIA/PA Appeal."

The records identified in Appendix D are already publicly available in the PDR. For your convenience, copies of the records identified in Appendix D are enclosed. Appendix E lists documents that the NRC referred to the Department of the Navy on August 2, 1999, for a release determination. On August 19, 1999, the Department of the Navy responded directly to you, providing you with copies of the records and indicating that the records were being released in their entirety. The NRC has referred three additional documents to the Department of the Navy for a release determination and direct response to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Ann Reed". The signature is fluid and cursive, written in a professional style.

Carol Ann Reed
Freedom of Information
and Privacy Act Officer
Office of the Chief Information Officer

Enclosures: As stated

APPENDIX A
RECORDS BEING RELEASED IN THEIR ENTIRETY
(If copyrighted identify with *)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	01/01/99	Report requirement from 10 CFR 20 "Standards for protection against radiation," re: Section 20.2201 to 20.2206 (4 pages)
2.	01/01/99	Report requirement from 10 CFR 21 "Reporting of defects and noncompliance," re: Section 21.21 (2 pages)
3.	01/01/99	Report requirement from 10 CFR 30 "Rules of general applicability to domestic licensing of byproduct material," re: Section 30.50 (2 pages)
4.	01/01/99	Report requirement from 10 CFR 34 "Licenses for industrial radiography and radiation safety requirements for industrial radiographic operations," re: Section 34.101 (1 page)
5.	01/01/99	Report requirement from 10 CFR 36 "Licenses and radiation safety requirements for irradiators," re: Section 36.83 (1 page)
6.	01/01/99	Report requirement from 10 CFR 40 "Domestic licensing of source material," re: Section 40.60 (2 pages)
7.	01/01/99	Report requirement from 10 CFR 70 "Domestic licensing of special nuclear material," re: Section 70.50 and 70.52 (3 pages)
8.	01/01/99	Report requirement from 10 CFR 74 "Material control and accounting of special nuclear material," re: Sections 74.11, 74.13, 74.15 and 74.17 (3 pages)
9.	06/01/99	Preliminary Notificatio; PNO-II-99-020 U.S. Department of the Navy, Re: Press Interest in Event Involving Depleted Uranium Ammunition (2 pages)
10.	06/02/99	* Press Release CNN interactive re: Uranium bullets fired in error in Puerto Rico (Copyright 1999 <u>Reuters</u>). (2 pages)
11.	06/08/99	ARB Meeting Summary (2 pages)
12.	06/09/99	E-mail from A. Boland (R-II) to A. Ignatonis (R-II) w/attachments Re: Fwd: allegation (6 pages)
13.	06/09/99	NRC Report of Radionuclide Activity (2 pages)
14.	06/11/99	Electronic mail from Roberto J. Torres (NMSS) to Scott Moore (NMSS), re: Briefing on Vieques (4 pages)

RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
15.	06/11/99	Electronic mail from Mark Lesser (Region II) to Roberto J. Torres, Scott Moore (NMSS), re: Vieques response (4 pages)
16.	06/14/99	Electronic mail from Mark Lesser (Region II) to Roberto J. Torres (NMSS), re: Vieques revision (4 pages)
17.	06/14/99	Electronic mail from Frederick Combs (NMSS) to Scott Moore (NMSS), re: Vieques (3 pages)
18.	06/14/99	Electronic mail from Roberto J. Torres (NMSS) to Scott Moore (NMSS), re: Vieques input by Luis Reyes RII administrator (3 pages)
19.	06/16/99	E-mail from R.J. Torres-Colon, R-II, to M. Lesser, R-II; re: Final Text - DU Shells in Vieques (5 pages)
20.	06/16/99	Draft letter to the Honorable A. Donastorg, Jr. (2 pages)
21.	06/22/99	Electronic mail from Roberto J. Torres (NMSS) to Scott Moore (NMSS), re: Questions asked by Carl about Vieques (2 pages)
22.	06/25/99	Note to D.M. Collins & C.M. Hosey from M. Lesser (R-II); Re: Materials Licensing /Inspection Brancyh 2 Activities for the Week of June 21 (1 page)
23.	06/25/99	Electronic mail from Scott Moore (NMSS) to Charles Hosey, Douglas Collins, Mark Lesser (Region II), re: Plan to schedule a meeting for Tuesday on PR issue (2 pages)
24.	06/25/99	Electronic mail from Scott Moore (NMSS) to Betsy Keeling (OCA), Charles Hosey/Douglas Collins (Region II), re: Proposed meeting on Navy DU firing on Vieques (2 pages)
25.	06/25/99	Electronic mail from Scott Moore (NMSS) to Joseph DeCicco, Robert J. Torres (NMSS), re: See attached proposed changes. (3 pages)
26.	06/28/99	Electronic document (3.5" diskette) containing map of Vieques Island Inner Range and map of North Convoy Inner Range
27.	06/28/99	Letter to Admiral Granuzzo from M. Lesser w/attachments (7 pages)
28.	06/29/99	Electronic mail from Scott Moore (NMSS) to John Hickey, Larry Camper, Roberto J. Torres (NMSS), Fwd: Article in San Juan Star (June 19) on Vieques contamination (4 pages)

RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
29.	06/29/99	Electronic mail from Michael Fuller (Region II) to Scott Moore (NMSS), re: Fwd: Article in San Juan Star (June 19) on Vieques contamination (2 pages)
30.	06/29/99	Electronic mail from Michael Fuller (Region II) to Scott Moore (NMSS), re: 11:00 conference call (2 pages)
31.	06/29/99	Electronic mail from Roberto J. Torres (NMSS) to Michael Fuller (Region II), re: FYI Vieques conservation areas (2 pages)
32.	06/29/99	Electronic mail from Douglas Collins (Region II) to Charles Hosey (RII), Donald Cool (NMSS), Mark Lesser (RII), re: Fwd: NY Times query on Navy DU in Puerto Rico (3 pages)
33.	06/29/99	Electronic mail from Scott Moore (NMSS) to Elizabeth Hayden, Sue Gagner (OPA), re: Fwd: Article in San Juan Star (June 19) on Vieques contamination (2 pages)
34.	06/29/99	Electronic mail from Scott Moore (NMSS) to John Hickey, Larry Camper, Roberto J. Torres (NMSS), re: Fwd: NY Times Query on Navy DU in Puerto Rico (2 pages)
35.	06/29/99	E-mail from M. Weber (NMSS) to D. Cool (NMSS) and E. Hayden (OPA); re: Article in San Juan Star (June 19) on Vieques Contamination Event (1 page)
36.	06/30/99	Electronic mail from Scott Moore (NMSS) to Charles Hosey (RII), Donald Cool (NMSS), Douglas Collins (RII), re: Fwd: Article in San Juan Star (June 19) on Vieques contamination (2 pages)
37.	07/01/99	* Letter from Elizabeth Hayden (OPA) to Douglas Zehr, Reader's Viewpoint, San Juan Star, re: Correction to 6/19/99 article entitled, "NRC to sanction Navy for use of toxic ammunition at Vieques site," carried in the San Juan Star newspaper (1 page) Attachment: * 6/19/99 San Juan Star article (1 page)
38.	07/01/99	Closed Case Chronology; RII-1999-A-0080 (1 page)
39.	07/06/99	Electronic mail from Roberto J. Torres (NMSS) to Douglas Collins, Hector Bermudez, Jose Diaz (Region II), re: Conference call (2 pages)
40.	07/07/99	Electronic mail from Scott Moore (NMSS) to Betsy Keeling (OCA), re: We're calling RII at 4:10. Want to join? (2 pages)

RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
41.	07/08/99	Letter to Centers for Disease Control & Prevention from A. Ignatonis (R-II), Re: Allegation Report RII-1999-A-0080 (1 page)
42.	07/08/99	Electronic mail from Mark Lesser (RII) to Scott Moore (NMSS), re: Fwd: Vieques and the UN resolution (5 pages)
43.	07/08/99	Electronic mail from Scott Moore (NMSS) to Donald Cool, John Hickey, Josephine Piccone, re: EDO ITEM: Telecon W/Congressman Barcelo's asst. (3 pages)
44.	07/09/99	Electronic mail from Roberto J. Torres (NMSS) to Donald Cool, Frederick Sturz, John Hickey (NMSS), re: Latest news report from Vieques 7/8 and 7/9/99 (3 pages)
45.	07/09/99	Electronic mail from Scott Moore (NMSS) to Roberto J. Torres (NMSS), re: Latest news report from Vieques 7/8 and 7/9/99 (2 pages)
46.	08/09/99	Electronic mail from Mark Lesser (RII) to Douglas Collins, Michael Fuller (RII), re: Presidential commission inquiring about Vieques (2 pages)
47.	08/14/99	Electronic mail from Scott Moore (NMSS) to Roberto J. Torres (NMSS), re: Fwd: Presidential commission inquiring about Vieques (2 pages)
48.	08/16/99	Electronic mail from Scott Moore (NMSS) to Mark Lesser, Michael Fuller (RII), re: Vieques update (2 pages)
49.	08/16/99	Electronic mail from Scott Moore (NMSS) to Betsy Keeling (OCA), Carl Paperiello (EDO), Dennis Rathbun (OCA), re: Fwd: Vieques update (3 pages)
50.	08/17/99	Electronic mail from Mark Lesser (RII) to Scott Moore (NMSS), re: Vieques update (2 pages)
51.	08/17/99	Electronic mail from Scott Moore (NMSS) to Mark Lesser, Michael Fuller (R-II), re: Fwd: Vieques update (2 pages)
52.	08/17/99	Electronic mail from Michael Fuller (RII) to Mark Lesser (RII), Scott Moore (NMSS), re: Fwd: Vieques update (2 pages)
53.	08/19/99	Electronic mail from Robert J. Torres (NMSS) to Douglas Collins, Mark Lesser, Michael Collins (RII), re: Latest news article regarding Vieques (2 pages)

RECORDS BEING RELEASED IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
54.	08/21/99	Electronic mail from Scott Moore (NMSS) to Betsy Keeling (OCA), Donald Cool, John Hickey (NMSS), re: Fwd: Latest news article regarding Vieques (2 pages)
55.	08/23/99	Electronic mail from Mark Lesser (RII) to Robert J. Torres, Scott Moore (NMSS), re: Navy reporting status to Congress (2 pages)
56.	08/23/99	Electronic mail from Roberto J. Torres (NMSS) to Scott Moore (NMSS) re: Fwd: Navy reporting status to Congressman Romero Barcelo (2 pages)
57.	08/23/99	Electronic mail from Betsy Keeling (OCA) to Robert Torres-Colon (NMSS), re: Notification to Cong. Staffer (1 page)
58.	08/23/99	Electronic mail from Douglas Collins (RII) to Scott Moore (NMSS), re: Fwd: notification to Cong. staffer (2 pages)
59.	09/07/99	Electronic mail from Mark Lesser (Region II) to Roberto J. Torres (NMSS), re: FOIA request on DU incident Vieques (2 pages)
60.	Undated	Data on the ingestion of depleted uranium (3 pages)
61.	Undated	Handwritten notes: A (1 page)
62.	Undated	Handwritten notes: B (2 pages)
63.	Undated	Handwritten notes: C (1 page)
64.	Undated	Draft letter from NRC Chairman, Shirley Ann Jackson, to Senator of the US Virgin Islands, Adlah Donastorg, Jr., Chairman of Planning and Environmental Protection, re: Concerns regarding radioactive shells mistakenly fired during training in Vieques (8 pages)
65.	Undated	Naval Radioactive Materials Permit (1 page)
66.	Undated	One Liner for Navy Vieques Update (1 page)
67.	Undated	Draft letter from S. A. Jackson to A. Donastorg (2 pages)

APPENDIX B
RECORDS BEING WITHHELD IN PART

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION</u>
1.	06/30/99	Electronic mail from Sue Gagner (OPA) to Scott Moore (NMSS), re: Fwd: Article in San Juan Star (June 19) on Vieques contamination (2 pages) [Exemption 5]
2.	07/07/99	Electronic mail from Scott Moore (NMSS) to Michael Fuller, Mark Lesser (Region II), re: Conference call (3 pages) [Exemption 5]
3.	08/09/99	Electronic mail from Scott Moore (NMSS) to Douglas Collins, Mark Lesser, Michael Fuller (RII), re: Presidential commission inquiring about Vieques (2 pages) [Exemption 6]
4.	08/16/99	Electronic mail from Scott Moore (NMSS) to Betsy Keeling (OCA) re: Fwd: Vieques update (2 pagaes) [Exemption 5]

APPENDIX C
RECORDS BEING WITHHELD IN THEIR ENTIRETY

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	06/25/99	Electronic mail from Scott Moore (NMSS) to Carl Paperiello, Charles Hosey, Donald Cool (NMSS), re: Discussion with Mike Webber and Dan Martin, OEDO (2 pages) [Exemption 5]
2.	08/16/99	Electronic mail from Betsy Keeling (OCA) to Scott Moore (NMSS), re: Fwd: Vieques update (2 pages) [Exemption 5]
3.	08/17/99	Electronic mail from Scott Moore (NMSS) to Betsy Keeling (OCA), re: Fwd: Vieques update (3 pages) [Exemption 5]
4.	08/23/99	Electronic mail from Betsy Keeling (OCA) to Roberto J. Torres, (NMSS), re: Fwd: Navy reporting status to Congressman Romero Barcelo (3 pages) [Exemption 5]
5.	08/23/99	Electronic mail from Roberto J. Torres (NMSS) to Betsy Keeling (OCA), re: Fwd: Notification to Cong. staffer (2 pages) [Exemption 5]
6.	08/23/99	Electronic mail from Scott Moore (NMSS) to Josephine Piccone (NMSSO), re: Fwd: Notification to Cong. staffer (2 pages) [Exemption 5]
7.	08/23/99	Electronic mail from Scott Moore (NMSS) to Roberto J. Torres (NMSS), re: Talked to Betsy Keeling -Reply (2 pages) [Exemption 5]
8.	08/27/99	Electronic mail from Scott Moore (NMSS) to Roberto J. Torres (NMSS), re: RE: For your eyes only (2 pages) [Exemption 5]
9.	08/29/99	Electronic mail from Scott Moore (NMSS) to John Hickey, Josephine Piccone (NMSS), re: Concern about Vieques (2 pages) [Exemption 5]
10.	08/30/99	Electronic mail from Roberto J. Torres (NMSS) to Betsy Keeling (OCA), Donald Cool, John Hickey (NMSS), re: FYI (2 pages) [Exemption 5]
11.	08/30/99	Electronic mail from Mark Lesser (RII) to Scott Moore (NMSS), re: Re: Navy info about Vieques (3 pages) [Exemption 5]

APPENDIX D
RECORDS ALREADY AVAILABLE IN THE PDR

<u>NO.</u>	<u>DATE</u>	<u>ACCESSION NUMBER</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	06/01/99	99060200001	NRC Region II, Preliminary Notification of Event or Unusual Occurrence, PNO-II-99-020 (1 page)
2.	06/01/99	9907160086	EDO Green Ticket G19990296 - Assigns response action to NMSS for Chairman's signature to Senator of the US Virgin Islands, Adlah Donastorg, Jr., Chairman of Planning & Environmental Protection re: Concerns regarding radioactive shells mistakenly fired during training in Vieques (1 page)
3.	06/01/99	9907160092	Letter to NRC Chairman, Shirley Ann Jackson, from Senator of the US Virgin Islands, Adlah Donastorg, Jr., Chairman of Planning & Environmental Protection re: Concerns regarding radioactive shells mistakenly fired during training in Vieques (2 pages)
	06/29/99		Letter to Senator of the US Virgin Islands, Adlah Donastorg, Jr., from NRC Chairman, Shirely Ann Jackson, re: Responding to concerns about the accidental firing of depleted uranium (DU) ammunition on Vieques Island, Puerto Rico (8 pages)

APPENDIX E
RECORDS RELEASED BY DEPARTMENT OF THE NAVY
(UNDER U.S. NAVY CASE NO. 9901096)

<u>NO.</u>	<u>DATE</u>	<u>DESCRIPTION/(PAGE COUNT)</u>
1.	04/01/99	Memo to NRC, Region II from Dept. of the Navy/G.A. Higgins, Commander MSC, U.S. Navy re: Improper expenditure of depleted uranium munitions (3 pages)
2.	05/31/99	Press Release #011-99 re: Incident early March 1999 - CEIBA (2 pages)
3.	06/01/99	Letter to NRC, Region II from Dept. of the Navy/ G.A. Higgins, Commander, MSC, U.S. Navy re: Improper expenditure of depleted uranium munitions (2 pages)
4.	06/16/99	Naval Radiation Safety Committee Presentation Re: Expenditure of Depleted Uranium (DU) Rounds at Vieques Inner Training Range, Puerto Rico (9 pages)

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this section until the Commission terminates each pertinent license requiring the record. Requirements for disposition of these records, prior to license termination, are located in §§ 30.51, 40.61, 70.51, and 72.80 for activities licensed under these parts.

[56 FR 23404, May 21, 1991, as amended at 60 FR 20186, Apr. 25, 1995; 61 FR 24673, May 16, 1996]

§ 20.2109 [Reserved]

§ 20.2110 Form of records.

Each record required by this part must be legible throughout the specified retention period. The record may be the original or a reproduced copy or a microform provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate, and complete records during the required retention period. Records, such as letters, drawings, and specifications, must include all pertinent information, such as stamps, initials, and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Subpart M—Reports

SOURCE: 56 FR 23406, May 21, 1991, unless otherwise noted.

§ 20.2201 Reports of theft or loss of licensed material.

(a) *Telephone reports.* (1) Each licensee shall report by telephone as follows:

(i) Immediately after its occurrence becomes known to the licensee, any lost, stolen, or missing licensed material in an aggregate quantity equal to or greater than 1,000 times the quantity specified in appendix C to part 20 under such circumstances that it appears to the licensee that an exposure could result to persons in unrestricted areas; or

(ii) Within 30 days after the occurrence of any lost, stolen, or missing licensed material becomes known to the licensee, all licensed material in a

quantity greater than 10 times the quantity specified in appendix C to part 20 that is still missing at this time.

(2) Reports must be made as follows:

(i) Licensees having an installed Emergency Notification System shall make the reports to the NRC Operations Center in accordance with § 50.72 of this chapter, and

(ii) All other licensees shall make reports by telephone to the NRC Operations Center (301-951-0550).

(b) *Written reports.* (1) Each licensee required to make a report under paragraph (a) of this section shall, within 30 days after making the telephone report, make a written report setting forth the following information:

(i) A description of the licensed material involved, including kind, quantity, and chemical and physical form; and

(ii) A description of the circumstances under which the loss or theft occurred; and

(iii) A statement of disposition, or probable disposition, of the licensed material involved; and

(iv) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas; and

(v) Actions that have been taken, or will be taken, to recover the material; and

(vi) Procedures or measures that have been, or will be, adopted to ensure against a recurrence of the loss or theft of licensed material.

(2) Reports must be made as follows:

(i) For holders of an operating license for a nuclear power plant, the events included in paragraph (b) of this section must be reported in accordance with the procedures described in § 50.73(b), (c), (d), (e), and (g) of this chapter and must include the information required in paragraph (b)(1) of this section, and

(ii) All other licensees shall make reports to the Administrator of the appropriate NRC Regional Office listed in appendix D to part 20.

(c) A duplicate report is not required under paragraph (b) of this section if the licensee is also required to submit a report pursuant to §§ 30.55(c), 40.64(c),

50.72, 50.73, 70.52, 73.27(b), 73.67(e)(3)(vi), 73.67(g)(3)(iii), 73.71, or § 150.19(c) of this chapter.

(d) Subsequent to filing the written report, the licensee shall also report any additional substantive information on the loss or theft within 30 days after the licensee learns of such information.

(e) The licensee shall prepare any report filed with the Commission pursuant to this section so that names of individuals who may have received exposure to radiation are stated in a separate and detachable part of the report.

[56 FR 23406, May 21, 1991, as amended at 58 FR 69220, Dec. 30, 1993; 60 FR 20186, Apr. 25, 1995]

§ 20.2202 Notification of incidents.

(a) Immediate notification. Notwithstanding any other requirements for notification, each licensee shall immediately report any event involving by-product, source, or special nuclear material possessed by the licensee that may have caused or threatens to cause any of the following conditions—

(1) An individual to receive—

(i) A total effective dose equivalent of 25 rems (0.25 Sv) or more; or

(ii) A lens dose equivalent of 75 rems (0.75 Sv) or more; or

(iii) A shallow-dose equivalent to the skin or extremities of 250 rads (2.5 Gy) or more; or

(2) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake five times the annual limit on intake (the provisions of this paragraph do not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures).

(b) Twenty-four hour notification. Each licensee shall, within 24 hours of discovery of the event, report any event involving loss of control of licensed material possessed by the licensee that may have caused, or threatens to cause, any of the following conditions:

(1) An individual to receive, in a period of 24 hours—

(i) A total effective dose equivalent exceeding 5 rems (0.05 Sv); or

(ii) A lens dose equivalent exceeding 15 rems (0.15 Sv); or

(iii) A shallow-dose equivalent to the skin or extremities exceeding 50 rems (0.5 Sv); or

(2) The release of radioactive material, inside or outside of a restricted area, so that, had an individual been present for 24 hours, the individual could have received an intake in excess of one occupational annual limit on intake (the provisions of this paragraph do not apply to locations where personnel are not normally stationed during routine operations, such as hot-cells or process enclosures).

(c) The licensee shall prepare any report filed with the Commission pursuant to this section so that names of individuals who have received exposure to radiation or radioactive material are stated in a separate and detachable part of the report.

(d) Reports made by licensees in response to the requirements of this section must be made as follows:

(1) Licensees having an installed Emergency Notification System shall make the reports required by paragraphs (a) and (b) of this section to the NRC Operations Center in accordance with 10 CFR 50.72; and

(2) All other licensees shall make the reports required by paragraphs (a) and (b) of this section by telephone to the NRC Operations Center (301) 816-5100.

(e) The provisions of this section do not include doses that result from planned special exposures, that are within the limits for planned special exposures, and that are reported under § 20.2204.

[56 FR 23406, May 21, 1991, as amended at 56 FR 40766, Aug. 16, 1991; 57 FR 57879, Dec. 8, 1992; 59 FR 14086, Mar. 25, 1994; 63 FR 39483, July 23, 1998]

§ 20.2203 Reports of exposures, radiation levels, and concentrations of radioactive material exceeding the constraints or limits.

(a) Reportable events. In addition to the notification required by § 20.2202, each licensee shall submit a written report within 30 days after learning of any of the following occurrences:

(1) Any incident for which notification is required by § 20.2202; or

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(2) Doses in excess of any of the following:

(i) The occupational dose limits for adults in § 20.1201; or

(ii) The occupational dose limits for a minor in § 20.1207; or

(iii) The limits for an embryo/fetus of a declared pregnant woman in § 20.1208; or

(iv) The limits for an individual member of the public in § 20.1301; or

(v) Any applicable limit in the license; or

(vi) The ALARA constraints for air emissions established under § 20.1101(d); or

(3) Levels of radiation or concentrations of radioactive material in—

(i) A restricted area in excess of any applicable limit in the license; or

(ii) An unrestricted area in excess of 10 times any applicable limit set forth in this part or in the license (whether or not involving exposure of any individual in excess of the limits in § 20.1301); or

(4) For licensees subject to the provisions of EPA's generally applicable environmental radiation standards in 40 CFR part 190, levels of radiation or releases of radioactive material in excess of those standards, or of license conditions related to those standards.

(b) *Contents of reports.* (1) Each report required by paragraph (a) of this section must describe the extent of exposure of individuals to radiation and radioactive material, including, as appropriate:

(i) Estimates of each individual's dose; and

(ii) The levels of radiation and concentrations of radioactive material involved; and

(iii) The cause of the elevated exposures, dose rates, or concentrations; and

(iv) Corrective steps taken or planned to ensure against a recurrence, including the schedule for achieving conformance with applicable limits, ALARA constraints, generally applicable environmental standards, and associated license conditions.

(2) Each report filed pursuant to paragraph (a) of this section must include for each occupationally over-

exposed⁷ individual: the name, Social Security account number, and date of birth. The report must be prepared so that this information is stated in a separate and detachable part of the report.

(c) For holders of an operating license for a nuclear power plant, the occurrences included in paragraph (a) of this section must be reported in accordance with the procedures described in § 50.73(b), (c), (d), (e), and (g) of this chapter and must also include the information required by paragraph (b) of this section. Occurrences reported in accordance with § 50.73 of this chapter need not be reported by a duplicate report under paragraph (a) of this section.

(d) All licensees, other than those holding an operating license for a nuclear power plant, who make reports under paragraph (a) of this section shall submit the report in writing to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, with a copy to the appropriate NRC Regional Office listed in appendix D to part 20.

[56 FR 23406, May 21, 1991, as amended at 60 FR 20186, Apr. 25, 1995; 61 FR 65127, Dec. 10, 1996]

§ 20.2204 Reports of planned special exposures.

The licensee shall submit a written report to the Administrator of the appropriate NRC Regional Office listed in appendix D to part 20 within 30 days following any planned special exposure conducted in accordance with § 20.1206, informing the Commission that a planned special exposure was conducted and indicating the date the planned special exposure occurred and the information required by § 20.2105.

[56 FR 23406, May 21, 1991, as amended at 60 FR 20186, Apr. 25, 1995]

§ 20.2205 Reports to individuals of exceeding dose limits.

When a licensee is required, pursuant to the provisions of §§ 20.2203, 20.2204, or 20.2206, to report to the Commission

⁷With respect to the limit for the embryo-fetus (§ 20.1208), the identifiers should be those of the declared pregnant woman.

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any exposure of an identified occupationally exposed individual, or an identified member of the public, to radiation or radioactive material, the licensee shall also provide a copy of the report submitted to the Commission to the individual. This report must be transmitted at a time no later than the transmittal to the Commission.

[60 FR 36043, July 13, 1995]

§ 20.2206 Reports of individual monitoring.

(a) This section applies to each person licensed by the Commission to—

(1) Operate a nuclear reactor designed to produce electrical or heat energy pursuant to § 50.21(b) or § 50.22 of this chapter or a testing facility as defined in § 50.2 of this chapter; or

(2) Possess or use byproduct material for purposes of radiography pursuant to parts 30 and 34 of this chapter; or

(3) Possess or use at any one time, for purposes of fuel processing, fabricating, or reprocessing, special nuclear material in a quantity exceeding 5,000 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof pursuant to part 70 of this chapter; or

(4) Possess high-level radioactive waste at a geologic repository operations area pursuant to part 60 of this chapter; or

(5) Possess spent fuel in an independent spent fuel storage installation (ISFSI) pursuant to part 72 of this chapter; or

(6) Receive radioactive waste from other persons for disposal under part 61 of this chapter; or

(7) Possess or use at any time, for processing or manufacturing for distribution pursuant to parts 30, 32, 33 or 35 of this chapter, byproduct material in quantities exceeding any one of the following quantities:

Radionuclide	Quantity of radionuclide ¹ in curies
Cesium-137	1
Cobalt-60	1
Gold-198	100
Iodine-131	1
Iridium-192	10
Krypton-85	1,000
Promethium-147	10

Radionuclide	Quantity of radionuclide ¹ in curies
Techetium-99m	1,000

¹ The Commission may require as a license condition, or by rule, regulation, or order pursuant to § 20.2302, reports from licensees who are licensed to use radionuclides not on this list, in quantities sufficient to cause comparable radiation levels.

(b) Each licensee in a category listed in paragraph (a) of this section shall submit an annual report of the results of individual monitoring carried out by the licensee for each individual for whom monitoring was required by § 20.1502 during that year. The licensee may include additional data for individuals for whom monitoring was provided but not required. The licensee shall use Form NRC 5 or electronic media containing all the information required by Form NRC 5.

(c) The licensee shall file the report required by § 20.2206(b), covering the preceding year, on or before April 30 of each year. The licensee shall submit the report to the REIRS Project Manager, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

[56 FR 23406, May 21, 1991, as amended at 56 FR 32072, July 15, 1991]

Subpart N—Exemptions and Additional Requirements

SOURCE: 56 FR 23406, May 21, 1991, unless otherwise noted.

§ 20.2301 Applications for exemptions.

The Commission may, upon application by a licensee or upon its own initiative, grant an exemption from the requirements of the regulations in this part if it determines the exemption is authorized by law and would not result in undue hazard to life or property.

§ 20.2302 Additional requirements.

The Commission may, by rule, regulation, or order, impose requirements on a licensee, in addition to those established in the regulations in this part, as it deems appropriate or necessary to protect health or to minimize danger to life or property.

NOTIFICATION

§21.21 Notification of failure to comply or existence of a defect and its evaluation.

(a) Each individual, corporation, partnership, dedicating entity, or other entity subject to the regulations in this part shall adopt appropriate procedures to—

(1) Evaluate deviations and failures to comply to identify defects and failures to comply associated with substantial safety hazards as soon as practicable, and, except as provided in paragraph (a)(2) of this section, in all cases within 60 days of discovery, in order to identify a reportable defect or failure to comply that could create a substantial safety hazard, were it to remain uncorrected, and

(2) Ensure that if an evaluation of an identified deviation or failure to comply potentially associated with a substantial safety hazard cannot be completed within 60 days from discovery of the deviation or failure to comply, an interim report is prepared and submitted to the Commission through a director or responsible officer or designated person as discussed in §21.21(c)(5). The interim report should describe the deviation or failure to comply that is being evaluated and should also state when the evaluation will be completed. This interim report must be submitted in writing within 60 days of discovery of the deviation or failure to comply.

(3) Ensure that a director or responsible officer subject to the regulations of this part is informed as soon as practicable, and, in all cases, within the 5 working days after completion of the evaluation described in §21.21(a)(1) or §21.21(a)(2) if the construction or operation of a facility or activity, or a basic component supplied for such facility or activity—

(i) Fails to comply with the Atomic Energy Act of 1954, as amended, or any applicable rule, regulation, order, or license of the Commission relating to a substantial safety hazard, or

(ii) Contains a defect.

(b) If the deviation or failure to comply is discovered by a supplier of basic components, or services associated with basic components, and the sup-

plier determines that it does not have the capability to perform the evaluation to determine if a defect exists, then the supplier must inform the purchasers or affected licensees within five working days of this determination so that the purchasers or affected licensees may evaluate the deviation or failure to comply, pursuant to §21.21(a).

(c) A dedicating entity is responsible for—

(1) Identifying and evaluating deviations and reporting defects and failures to comply associated with substantial safety hazards for dedicated items; and

(2) Maintaining auditable records for the dedication process.

(d)(1) A director or responsible officer subject to the regulations of this part or a person designated under §21.21(c)(5) must notify the Commission when he or she obtains information reasonably indicating a failure to comply or a defect affecting—

(i) The construction or operation of a facility or an activity within the United States that is subject to the licensing requirements under parts 30, 40, 50, 60, 61, 70, 71, or 72 of this chapter and that is within his or her organization's responsibility; or

(ii) A basic component that is within his or her organization's responsibility and is supplied for a facility or an activity within the United States that is subject to the licensing requirements under parts 30, 40, 50, 60, 61, 70, 71, or 72 of this chapter.

(2) The notification to NRC of a failure to comply or of a defect under paragraph (c)(1) of this section and the evaluation of a failure to comply or a defect under paragraphs (a)(1) and (a)(2) of this section, are not required if the director or responsible officer has actual knowledge that the Commission has been notified in writing of the defect or the failure to comply.

(3) Notification required by paragraph (c)(1) of this section must be made as follows—

(i) Initial notification by facsimile, which is the preferred method of notification, to the NRC Operations Center at (301) 816-5151 or by telephone at (301) 816-5100 within two days following receipt of information by the director or

responsible corporate officer under paragraph (a)(1) of this section, on the identification of a defect or a failure to comply. Verification that the facsimile has been received should be made by calling the NRC Operations Center. This paragraph does not apply to interim reports described in § 21.21(a)(2).

(ii) Written notification to the NRC at the address specified in § 21.5 within 30 days following receipt of information by the director or responsible corporate officer under paragraph (a)(3) of this section, on the identification of a defect or a failure to comply.

(4) The written report required by this paragraph shall include, but need not be limited to, the following information, to the extent known:

(i) Name and address of the individual or individuals informing the Commission.

(ii) Identification of the facility, the activity, or the basic component supplied for such facility or such activity within the United States which fails to comply or contains a defect.

(iii) Identification of the firm constructing the facility or supplying the basic component which fails to comply or contains a defect.

(iv) Nature of the defect or failure to comply and the safety hazard which is created or could be created by such defect or failure to comply.

(v) The date on which the information of such defect or failure to comply was obtained.

(vi) In the case of a basic component which contains a defect or fails to comply, the number and location of all such components in use at, supplied for, or being supplied for one or more facilities or activities subject to the regulations in this part.

(vii) The corrective action which has been, is being, or will be taken; the name of the individual or organization responsible for the action; and the length of time that has been or will be taken to complete the action.

(viii) Any advice related to the defect or failure to comply about the facility, activity, or basic component that has been, is being, or will be given to purchasers or licensees.

(5) The director or responsible officer may authorize an individual to provide the notification required by this para-

graph, provided that, this shall not relieve the director or responsible officer of his or her responsibility under this paragraph.

(e) Individuals subject to this part may be required by the Commission to supply additional information related to a defect or failure to comply. Commission action to obtain additional information may be based on reports of defects from other reporting entities.

[42 FR 28893, June 6, 1977, as amended at 46 FR 58283, Dec. 1, 1981; 47 FR 57480, Dec. 27, 1982; 52 FR 31611, Aug. 21, 1987; 56 FR 36089, July 31, 1991; 59 FR 14086, Mar. 25, 1994; 60 FR 48374, Sept. 19, 1995]

PROCUREMENT DOCUMENTS

§ 21.31 Procurement documents.

Each individual, corporation, partnership, dedicating entity, or other entity subject to the regulations in this part shall ensure that each procurement document for a facility, or a basic component issued by him, her or it on or after January 6, 1978, specifies, when applicable, that the provisions of 10 CFR part 21 apply.

[60 FR 48374, Sept. 19, 1995]

INSPECTIONS, RECORDS

§ 21.41 Inspections.

Each individual, corporation, partnership, dedicating entity, or other entity subject to the regulations in this part shall permit the Commission to inspect records, premises, activities, and basic components as necessary to accomplish the purposes of this part.

[60 FR 48374, Sept. 19, 1995]

§ 21.51 Maintenance and inspection of records.

(a) Each individual, corporation, partnership, dedicating entity, or other entity subject to the regulations in this part shall prepare and maintain records necessary to accomplish the purposes of this part, specifically—

(1) Retain evaluations of all deviations and failures to comply for a minimum of five years after the date of the evaluation;

(2) Suppliers of basic components must retain any notifications sent to purchasers and affected licensees for a

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(b) Except as otherwise provided in his license and subject to the provisions of paragraphs (c) and (d) of this section, any licensee may transfer byproduct material:

- (1) To the Department;
- (2) To the agency in any Agreement State which regulates radioactive material pursuant to an agreement under section 274 of the Act;
- (3) To any person exempt from the licensing requirements of the Act and regulations in this part, to the extent permitted under such exemption;
- (4) To any person in an Agreement State, subject to the jurisdiction of that State, who has been exempted from the licensing requirements and regulations of that State, to the extent permitted under such exemption;
- (5) To any person authorized to receive such byproduct material under terms of a specific license or a general license or their equivalents issued by the Atomic Energy Commission, the Commission, or an Agreement State;
- (6) To a person abroad pursuant to an export license issued under part 110 of this chapter; or
- (7) As otherwise authorized by the Commission in writing.

(c) Before transferring byproduct material to a specific licensee of the Commission or an Agreement State or to a general licensee who is required to register with the Commission or with an Agreement State prior to receipt of the byproduct material, the licensee transferring the material shall verify that the transferee's license authorizes the receipt of the type, form, and quantity of byproduct material to be transferred.

(d) The following methods for the verification required by paragraph (c) of this section are acceptable:

- (1) The transferor may have in his possession, and read, a current copy of the transferee's specific license or registration certificate;
- (2) The transferor may have in his possession a written certification by the transferee that he is authorized by license or registration certificate to receive the type, form, and quantity of byproduct material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;

(3) For emergency shipments the transferor may accept oral certification by the transferee that he is authorized by license or registration certificate to receive the type, form, and quantity of byproduct material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date: *Provided*, That the oral certification is confirmed in writing within 10 days;

(4) The transferor may obtain other sources of information compiled by a reporting service from official records of the Commission or the licensing agency of an Agreement State as to the identity of licensees and the scope and expiration dates of licenses and registration; or

(5) When none of the methods of verification described in paragraphs (d)(1) to (4) of this section are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Commission or the licensing agency of an Agreement State that the transferee is licensed to receive the byproduct material.

[38 FR 33969, Dec. 10, 1973, as amended at 40 FR 8785, Mar. 3, 1975; 43 FR 6922, Feb. 17, 1978]

RECORDS, INSPECTIONS, TESTS, AND REPORTS

§ 30.50 Reporting requirements.

(a) *Immediate report.* Each licensee shall notify the NRC as soon as possible but not later than 4 hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(b) *Twenty-four hour report.* Each licensee shall notify the NRC within 24 hours after the discovery of any of the following events involving licensed material:

- (1) An unplanned contamination event that:
 - (i) Requires access to the contaminated area, by workers or the public, to

be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

(ii) Involves a quantity of material greater than five times the lowest annual limit on intake specified in appendix B of §§ 20.1001-20.2401 of 10 CFR part 20 for the material; and

(iii) Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

(2) An event in which equipment is disabled or fails to function as designed when:

(i) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(ii) The equipment is required to be available and operable when it is disabled or fails to function; and

(iii) No redundant equipment is available and operable to perform the required safety function.

(3) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.

(4) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

(i) The quantity of material involved is greater than five times the lowest annual limit on intake specified in appendix B of §§ 20.1001-20.2401 of 10 CFR part 20 for the material; and

(ii) The damage affects the integrity of the licensed material or its container.

(c) Preparation and submission of reports. Reports made by licensees in response to the requirements of this section must be made as follows:

(1) Licensees shall make reports required by paragraphs (a) and (b) of this section by telephone to the NRC Operations Center.¹ To the extent that the information is available at the time of

¹The commercial telephone number for the NRC Operations Center is (301) 816-5100.

notification, the information provided in these reports must include:

(i) The caller's name and call back telephone number;

(ii) A description of the event, including date and time;

(iii) The exact location of the event;

(iv) The isotopes, quantities, and chemical and physical form of the licensed material involved; and

(v) Any personnel radiation exposure data available.

(2) Written report. Each licensee who makes a report required by paragraph (a) or (b) of this section shall submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be sent to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, with a copy to the appropriate NRC Regional office listed in appendix D of 10 CFR part 20. The reports must include the following:

(i) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(ii) The exact location of the event;

(iii) The isotopes, quantities, and chemical and physical form of the licensed material involved;

(iv) Date and time of the event;

(v) Corrective actions taken or planned and the results of any evaluations or assessments; and

(vi) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

(3) The provisions of § 30.50 do not apply to licensees subject to the notification requirements in § 50.72. They do apply to those part 50 licensees possessing material licensed under part 30, who are not subject to the notification requirements in § 50.72.

[56 FR 40767, Aug. 16, 1991, as amended at 59 FR 14086, Mar. 25, 1994]

§ 30.51 Records.

(a) Each person who receives byproduct material pursuant to a license

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electronic personal dosimeters as required by § 34.83;

(10) Latest survey records required by § 34.85;

(11) The shipping papers for the transportation of radioactive materials required by § 71.5 of this chapter; and

(12) When operating under reciprocity pursuant to § 150.20 of this chapter, a copy of the Agreement State license authorizing the use of licensed materials.

Subpart F—Notifications

§ 34.101 Notifications.

(a) In addition to the reporting requirements specified in § 30.50 and under other sections of this chapter, such as § 21.21, each licensee shall provide a written report to the U.S. Nuclear Regulatory Commission, Division of Industrial and Medical Nuclear Safety, Washington, DC 20555-0001, with a copy to the Director, Office for Analysis and Evaluation of Operational Data, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, within 30 days of the occurrence of any of the following incidents involving radiographic equipment:

(1) Unintentional disconnection of the source assembly from the control cable;

(2) Inability to retract the source assembly to its fully shielded position and secure it in this position; or

(3) Failure of any component (critical to safe operation of the device) to properly perform its intended function;

(b) The licensee shall include the following information in each report submitted under paragraph (a) of this section, and in each report of overexposure submitted under 10 CFR 20.2203 which involves failure of safety components of radiography equipment:

(1) A description of the equipment problem;

(2) Cause of each incident, if known;

(3) Name of the manufacturer and model number of equipment involved in the incident;

(4) Place, date, and time of the incident;

(5) Actions taken to establish normal operations;

(6) Corrective actions taken or planned to prevent recurrence; and

(7) Qualifications of personnel involved in the incident.

(c) Any licensee conducting radiographic operations or storing radioactive material at any location not listed on the license for a period in excess of 180 days in a calendar year, shall notify the appropriate NRC regional office listed in § 30.6(a)(2) of this chapter prior to exceeding the 180 days.

Subpart G—Exemptions

§ 34.111 Applications for exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant an exemption from the requirements of the regulations in this part if it determines the exemption is authorized by law and would not endanger life or property or the common defense and security and is otherwise in the public interest.

Subpart H—Violations

§ 34.121 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to these Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under Section 234 of the Atomic Energy Act;

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section.

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

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(e) Film badge and TLD results required by § 36.55 until the Commission terminates the license.

(f) Records of radiation surveys required by § 36.57 for 3 years from the date of the survey.

(g) Records of radiation survey meter calibrations required by § 36.57 and pool water conductivity meter calibrations required by § 36.63(b) until 3 years from the date of calibration.

(h) Records of the results of leak tests required by § 36.59(a) and the results of contamination checks required by § 36.59(b) for 3 years from the date of each test.

(i) Records of inspection and maintenance checks required by § 36.61 for 3 years.

(j) Records of major malfunctions, significant defects, operating difficulties or irregularities, and major operating problems that involve required radiation safety equipment for 3 years after repairs are completed.

(k) Records of the receipt, transfer and disposal, of all licensed sealed sources as required by §§ 30.51 and 30.41.

(l) Records on the design checks required by § 36.39 and the construction control checks as required by § 36.41 until the license is terminated. The records must be signed and dated. The title or qualification of the person signing must be included.

(m) Records related to decommissioning of the irradiator as required by § 30.35(g).

§ 36.83 Reports.

(a) In addition to the reporting requirements in other parts of NRC regulations, the licensee shall report the following events if not reported under other parts of NRC regulations:

(1) Source stuck in an unshielded position.

(2) Any fire or explosion in a radiation room.

(3) Damage to the source racks.

(4) Failure of the cable or drive mechanism used to move the source racks.

(5) Inoperability of the access control system.

(6) Detection of radiation source by the product exit monitor.

(7) Detection of radioactive contamination attributable to licensed radioactive material.

(8) Structural damage to the pool liner or walls.

(9) Abnormal water loss or leakage from the source storage pool.

(10) Pool water conductivity exceeding 100 microsiemens per centimeter.

(b) The report must include a telephone report within 24 hours as described in § 30.50(c)(1), and a written report within 30 days as described in § 30.50(c)(2).

Subpart F—Enforcement

§ 36.91 Violations.

(a) The Commission may obtain an injunction or other court order to prevent a violation of the provisions of—

(1) The Atomic Energy Act of 1954, as amended;

(2) Title II of the Energy Reorganization Act of 1974, as amended; or

(3) A regulation or order issued pursuant to those Acts.

(b) The Commission may obtain a court order for the payment of a civil penalty imposed under section 234 of the Atomic Energy Act:

(1) For violations of—

(i) Sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Atomic Energy Act of 1954, as amended;

(ii) Section 206 of the Energy Reorganization Act;

(iii) Any rule, regulation, or order issued pursuant to the sections specified in paragraph (b)(1)(i) of this section;

(iv) Any term, condition, or limitation of any license issued under the sections specified in paragraph (b)(1)(i) of this section.

(2) For any violation for which a license may be revoked under section 186 of the Atomic Energy Act of 1954, as amended.

§ 36.93 Criminal penalties.

(a) Section 223 of the Atomic Energy Act of 1954, as amended, provides for criminal sanctions for willful violation of, attempted violation of, or conspiracy to violate, any regulation issued under sections 161b, 161i, or 161o of the Act. For purposes of section 223, all the regulations in part 36 are issued

the Commission or the Atomic Energy Commission under section 274 of the Act;

(3) To any person exempt from the licensing requirements of the Act and regulations in this part, to the extent permitted under such exemption;

(4) To any person in an Agreement State subject to the jurisdiction of that State who has been exempted from the licensing requirements and regulations of that State, to the extent permitted under such exemptions;

(5) To any person authorized to receive such source or byproduct material under terms of a specific license or a general license or their equivalents issued by the Commission or an Agreement State;

(6) To any person abroad pursuant to an export license issued under part 110 of this chapter; or

(7) As otherwise authorized by the commission in writing.

(c) Before transferring source or byproduct material to a specific licensee of the Commission or an Agreement State or to a general licensee who is required to register with the Commission or with an Agreement State prior to receipt of the source or byproduct material, the licensee transferring the material shall verify that the transferee's license authorizes receipt of the type, form, and quantity of source or byproduct material to be transferred.

(d) The following methods for the verification required by paragraph (c) of this section are acceptable:

(1) The transferor may have in his possession, and read, a current copy of the transferee's specific license or registration certificate;

(2) The transferor may have in his possession a written certification by the transferee that he is authorized by license or registration certificate to receive the type, form, and quantity of source or byproduct material to be transferred, specifying the license or registration certification number, issuing agency and expiration date;

(3) For emergency shipments the transferor may accept oral certification by the transferee that he is authorized by license or registration certificate to receive the type, form, and quantity of source or byproduct material to be transferred, specifying the li-

cence or registration certificate number, issuing agency and expiration date: *Provided*, That the oral certification is confirmed in writing within 10 days;

(4) The transferor may obtain other sources of information compiled by a reporting service from official records of the Commission or the licensing agency of an Agreement State as to the identity of licensees and the scope and expiration dates of licenses and registrations; or

(5) When none of the methods of verification described in paragraphs (d)(1) to (4) of this section are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Commission or the licensing agency of an Agreement State that the transferee is licensed to receive the source or byproduct material.

[45 FR 65532, Oct. 3, 1980]

RECORDS, REPORTS, AND INSPECTIONS

§ 40.60 Reporting requirements.

(a) *Immediate report.* Each licensee shall notify the NRC as soon as possible but not later than 4 hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(b) *Twenty-four hour report.* Each licensee shall notify the NRC within 24 hours after the discovery of any of the following events involving licensed material:

(1) An unplanned contamination event that:

(i) Requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

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(ii) Involves a quantity of material greater than five times the lowest annual limit on intake specified in appendix B of §§20.1001-20.2401 of 10 CFR part 20 for the material; and

(iii) Has access to the area restricted for a reason other than to allow isotopes with a half-life of less than 24 hours to decay prior to decontamination.

(2) An event in which equipment is disabled or fails to function as designed when:

(i) The equipment is required by regulation or license condition to prevent releases exceeding regulatory limits, to prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(ii) The equipment is required to be available and operable when it is disabled or fails to function; and

(iii) No redundant equipment is available and operable to perform the required safety function.

(3) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.

(4) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

(i) The quantity of material involved is greater than five times the lowest annual limit on intake specified in appendix B of §§20.1001-20.2401 of 10 CFR part 20 for the material; and

(ii) The damage affects the integrity of the licensed material or its container.

(c) *Preparation and submission of reports.* Reports made by licensees in response to the requirements of this section must be made as follows:

(1) Licensees shall make reports required by paragraphs (a) and (b) of this section by telephone to the NRC Operations Center.¹ To the extent that the information is available at the time of notification, the information provided in these reports must include:

(i) The caller's name and call back telephone number;

(ii) A description of the event, including date and time;

(iii) The exact location of the event;

(iv) The isotopes, quantities, and chemical and physical form of the licensed material involved; and

(v) Any personnel radiation exposure data available.

(2) *Written report.* Each licensee who makes a report required by paragraph (a) or (b) of this section shall submit a written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be sent to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, with a copy to the appropriate NRC regional office listed in appendix D of 10 CFR part 20. The reports must include the following:

(i) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(ii) The exact location of the event;

(iii) The isotopes, quantities, and chemical and physical form of the licensed material involved;

(iv) Date and time of the event;

(v) Corrective actions taken or planned and the results of any evaluations or assessments; and

(vi) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

(3) The provisions of §40.60 do not apply to licensees subject to the notification requirements in §50.72. They do apply to those part 50 licensees possessing material licensed under part 40 who are not subject to the notification requirements in §50.72.

[56 FR 40768, Aug. 16, 1991, as amended at 59 FR 14086, Mar. 25, 1994]

§40.61 Records.

(a) Each person who receives source or byproduct material pursuant to a license issued pursuant to the regulations in this part shall keep records

¹The commercial telephone number for the NRC Operations Center is (301) 816-5100.

(b) Nothing contained in this section shall be deemed to affect the means of acquiring, or the priority of, any tax lien or other lien provided by law.

(c) As used in this section, *creditor* includes, without implied limitation, the trustee under any mortgage, pledge, or lien on special nuclear material made to secure any creditor, any trustee or receiver of the special nuclear material appointed by a court of competent jurisdiction in any action brought for the benefit of any creditor secured by such mortgage, pledge, or lien, any purchaser of such special nuclear material at the sale thereof upon foreclosure of such mortgage, pledge, or lien or upon exercise of any power of sale contained therein, or any assignee of any such purchaser.

[32 FR 2563, Feb. 7, 1967, as amended at 35 FR 11461, July 17, 1970]

SPECIAL NUCLEAR MATERIAL CONTROL,
RECORDS, REPORTS AND INSPECTIONS

§ 70.50 Reporting requirements.

(a) *Immediate report.* Each licensee shall notify the NRC as soon as possible but not later than 4 hours after the discovery of an event that prevents immediate protective actions necessary to avoid exposures to radiation or radioactive materials that could exceed regulatory limits or releases of licensed material that could exceed regulatory limits (events may include fires, explosions, toxic gas releases, etc.).

(b) *Twenty-four hour report.* Each licensee shall notify the NRC within 24 hours after the discovery of any of the following events involving licensed material:

(1) An unplanned contamination event that:

(i) Requires access to the contaminated area, by workers or the public, to be restricted for more than 24 hours by imposing additional radiological controls or by prohibiting entry into the area;

(ii) Involves a quantity of material greater than five times the lowest annual limit on intake specified in Appendix B of §§ 20.1001-20.2401 of 10 CFR part 20 for the material; and

(iii) Has access to the area restricted for a reason other than to allow iso-

topes with a half-life of less than hours to decay prior to decontamination.

(2) An event in which equipment disabled or fails to function as designed when:

(i) The equipment is required by regulation or licensee condition to prevent releases exceeding regulatory limits, prevent exposures to radiation and radioactive materials exceeding regulatory limits, or to mitigate the consequences of an accident;

(ii) The equipment is required to be available and operable when it is disabled or fails to function; and

(iii) No redundant equipment is available and operable to perform the required safety function.

(3) An event that requires unplanned medical treatment at a medical facility of an individual with spreadable radioactive contamination on the individual's clothing or body.

(4) An unplanned fire or explosion damaging any licensed material or any device, container, or equipment containing licensed material when:

(i) The quantity of material involved is greater than five times the lowest annual limit on intake specified in Appendix B of §§ 20.1001-20.2401 of 10 CFR part 20 for the material; and

(ii) The damage affects the integrity of the licensed material or its container.

(c) *Preparation and submission of reports.* Reports made by licensees in response to the requirements of this section must be made as follows:

(1) Licensees shall make reports required by paragraphs (a) and (b) of this section by telephone to the NRC Operations Center.¹ To the extent that the information is available at the time of notification, the information provided in these reports must include:

(i) The caller's name and call back telephone number;

(ii) A description of the event, including date and time;

(iii) The exact location of the event;

(iv) The isotopes, quantities, and chemical and physical form of the licensed material involved; and

¹ The commercial telephone number for the NRC Operations Center is (301) 816-5100.

(v) Any personnel radiation exposure data available.

(2) Written report. Each licensee who makes a report required by paragraph (a) or (b) of this section shall submit written follow-up report within 30 days of the initial report. Written reports prepared pursuant to other regulations may be submitted to fulfill this requirement if the reports contain all of the necessary information and the appropriate distribution is made. These written reports must be sent to the U.S. Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, with a copy to the appropriate NRC regional office listed in appendix D of 10 CFR part 20. The reports must include the following:

(i) A description of the event, including the probable cause and the manufacturer and model number (if applicable) of any equipment that failed or malfunctioned;

(ii) The exact location of the event;

(iii) The isotopes, quantities and chemical and physical form of the licensed material involved;

(iv) Date and time of the event;

(v) Corrective actions taken or planned and the results of any evaluations or assessments; and

(vi) The extent of exposure of individuals to radiation or to radioactive materials without identification of individuals by name.

(3) The provisions of § 70.50 do not apply to licensees subject to the notification requirements in § 50.72. They do apply to those part 50 licensees possessing material licensed under part 70 who are not subject to the notification requirements in § 50.72.

[56 FR 40769, Aug. 16, 1991; 56 FR 64980, Dec. 13, 1991, as amended at 59 FR 14087, Mar. 25, 1994]

§ 70.51 Material balance, inventory, and records requirements.

(a) As used in this section:

(1) *Additions to material in process* means receipts that are opened except for receipts opened only for sampling and subsequently maintained under tamper-safing, and opened sealed sources.

(2) *Enrichment category* for uranium-235 means high-enriched uranium—that uranium whose isotope content is 20

percent or more uranium-235 by weight, and low-enriched uranium—that uranium whose isotope content is less than 20 percent uranium-235 by weight.

(3) *Element* means uranium or plutonium.

(4) *Fissile isotope* means (i) uranium-233 or (ii) uranium-235 by enrichment category.

(5) *Limit of error* means the uncertainty component used in constructing a 95 percent confidence interval associated with a quantity after any recognized bias has been eliminated or its effect accounted for.

(6) *Material balance* means a determination of material unaccounted for (MUF) by subtracting ending inventory (EI) plus removals (R) from beginning inventory (BI) plus additions to inventory (A). Mathematically,

$$\text{MUF} = \text{BI} + \text{A} - \text{EI} - \text{R}$$

(7) *Material in process* means any special nuclear material possessed by the licensee except in unopened receipts, sealed sources, and ultimate product maintained under tamper-safing.

(8) *Physical inventory* means determination on a measured basis of the quantity of special nuclear material on hand at a given time. The methods of physical inventory and associated measurements will vary depending on the material to be inventoried and the process involved.¹

(9) *Removals from material in process* includes measured quantities of special nuclear material disposed of as discards, encapsulated as a sealed source, or in other ultimate product placed under tamper-safing or shipped offsite.

(10) *Tamper-safing* means the use of devices on containers or vaults in a manner and at a time that ensures a clear indication of any violation of the integrity of previously made measurements of special nuclear material within the container or vault.

(11) *Ultimate product* means any special nuclear material in the form of a product that would not be further processed at that licensed location.

(12) *Unopened receipts* means receipts not opened by the licensee, including

¹ Criteria for physical inventories are set out in paragraph (f) of this section.

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specified in the regulations in this part.

[38 FR 30544, Nov. 6, 1973, as amended at 38 FR 32784, Nov. 28, 1973; 41 FR 18303, May 3, 1976; 43 FR 6925, Feb. 17, 1978; 50 FR 7579, Feb. 25, 1985; 52 FR 10038, Mar. 30, 1987; 53 FR 19253, May 27, 1988; 56 FR 55998, Oct. 31, 1991; 61 FR 24675, May 16, 1996]

§ 70.52 Reports of accidental criticality or loss or theft or attempted theft of special nuclear material.

(a) Each licensee shall notify the NRC Operations Center¹ within one hour after discovery of any case of accidental criticality or any loss, other than normal operating loss, of special nuclear material.

(b) Each licensee who possesses one gram or more of contained uranium-235, uranium-233, or plutonium shall notify the NRC Operations Center within one hour after discovery of any loss or theft or unlawful diversion of special nuclear material which the licensee is licensed to possess or any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of such material.

(c) This notification must be made to the NRC Operations Center via the Emergency Notification System if the licensee is party to that system. If the Emergency Notification System is inoperative or unavailable, the licensee shall make the required notification via commercial telephonic service or other dedicated telephonic system or any other method that will ensure that a report is received by the NRC Operations Center within one hour. The exemption of § 73.21(g)(3) applies to all telephonic reports required by this section.

(d) Reports required under § 73.71 need not be duplicated under the requirements of this section.

[52 FR 21657, June 9, 1987, as amended at 59 FR 14087, Mar. 25, 1994]

§ 70.53 Material status reports.

(a)(1) Each licensee who is authorized to possess at any one time and location special nuclear material in a quantity totaling more than 350 grams of con-

¹ Commercial telephone number of the NRC Operations Center is (301) 816-5100.

tained uranium-235, uranium-233, or plutonium, or any combination thereof, shall complete and submit material balance reports as required by § 74.13(a)(1) of this chapter.

(2) Any licensee who is required to submit routine material status reports pursuant to § 75.35 of this chapter shall follow the requirements set out in § 74.13(a)(2) of this chapter.

(b) Each licensee subject to the requirements of § 70.51(e) shall follow the requirements set out in §§ 74.13(b) and 74.17(b) of this chapter.

[50 FR 7579, Feb. 25, 1985, as amended at 52 FR 19305, May 22, 1987]

§ 70.54 Nuclear material transfer reports.

(a) Each licensee who transfers and each licensee who receives special nuclear material shall follow the requirements set out in § 74.15(a) and (b) of this chapter.

(b) Any licensee who is required to submit inventory change reports on DOE/NRC Form-741 pursuant to § 75.34 of this chapter shall follow the requirements set out in § 74.15(c) of this chapter.

[50 FR 7579, Mar. 28, 1985]

§ 70.55 Inspections.

(a) Each licensee shall afford to the Commission at all reasonable times opportunity to inspect special nuclear material and the premises and facilities wherein special nuclear material is used, produced, or stored.

(b) Each licensee shall make available to the Commission for inspection, upon reasonable notice, records kept by the licensee pertaining to his receipt, possession, use, acquisition, import, export, or transfer of special nuclear material.

(c)(1) In the case of fuel cycle facilities where nuclear reactor fuel is fabricated or processed each licensee shall upon request by the Director, Office of Nuclear Material Safety and Safeguards or the appropriate NRC Regional Administrator, provide rent-free office space for the exclusive use of Commission inspection personnel. Heat, air conditioning, light, electrical outlets and janitorial services shall be furnished by each licensee. The office

Nuclear Regulatory Commission

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(2) 11555 Rockville Pike, One White Flint North, Rockville, MD.

[50 FR 7579, Feb. 25, 1985, as amended at 53 FR 4112, Feb. 12, 1988; 53 FR 43422, Oct. 27, 1988]

§ 74.7 Specific exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

§ 74.8 Information collection requirements: OMB approval.

(a) The Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 et seq.). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information if it does not display a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150-0123.

(b) The approved information collection requirements contained in this part appear in §§ 74.11, 74.13, 74.15, 74.17, 74.31, 74.33, 74.51, 74.57, and 74.59.

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In § 74.15, DOE/NRC Form-741 is approved under Control No. 3150-0003.

(2) In § 74.13, DOE/NRC Form-742 is approved under Control No. 3150-0004.

(3) In § 74.13, DOE/NRC Form-742C is approved under Control No. 3150-0058.

(4) In § 74.17, NRC Form 327 is approved under Control No. 3150-0139.

[50 FR 7579, Feb. 25, 1985, as amended at 52 FR 10040, Mar. 30, 1987; 52 FR 19305, May 22, 1987; 56 FR 55998, Oct. 31, 1991; 62 FR 52189, Oct. 6, 1997]

Subpart B—General Reporting

§ 74.11 Reports of loss or theft or attempted theft or unauthorized production of special nuclear material.

(a) Each licensee who possesses one gram or more of contained uranium-235, uranium-233, or plutonium shall notify the NRC Operations Center within 1 hour of discovery of any loss or theft or other unlawful diversion of special nuclear material which the licensee is licensed to possess, or any incident in which an attempt has been made to commit a theft or unlawful diversion of special nuclear material. The requirement to report within 1 hour of discovery does not pertain to measured quantities of special nuclear material disposed of as discards or inventory difference quantities. Each licensee who operates an uranium enrichment facility shall notify the NRC Operations Center within 1 hour of discovery of any unauthorized production of enriched uranium. For centrifuge enrichment facilities the requirement to report enrichment levels greater than that authorized by license within 1 hour does not apply to each cascade during its start-up process, not to exceed the first 24 hours.

(b) This notification must be made to the NRC Operations Center via the Emergency Notification System if the licensee is party to that system. If the Emergency Notification System is inoperative or unavailable, the licensee shall make the required notification via commercial telephonic service or other dedicated telephonic system or any other method that will ensure that a report is received by the NRC Operations Center within one hour. The exemption of § 73.21(g)(3) applies to all telephonic reports required by this section.

(c) Reports required under § 73.71 need not be duplicated under requirements of this section.

[52 FR 21659, June 9, 1987; 52 FR 23257, June 18, 1987, as amended at 56 FR 55998, Oct. 31, 1991]

§ 74.13 Material status reports.

(a)(1) Each licensee authorized to possess at any one time and location special nuclear material in a quantity

totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall complete and submit in computer-readable format material balance reports concerning special nuclear material received, produced, possessed, transferred, consumed, disposed of, or lost by it. These prescribed computer-readable reports replace the DOE/NRC Form 742 which has been previously submitted in paper form. Each nuclear reactor licensee, as defined in §§ 50.21 and 50.22 of this chapter, also shall prepare in computer-readable format a statement of the composition of the ending inventory. The inventory composition report must be submitted with each material balance report. This prescribed computer-readable report replaces the DOE/NRC Form 742C which has been previously submitted in paper form. Each licensee shall prepare and submit the reports described in this paragraph in accordance with instructions (NUREG/BR-0007 and NMMSS Report D-24 "Personal Computer Data Input for NRC Licensees"). Copies of these instructions may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001. Each licensee shall compile a report as of March 31 and September 30 of each year and file it within 30 days after the end of the period covered by the report. The Commission may permit a licensee to submit the reports at other times when good cause is shown.

(2) Any licensee who is required to submit routine material status reports pursuant to § 75.35 of this chapter (pertaining to implementation of the US/IAEA Safeguards Agreement) shall prepare and submit such reports only as provided in that section (instead of as provided in paragraph (a)(1) of this section).

(b) Each licensee subject to the requirements of § 70.51(e) of this chapter shall submit a report, in accordance with paragraph (b)(1) or (b)(2) of this section, to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 within 30 calendar days after the start of each ending physical inventory required by § 70.51(e)(3) of this chapter.

(1) If the inventory difference exceeded both

(i) Twice the standard error of the estimated measurement uncertainty associated with the inventory difference, and

(ii) 200 grams of plutonium or U²³³ 300 grams of high enriched uranium or uranium-235 contained in high enriched uranium, or 9000 grams of uranium-235 contained in low enriched uranium, a statement of the probable reasons for the excessive inventory difference and corrective actions taken or planned; and

(2) If for any material twice the standard error of the estimated measurement uncertainty associated with the inventory difference exceeds any applicable limits specified in § 70.51(e)(5) or approved pursuant to § 70.51(e)(6) of this chapter, a statement of the probable reasons for the excessive standard error and the actions taken or planned with respect to controlling the standard error within applicable limits.

[50 FR 7579, Feb. 25, 1985, as amended at 51 FR 9766, Mar. 21, 1986; 52 FR 31613, Aug. 21, 1987; 54 FR 6877, Feb. 15, 1989; 55 FR 5979, Feb. 21, 1990; 59 FR 35621, July 13, 1994]

§ 74.15 Nuclear material transfer reports.

(a) Each licensee who transfers and each licensee who receives special nuclear material shall complete in computer-readable format a Nuclear Material Transaction Report. This should be done in accordance with instructions whenever the licensee transfers or receives a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium. Copies of these instructions (NUREG/BR-0006 and NMMSS Report D-24 "Personal Computer Data Input for NRC Licensees") may be obtained from the U.S. Nuclear Regulatory Commission, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555-0001. This prescribed computer-readable format replaces the DOE/NRC Form 741 which has been previously submitted in paper form.

(b) Each licensee who receives 1 gram or more of contained uranium-235, uranium-233, or plutonium from a foreign source shall:

Nuclear Regulatory Commission

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(1) Complete in computer-readable format both the supplier's and receiver's portion of the Nuclear Material Transaction Report;

(2) Perform independent tests to assure the accurate identification and measurement of the material received, including its weight and enrichment; and

(3) Indicate the results of these tests on the receiver's portion of the form.

(c) Any licensee who is required to submit inventory change reports pursuant to § 75.34 of this chapter (pertaining to implementation of the US/International Atomic Energy Agency (IAEA) Safeguards Agreement) shall prepare and submit these reports only as provided in that section (instead of as provided in paragraphs (a) and (b) of this section).

[59 FR 35621, July 13, 1994]

§ 74.17 Special nuclear material physical inventory summary report.

(a) Each licensee subject to the requirements of § 74.31 or § 74.33 shall submit a completed Special Nuclear Material Physical Inventory Summary Report on NRC Form 327 not later than 60 calendar days from the start of the physical inventory required by § 74.31(c)(5) or § 74.33(c)(4) of this chapter. The licensee shall report the inventory results by plant and total facility to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(b) Each licensee subject to the requirements of § 70.51(e) of this chapter shall submit a completed Special Nuclear Material Physical Inventory Summary Report on NRC Form 327 not later than 30 calendar days from the start of the physical inventory required by § 70.51(e)(3) of this chapter. The licensee shall report the inventory results by plant and total facility to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(c) Each licensee subject to the requirements of § 74.51 shall submit a completed Special Nuclear Material Physical Inventory Summary Report on NRC Form 327 not later than 45 calendar days from the start of the phys-

ical inventory required by § 74.59(f). The licensee shall report the inventory results by plants and total facility to the appropriate NRC regional office listed in appendix A of part 73 of this chapter.

[52 FR 19305, May 22, 1987, as amended at 54 FR 6877, Feb. 15, 1989; 55 FR 5979, Feb. 21, 1990; 56 FR 55998, Oct. 31, 1991]

Subpart C—Special Nuclear Material of Low Strategic Significance

§ 74.31 Nuclear material control and accounting for special nuclear material of low strategic significance.

(a) *General performance objectives.* Each licensee who is authorized to possess and use more than one effective kilogram of special nuclear material of low strategic significance, excluding sealed sources, at any site or contiguous sites subject to control by the licensee, other than a production or utilization facility licensed pursuant to part 50 or 70 of this chapter, or operations involved in waste disposal, shall implement and maintain a Commission approved material control and accounting system that will achieve the following objectives:

- (1) Confirm the presence of special nuclear material;
- (2) Resolve indications of missing material; and
- (3) Aid in the investigation and recovery of missing material.

(b) *Implementation dates.* Each licensee subject to the requirements of paragraph (a) of this section shall:

- (1) No later than August 26, 1985, submit a fundamental nuclear material control plan describing how the requirements of paragraph (c) of this section will be met; and
- (2) No later than December 23, 1985, or 60 days after the plan submitted pursuant to paragraph (b)(1) of this section is approved, whichever is later, implement the approved plan.

(c) *System capabilities.* To meet the general performance objectives of paragraph (a) of this section, the material control and accounting system must include the capabilities described in paragraph (c) (1) through (8) of this section. The licensee shall:

- (1) Establish, document, and maintain a management structure which

[Preliminary Notification index](#) | [News and Information](#) | [Main NRC Home Page](#) |
E-mail: [<COMMENT>](#) <|- Margins changed to 0.3 left and right -> </COMMENT>

June 1, 1999

PRELIMINARY NOTIFICATION OF EVENT OR UNUSUAL OCCURRENCE PNO-II-99-020

This preliminary notification constitutes EARLY notice of events of POSSIBLE safety or public interest significance. The information is as initially received without verification or evaluation, and is basically all that is known by Region II staff (Atlanta, Georgia) on this date.

Facility	Licensee Emergency Classification
U. S. Department of the Navy	Notification of Unusual Event
Crystal City, Virginia	Alert
Docket No. 030-29462	Site Area Emergency
License No. 45-23645-01NA	General Emergency
	X Not Applicable

SUBJECT: PRESS INTEREST IN EVENT INVOLVING DEPLETED URANIUM
AMMUNITION

On May 28, 1999, Region II received press inquiries regarding a February 19, 1999 event in which depleted uranium (DU) ammunition was inadvertently expended on the Live Impact Area (LIA) of the Vieques Naval Range, on Vieques Island in Puerto Rico. The range is a naval weapons firing range and is a restricted area. The NRC was informed of the event on March 5,

1999, after it was identified.

During a training exercise, two U. S. Marine Corps Harrier aircraft expended 263 DU rounds. Each round contains 148 grams of DU in the form of a pencil shaped penetrator. The LIA is located on the eastern tip of the island of Vieques and covers approximately 2.5 square miles. Interviews with the Marine pilots isolated the affected area to a small portion of the LIA called the North Convoy. The LIA is guarded 24 hours per day and only a few individuals are authorized access.

A team of Navy Health Physicists was deployed to the area between March 10 and 19, 1999. The team performed visual and radiological surveys and determined that the penetrators were 10 to 20 feet apart along three distinct paths. A total of 57 penetrators were recovered. Due to dense vegetation in portions of the affected area, the search was suspended because of the possibility of unexploded conventional ordinance. The Navy plans to resume recovery operations in August 1999. The Navy will provide additional information subsequent to this further work.

Region II has been following the Navy's response to this incident and will continue to do so.

The Commonwealth of Puerto Rico has been notified. This information is current as of June 1, 1999, at 11:00 am.

Contact: Michael Fuller

(404) 562-4714

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refer to PDR Folder: FOIA** 2000-009A
Dated 2-15-00

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~~File~~: Records: A-10 (2pgs)
 A-37 (1pg)

ARB MEETING SUMMARY

June 15, 1999

RII-1999-A-00

**VIEQUES NAVAL RANGE
PUERTO RICO**

Received: 6/08/99 Days Open: 7

REASON FOR ARB:

DISCUSS CONTENTS OF ALLEGATION REPORT FOR APPROPRIATE ACTION.

CONCERN:

PERSONS LIVING ON NAVY RANGE MAY BE IN AREAS WHERE THE REMAINS OF EXPENDED DEPLETED URANIUM MUNITIONS ARE PRESENT.

ACTION:

LEAD DIVISION/BRANCH:

LICENSEE REFERRAL:

OI ACTION:

OI PRIORITY:

GENERIC ISSUES:

SAFETY SIGNIFICANCE:

COMPLETION DATE:

<u>ATTENDEES</u>			
<u>ORA</u>	<u>DRP</u>	<u>DRS</u>	<u>DNMS</u>
[] BOLAND	[] PLISCO	[] MALLETT	[] COLLINS
[] EVANS	[] CASTO	[] McCREE	[] HOSEY
[] IGNATONIS	[] JOGLE	[] BARR	[] DECKER
[] de MIRANDA	[] SKINNER	[] BELISLE	[] LESSER
[] SPARKS	[] WERT	[] LANDIS	[] McALPINE
[] SLACK	[] BONSER	[] CHRISTENSEN	<u>OI</u>
	[] HAAG		[] MCNULTY

A-11

ARB MEETING SUMMARY
June 15, 1999

RII-1999-A-0080

VIEQUES NAVAL RANGE
 PUERTO RICO

Received: 6/08/99 Days Open: 7

REASON FOR ARB:

DISCUSS CONTENTS OF ALLEGATION REPORT FOR APPROPRIATE ACTION.

CONCERN:

PERSONS LIVING ON NAVY RANGE MAY BE IN AREAS WHERE THE REMAINS OF EXPENDED DEPLETED URANIUM MUNITIONS ARE PRESENT.

ACTION: DNMS/MLB2 REFER TO NAVY. ALLEGEDLY NO ONE IS IN THE BOMBING AREA.

LEAD DIVISION/BRANCH: DNMS/LESSER

LICENSEE REFERRAL: YES

OI ACTION: NONE **OI PRIORITY:** N/A

GENERIC ISSUES: NONE

SAFETY SIGNIFICANCE: LOW BASED ON THE FACT THAT THE NAVY CONTROLS THIS AREA.

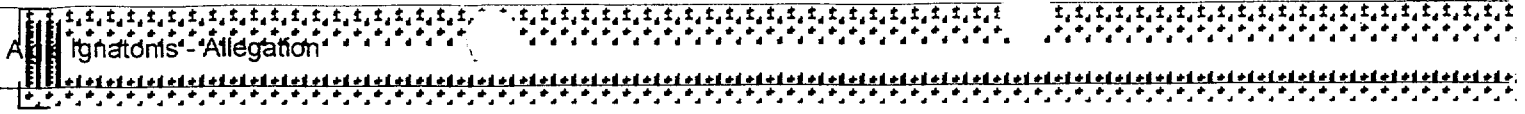
COMPLETION DATE: 30 DAYS FOR REFERRAL EICS PROVIDE ENCLOSURE 07/01/99.

<u>ATTENDEES</u>			
<u>ORA</u>	<u>DRP</u>	<u>DRS</u>	<u>DNMS</u>
<input checked="" type="checkbox"/> BOLAND	<input type="checkbox"/> PLISCO	<input checked="" type="checkbox"/> MALLETT	<input type="checkbox"/> COLLINS
<input type="checkbox"/> EVANS	<input type="checkbox"/> CASTO	<input type="checkbox"/> McCREE	<input checked="" type="checkbox"/> HOSEY
<input checked="" type="checkbox"/> IGNATONIS	<input type="checkbox"/> OGLE	<input type="checkbox"/> BARR	<input type="checkbox"/> DECKER
<input type="checkbox"/> de MIRANDA	<input type="checkbox"/> SKINNER	<input type="checkbox"/> BELISLE	<input type="checkbox"/> LESSER
<input type="checkbox"/> SPARKS	<input type="checkbox"/> WERT	<input type="checkbox"/> LANDIS	<input type="checkbox"/> McALPINE
<input checked="" type="checkbox"/> SLACK	<input type="checkbox"/> BONSER	<input type="checkbox"/> CHRISTENSEN	<u>OI</u>
	<input type="checkbox"/> HAAG		<input type="checkbox"/> MCNULTY

ARB MEETING MINUTES ARE REVIEWED AND APPROVED AT THE ARB

From: Anne Boland, R2
To: aji AL Ignatonis, R2
Date: Wed, Jun 9, 1999 11:25 AM
Subject: Fwd: Allegation

A-12



From: John Pelchat
To: Anne Boland
Date: Wed, Jun 9, 1999 10:51 AM
Subject: Allegation

The package is attached.

ALLEGATION REPORT

CASE NO: RII-

FACILITY: U.S. Navy

CONCERN NO: (1)

DATE/TIME RECEIVED: 6/8/99, 1600

WHAT IS THE ALLEGATION?

Persons are going onto and living on the Vieques Naval Range, on Vieques Island in Puerto Rico. These persons are reportedly building shelters using locally available materials. The range is a naval weapons firing range and is a restricted area. These persons may be in areas where the remains of expended depleted uranium (DU) munitions are present.

WHAT IS THE POTENTIAL SAFETY IMPACT?

On March 5, 1999, the Navy reported to Region II that two U. S. Marine Corps aircraft expended 263 DU rounds at the Vieques Naval Range. Each round contains 148 grams of DU. The DU is NRC licensed material.

The potential radiation safety impact posed by the depleted uranium is relatively low. However, as a heavy metal, DU may pose a chemical health hazard (exposure limits set by NRC for DU in 10 CFR 20 as based on chemical toxicity rather than radiological hazard). The presence of unexploded ordnance could also pose a significant threat to individuals in the area.

WHAT IS THE REQUIREMENT/VIOLATION?

10 CFR 20.1801: The licensee shall secure from unauthorized removal or access licensed materials that are stored in controlled or unrestricted areas.

10 CFR 20.1802: The licensee shall control and maintain constant surveillance of licensed material that is in a controlled or unrestricted area and that is not in storage.

WHEN DID IT OCCUR?

It is ongoing.

WHERE IS IT LOCATED?

Vieques Naval Range, on Vieques Island in Puerto Rico.

WHO IS INVOLVED/WITNESSED?

The Navy, the concerned individual, unspecified residents of Vieques Island, Puerto Rico

ALLEGATION REPORT

CASE NO: RII-

FACILITY: U.S. Navy

CONCERN NO: (1)

DATE/TIME RECEIVED: 6/8/99, 1600

HOW/WHY DID IT OCCUR?

Local island residents are protesting the use of Vieques Island as a naval weapons range. To prevent further use of the range, individuals including children, have crossed over range boundaries and have begun living on the range. The Navy is reportedly reluctant to forcibly remove these persons because of the potential for additional negative media attention.

WHAT EVIDENCE CAN BE EXAMINED?

The restricted areas on the island can be visually examined for evidence of inhabitation.

DESCRIBE THE CIRCUMSTANCES OF HOW YOU RECEIVED THE CONCERN (PHONE CALL, LETTER, PERSONAL VISIT, ETC):

The concerned individual initially petitioned the Centers for Disease Control (CDC) Agency for Toxic Substances and Disease Registry (ATSDR) to request a health assessment of the potential hazards to individuals living on the range. The individual reportedly was most concerned about the presence of unexploded high explosives.

A member of the ATSDR staff, in turn, contacted NRC Region II staff to obtain any additional information that NRC staff was aware regarding DU and its associated hazards.



The ATSDR has not made a decision as to whether or not it will accept the petition. ATSDR has asked the Navy to verify the validity of the concerned individual's statement that people were living on the range. Therefore ATSDR does not wish to provide NRC with the identity of the concerned individual.

COMPLETE AN ALLEGER IDENTIFICATION INFORMATION SHEET

PREPARED BY: John M. Pelchat

DATE PREPARED: 6/9/1999

ALLEGATION REPORT ALLEGER IDENTIFICATION SHEET

CASE NO: RII-	FACILITY: U.S. Navy, Vieques Naval Range
EMPLOYER:	OCCUPATION:
ALLEGER/ADDRESS: Centers for Disease Control  Atlanta, GA	ADDRESS CHANGE:
HOME PHONE: () WORK PHONE: () PAGER NO. ()	HOME PHONE: () WORK PHONE: () PAGER NO. ()

DID THE ALLEGER EXPRESS A CONCERN DIRECTLY TO THE LICENSEE OR STATE AND IF SO WHAT IS THE STATUS? The CDC has advised the Navy of the petition and as noted above, asked the Navy to verify the validity of the concerned individual's statement that people were living on the range.

GIVEN THE CIRCUMSTANCES OF THE ALLEGATION (I.E., ALLEGER TOLD COWORKERS/ SUPERVISOR OR INITIATED A CONDITION REPORT) WOULD TRANSMITTAL OF THE CONCERN FOR LICENSEE FOLLOW-UP ACTION LIKELY IDENTIFY THE ALLEGER AS THE SOURCE OF THE INFORMATION (FINGERPRINTING)?

See above

WOULD THE ALLEGER OBJECT TO THE TRANSMITTAL OF THE CONCERN TO THE LICENSEE OR STATE FOR FOLLOW-UP?

The CDC has already advised the Navy of the contents of the petition (see above).

DOES THE ALLEGER HAVE A CONCERN ABOUT BEING IDENTIFIED TO THE LICENSEE OR STATE? IF SO, WHY?

No

DOES THE ALLEGER OBJECT TO RELEASING THEIR IDENTITY IN A REFERRAL TO THE LICENSEE OR STATE, IF NECESSARY TO ADEQUATELY FOLLOW-UP ON THE CONCERN?

No

WAS ALLEGER INFORMED OF NRC IDENTITY PROTECTION POLICY ?

Not applicable, the ATSDR is a federal agency

DID ALLEGER REQUEST CONFIDENTIALITY? No

WAS THE ALLEGER INFORMED OF DOL REPORTING REQUIREMENTS?

Not applicable, the ATSDR is a federal agency

PREPARED BY: John Pelchat

DATE PREPARED: 6/9/99

Program : DandD Vers: 1.0
Session : WVUreview
Description :
Verif.

Executed : 06/09/99 at 10:19:53

NRC Report

Residential Input Section

Execution Options

=====

History file will not be generated.
Implicit progeny doses will not be included with explicit parent.
Concentration data will be calculated.

Initial Radionuclide Activities

=====

Chain pCi/gram

=====

3H	1.00
14C	0.00

Code-Generated Radionuclide Activities

=====

Chain pCi/gram

=====

3H	1.0000E+000
14C	0.0000E+000

Variable Parameters

=====

No parameters have been changed.

Residential Output Section

Maximum Annual TEDE

=====

This scenario started 0.00 year(s) from now
and ran for 1000.00 year(s).

The peak dose of 3.17E-001 TEDE (mrem) occurred 1.00 year(s) after
license termination.

Pathway Component of
Maximum Annual Dose

=====

External	0.00E+000	0.00
Inhalation	3.89E-009	0.00
Agricult.	3.05E-001	96.36
Soil	8.81E-007	0.00
Drinking	6.04E-003	1.91
Irrigated	5.36E-003	1.69
Aquatic	1.27E-004	0.04

Total	3.17E-001	100.00

Radionuclide Component of
Maximum Annual Dose

Radionuclide	TEDE (mrem)	Percentage
3H	3.17E-001	100.00
14C	0.00E+000	0.00

Total	3.17E-001	100.00

From: Robert J Torres-Colon, NRCSS
To: Scott Moore, NRCSS
Date: Fri, Jun 11, 1999 2:07 PM
Subject: BRIEFING ON VIEQUES

To: Scott W. Moore

From: Roberto J. Torres
6/11/99

Briefing on: Accident involving radioactive shells mistakenly fired during training exercises by a US Navy Marine fighter jet loaded with depleted uranium

I. VIEQUES BACKGROUND

Vieques is an island off the southeastern coast of Puerto Rico and very near the US Virgin Islands. Population is 9,300 and the island is about 21 long by 4 miles wide and covers 33,000 acres. One third of the island is occupied by the US Marines, one third is occupied by the US Navy and the remaining third is inhabited by population. In Vieques, the Navy runs the North Atlantic Fleet Weapons Training Facility, one of the largest live weapons training grounds in the world. [Source: Internet]

Military operations have been conducted in Vieques since WW2. US Armed Forces practices different types of military operations, including the use of live ammunition ranging from light fire arms, missiles, bombs and up to 16 inches shells fired from Iowa class battleships. It is not uncommon to find target drones (practice missiles) in beaches accessed by the public in Vieques and in Puerto Rico. [Source: Personal recall of local news media]

Cancer incidence among the Vieques population has a higher rate than the population in Puerto Rico. Local newspaper claims the number of cancer cases is alarming. Some have attributed this to the routine military operations and naval bombardment conducted in Vieques. Up to 1998 Puerto Rico Dept. of Health has not found out a cause effect relationship to explain the high number of different types of cancer among the Vieques population. [Source: Personal recall of local news media/Internet]

Since the end of WW2, there has been a movement in Vieques (Committee for the Recovery and Development of Vieques), with some support from Puerto Rico, promoting closing the military base in Vieques. There is a strong desire from the people of Vieques for an end to the base, particularly because of bombing practices, including fears of radioactive contamination, and the land occupation which leaves the least desirable part of the island to the civilians. [Source: Internet]

II. ORDER OF EVENTS

1. On February 19, 1999 two Marine Corps Harrier jets expended 263 rounds of bullets made of depleted uranium during a training exercise at Vieques. The Navy learned about this incident on March 5, 1999 and immediately notified NRC, a Navy spokesman in PR said.

Roger Hannah, an NRC spokesman in Atlanta said: "They normally don't use this during weapons firing practice". Depleted uranium contains a small amount of radioactive material. But Hannah said the

A-14

material expended at Vieques would not pose a threat to public health because it was in an isolated area and because it was fired into the ground. "There is very little danger to public health and safety", he said.

The Navy said the use of depleted uranium is strictly prohibited on the Vieques range and the incident was being investigated. [Source: Internet/CNN June 2, 1999]

2. On April 19, 1999 two US Marines F/A-18 Hornet jets accidentally bombed an observation post killing one puertorrican civilian guard. This occurred inside military premises.

3. These two events (#1 & # 2) again sparked the issue among population in Vieques and Puerto Rico to request the base closure and/or to stop all military operations. Up to the end of June 1999 military operations have been halted in Vieques pending investigations. Civilians from Vieques and Puerto Rico have occupied and settled in tents in a Vieques beach used by the military for practice thus risking their lives because of unexploded ordnance that could be around them. [Source: Personal recall of local news media]

4. The Navy apologized and said it would indefinitely halt maneuvers using live ammunition. But Navy officials said the Vieques target range was essential to national defense because it is a unique location where planes and ships can bomb, and troops can be deployed. [Source: Internet/CNN May 10, 1999]

III. COMMENTS

1. Doug Collins, RII told Scott Moore and Torres in telephone conversation on 6/11 that the only authorized use of DU shells by the Navy is for:

- A. Calibration firing of aerial machine guns on ships out at sea
- B. Combat scenarios

Therefore, the use of DU shells by jet in Vieques firing range is unauthorized.

2. Navy has to assure the public that appropriate strong measures will be taken so this event will not repeat.

3. NRC must enforce current applicable regulations and notify Navy for this violation to their license.

SENATOR DONASTORG CONCERNS THAT HAS TO BE ADDRESS

1. USVI residents were disturbed to learn of the release of radioactive material in any quantity in the region.

2. USVI nor EPA were notified of the incident therefore local governor nor senator could respond appropriately to citizens concerns. He suggested a simple letter could had reassured the peoples safety. Fear overcome the people of USVI during the long Memorial Day weekend.

3. Senator is greatly disturbed at careless handling of deadly materials.

4. Senator asks NRC to fully investigate this matter and punish the responsible party.

5. Senator suggests ban on all military exercises in the region that involve possibility of the inadvertent release of radioactive materials.

Vieques.

6. He wants a report as to the risks involved with the release of depleted uranium in

Mail Envelope Properties (37615047.507 : 24 : 20600)

Subject: BRIEFING ON VIEQUES
Creation Date: Fri, Jun 11, 1999 2:07 PM
From: Robert J Torres-Colon

Created By: TWFN_DO.TWF4_PO:RJT

Recipients

Post Office TWFN_DO.twf4_po
SWM (Scott Moore)

Domain.Post Office
TWFN_DO.twf4_po

Route
TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	11269	Friday, June 11, 1999 2:07 PM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Mark Lesser, *R-II*
To: Robert J Torres-Colon, Scott Moore, *NMSS*
Date: Fri, Jun 11, 1999 3:18 PM
Subject: Vieques response

attached is a proposed response to Senator Donastorg.

The Honorable Adlah "Foncie" Donastorg, Jr.
Chairman, Committee on Planning and Environmental Protection
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00804

Dear Mr. Chairman,

I am responding to the concerns raised in your letter dated June 1, 1999, regarding the accidental firing of depleted uranium (DU) ammunition on Vieques Island, Puerto Rico. The Department of the Navy's Radiation Safety Committee (RSC) has provided initial and followup reports to the Nuclear Regulatory Commission describing the event, including the cause and planned corrective actions.

The Navy's RSC reported that on February 19, 1999, 263 rounds of DU ammunition were inadvertently fired from two U.S. Marine Corps aircraft during a training exercise at the Live Impact Area of the Vieques Island firing range. The RSC identified this as a violation of the requirements of the Navy's radioactive materials permit issued by the RSC and reported this in March 1999, to our regional staff in Atlanta, Georgia. The RSC determined that the cause of the incident was a failure by individuals to follow written procedures for the use of ammunition. DU rounds are to be used strictly during combat or approved tests and are prohibited from peacetime or training use. In March 1999, the Navy located and removed 57 expended rounds of DU ammunition from the Vieques Island range. Radiological surveys identified some DU soil contamination which was also removed. Recovery activities were discontinued because of the hazards from unexploded non-DU ordnance and the access restrictions placed on the range because of operational commitments. The Navy plans to resume recovery activities in August 1999. Although the Navy's investigation is ongoing, they have taken several corrective actions to prevent recurrence and additional actions are being planned. The Nuclear Regulatory Commission has been evaluating the safety significance of the event and is continuing to review the Navy's actions.

An initial assessment of the consequences of the incident was performed by our staff. DU is a byproduct of the uranium enrichment process and for a given weight, is less radioactive than naturally occurring uranium. Because the radioactivity is low, direct exposure to the DU does not pose a radiological hazard. Although health effects may be anticipated from excessive ingestion or inhalation of DU, public access to the Live Impact Area is normally restricted and the area is guarded 24 hours a day; thus it is unlikely that an individual could receive such exposure. Our staff believes that the Navy's actions to date are appropriate and that the public health is not endangered.

The NRC is continuing to follow the Navy's actions and will conduct an independent inspection of their DU recovery activities on Vieques Island and corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete their report by the end of September 1999. Following completion of our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

With regard to your concern about the failure of local authorities in the Virgin Islands to receive notification of this event, we recognize the importance of keeping officials informed of radiological issues and acknowledge that notification should have been provided to interested

parties shortly after we received notification of this event. You can be assured that in the future appropriate officials in the Virgin Islands will be promptly notified of events involving NRC licensed material in or near the Virgin Islands.

Thank you for sharing your concern with us. I trust that this response satisfies your concerns in this area.

Sincerely,

C:\WINDOWS\TEMP\gwprint\vieques2.wpd

Mail Envelope Properties (37616116.27A : 16 : 10149)

Subject: Vieques response
Creation Date: Fri, Jun 11, 1999 3:18 PM
From: Mark Lesser

Created By: ATL_DO.ATL_PO:MSL1

Recipients

Post Office TWFN_DO.twf4_po
RJT (Robert J Torres-Colon)
SWM (Scott Moore)

Domain.Post Office
TWFN_DO.twf4_po

Route
TWFN_DO.twf4_po

Files	Size	Date & Time
vieques2.wpd	6387	Friday, June 11, 1999 3:17 PM
MESSAGE	628	Friday, June 11, 1999 3:18 PM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Mark Lesser, *R-II*
To: Robert J Torres-Colon, *NRSS*
Date: Mon, Jun 14, 1999 8:42 AM
Subject: vieques revision

Luis Reyes had additional input to the response. Attached is a revised version, revisions are redlined

CC: Charles Hosey, Douglas Collins, Scott Moore

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The Honorable Adlah "Foncie" Donastorg, Jr.
Chairman, Committee on Planning and Environmental Protection
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00804

Dear Mr. Chairman,

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An initial assessment of the consequences of the incident was performed by our staff. DU is a byproduct of the uranium enrichment process and for a given weight, is less radioactive than naturally occurring uranium. Because the radioactivity is low, direct exposure to the DU does not pose a radiological hazard. Although health effects may be anticipated from excessive ingestion or inhalation of DU, public access to the Live Impact Area is normally restricted and the area is guarded 24 hours a day; thus it is unlikely that an individual could receive such exposure. Our staff believes that the Navy's actions to date are appropriate and that the public health is not endangered.

The NRC is continuing to follow the Navy's actions and will conduct an independent inspection of their DU recovery activities on Vieques Island and corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete their report by the end of September 1999. Following completion of our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

With regard to your concern about the failure of local authorities in the Virgin Islands to receive notification of this event, we recognize the importance of keeping officials informed of radiological issues and acknowledge that notification should have been provided to interested parties shortly after we received notification of this event. You can be assured that in the future appropriate officials in the Virgin Islands will be promptly notified of events involving NRC licensed material in or near the Virgin Islands.

Thank you for sharing your concern with us. I trust that this response satisfies your concerns in this area.

Sincerely,

C:\WINDOWS\TEMP\gwprint\vieques1.wpd

Mail Envelope Properties (3764F8D1.27A : 16 : 10149)

Subject: vieques revision
Creation Date: Mon, Jun 14, 1999 8:42 AM
From: Mark Lesser

Created By: ATL_DO.ATL_PO:MSL1

Recipients

Post Office ATL_DO.ATL_PO
 CMH1 CC (Charles Hosey)
 DMC CC (Douglas Collins)

Post Office TWFN_DO.twf4_po
 RJT (Robert J Torres-Colon)
 SWM CC (Scott Moore)

Domain.Post Office
 ATL_DO.ATL_PO
 TWFN_DO.twf4_po

Route
 ATL_DO.ATL_PO
 TWFN_DO.twf4_po

Files	Size	Date & Time
vieques1.wpd	6681	Monday, June 14, 1999 8:41 AM
MESSAGE	678	Monday, June 14, 1999 8:42 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Frederick Combs, *nmss*
To: Scott Moore, *nmss*
Date: Mon, Jun 14, 1999 7:12 AM
Subject: Re: Vieques

Scott,

This is *deja vu*, all over again. (1) Consider having someone look at the nature of the authorization given to the Army, Navy and Air Force with respect to development, storage and testing of the penetrators. (2) Separately, there is an OGC memorandum concerning NRC authority outside of CONUS. I don't think we have it (the authority). (3) That memorandum (as well as other OGC views) needs to be memorialized somewhere in IMNS lore, perhaps in the TAR database.

One slight correction, the hazard of the penetrators is proportional to their velocity.

Fred

>>> Scott Moore 06/12 5:47 PM >>>

Roberto,

I recognize that the pressure may increase, because of the politics of the situation. But the military exercises on Vieques is a Dept of Defense problem to address. NRC's only involvement is in the misfiring of the DU rounds, and any public or governmental concern that the DU generates. It would be the same issue if the Navy misfired DU rounds in a non-training area.

Region II's (Mark Lesser's) info would indicate that Navy firing of DU in military training is not authorized under Navy's master materials license (MML). However, late Friday, Larry Camper indicated that he thought NRC's jurisdiction over Navy use of DU ended outside of the continental US/Alaska/Hawaii. Larry thought that the MML did not cover military training uses outside of that area in which case NRC may have no jurisdiction. We need a quick answer on that from the Office of the General Counsel/Treby, before we send the reply for the Chairman. If, in fact, NRC has no jurisdiction, we should not answer the Senator's letter, or we should answer it to the effect that we do not regulate military use of DU outside of CONUS/Alaska/Hawaii. If we do have jurisdiction, then we should answer it as planned.

Also, whether or not the Navy continues or discontinues training on Vieques, we will continue with our regulatory process here regarding the Navy misfire. If we do have jurisdiction, and if we determine that the Navy violated their MML, then we would proceed with action against the Navy to enforce the MML (even though the action may be minimal because the risk from DU is minimal) independent of the Navy's decision whether to continue or discontinue training on Vieques. The issues of: 1) whether the Navy violated the MML, and 2) whether the Navy continues use of Vieques are separate. We have a responsibility to address and enforce #1. The Navy needs to address #2 itself.

Scott

>>> Robert J Torres-Colon 06/11 11:39 AM >>>

We should expect more pressure on the Vieques issue. If President Clinton does not reply next Monday (6/14/99) to Puerto Rico's Governor request to stop all military exercises in Vieques, then the Government of Puerto Rico will submit an injunction in the Federal Court. Air and land military exercises are scheduled to resume in the vicinity of Vieques on 6/21/99 but with blank bullets and no land bombardment.

The governor of Puerto Rico wants that the death of the civilian guard be investigated not unilaterally by the US Navy but also by an independent committee. [Governor did not mention anything about concerns from the DU shells fired].

A-17

Source: Nuevo Día 6/10/99 - Local newspaper in Puerto Rico

Mail Envelope Properties (3764E38B.529 : 12 : 21150)

Subject: Re: Vieques
Creation Date: Mon, Jun 14, 1999 7:12 AM
From: Frederick Combs

Created By: TWFN_DO.TWF4_PO:FCC

Recipients

Post Office TWFN_DO.TWF4_PO
SWM (Scott Moore)

Domain.Post Office

TWFN_DO.TWF4_PO

Route

TWFN_DO.TWF4_PO

Files

MESSAGE

Size

4782

Date & Time

Monday, June 14, 1999 7:12 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Robert J Torres-Colon, NMSS
To: Scott Moore, NMSS
Date: Mon, Jun 14, 1999 9:21 AM
Subject: Vieques Input by Luis Reyes RII administrator

Scott:

This is the latest draft submitted by Mark Lesser, it contains input by Luis Reyes, Region II Administrator. Please forward to the Office of the General Council.

Roberto

DRAFT (VERSION 2)

The Honorable Adlah "Foncie" Donastorg, Jr.
Chairman, Committee on Planning and Environmental Protection
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00804

Dear Mr. Chairman,

I am responding to the concerns raised in your letter dated June 1, 1999, regarding the accidental firing of depleted uranium (DU) ammunition on Vieques Island, Puerto Rico. The Department of the Navy's Radiation Safety Committee (RSC) has provided initial and followup reports to the Nuclear Regulatory Commission describing the event, including the cause and planned corrective actions.

The Navy's RSC reported that on February 19, 1999, 263 rounds of DU ammunition were inadvertently fired from two U.S. Marine Corps aircraft during a training exercise at the Live Impact Area of the Vieques Island firing range. The Live Impact Area is located on the eastern tip of the island and covers approximately 2.5 square miles. The area is restricted from public access. The RSC identified this as a violation of the requirements of the Navy's radioactive materials permit issued by the RSC and reported this in March 1999, to our regional staff in Atlanta, Georgia. The RSC determined that the cause of the incident was a failure by individuals to follow written procedures for the use of ammunition. DU rounds are to be used strictly during combat or approved tests and are prohibited from peacetime or training use. In March 1999, the Navy located and removed 57 expended rounds of DU ammunition from the Vieques Island range. Radiological surveys identified some DU soil contamination which was also removed. Recovery activities were discontinued because of the hazards from unexploded non-DU ordnance and the access restrictions placed on the range because of operational commitments. The Navy plans to resume recovery activities in August 1999. Although the Navy's investigation is ongoing, they have taken several corrective actions to prevent recurrence and additional actions are being planned. The Nuclear Regulatory Commission has been evaluating the safety significance of the event and is continuing to review the Navy's actions.

An initial assessment of the consequences of the incident was performed by our staff. DU is a byproduct of the uranium enrichment process and for a given weight, is less radioactive than naturally occurring uranium. Because the radioactivity is low, direct exposure to the DU does not pose a radiological hazard. Although health effects may be anticipated from excessive ingestion or inhalation of DU, public access to the Live Impact Area is normally restricted and the area is guarded 24 hours a day; thus it is unlikely that an individual could receive such exposure. Our staff believes that the Navy's actions to date are appropriate and that the public health is not endangered.

The NRC is continuing to follow the Navy's actions and will conduct an independent inspection of their

A-18

DU recovery activities on Vieques Island and corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete their report by the end of September 1999. Following completion of our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

With regard to your concern about the failure of local authorities in the Virgin Islands to receive notification of this event, we recognize the importance of keeping officials informed of radiological issues and acknowledge that notification should have been provided to interested parties shortly after we received notification of this event. You can be assured that in the future appropriate officials in the Virgin Islands will be promptly notified of events involving NRC licensed material in or near the Virgin Islands.

Thank you for sharing your concern with us. I trust that this response satisfies your concerns in this area.

Sincerely,

G:\DNMS\MLIB2\NAVY\vieques2.rsp.wpd

Mail Envelope Properties (376501D5.507 : 24 : 20600)

Subject: Vieques Input by Luis Reyes RII administrator
Creation Date: Mon, Jun 14, 1999 9:21 AM
From: Robert J Torres-Colon
Created By: TWFN_DO.TWF4_PO:RJT

Recipients

Post Office TWFN_DO.twf4_po
SWM (Scott Moore)

Domain.Post Office

TWFN_DO.twf4_po

Route

TWFN_DO.twf4_po

Files

MESSAGE

Size

6691

Date & Time

Monday, June 14, 1999 9:21 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Robert J Torres-Colon - *RII*
To: Mark Lesser - *RII*
Date: Wed, Jun 16, 1999 11:11 AM
Subject: FINAL TEXT - DU SHELLS IN VIEQUES

At last, this is the final version we are providing to Carl Paperiello to forward to the Chairman for signature. Note that there have been a few significant changes from the version that Mr. Reyes (RII Administrator) concurred on.

CC: Michael Fuller

A-19

Mail Envelope Properties (3767BE8C.507 : 24 : 20600)

Subject: FINAL TEXT - DU SHELLS IN VIEQUES
Creation Date: Wed, Jun 16, 1999 11:11 AM
From: Robert J Torres-Colon

Created By: TWFN_DO.TWF4_PO:RJT

Recipients

Post Office ATL_DO.ATL_PO
MLF CC (Michael Fuller)
MSL1 (Mark Lesser)

Domain.Post Office
ATL_DO.ATL_PO

Route
ATL_DO.ATL_PO

Files	Size	Date & Time
PUERTO.WPD	18459	Wednesday, June 16, 1999 10:40 AM
MESSAGE	752	Wednesday, June 16, 1999 11:11 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

DRAFT

The Honorable Adlah "Foncie" Donastorg, Jr.
Chairman, Committee on Planning and Environmental Protection
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00804

Dear Mr. Chairman:

I am responding to the concerns raised in your letter dated June 1, 1999, about the accidental firing of depleted uranium (DU) ammunition on Vieques Island, Puerto Rico. The Department of the Navy's Radiation Safety Committee (RSC) has provided initial and follow-up reports, to the U.S. Nuclear Regulatory Commission (NRC), describing the event, including the cause and planned corrective actions.

The Navy's RSC reported that on February 19, 1999, 263 rounds of DU ammunition were inadvertently fired from two U.S. Marine Corps aircraft during a training exercise at the Live Impact Area of the Vieques Island firing range. The Live Impact Area is located on the eastern tip of the island and covers approximately 2.5 square miles. Because the area is a live firing range, and potentially contains non-DU unexploded ordnance, the area should normally be restricted. The RSC identified this inadvertent firing as a violation of the requirements of the Navy's radioactive materials permit issued by the RSC and reported this, in March 1999, to our regional staff in Atlanta, Georgia. The RSC determined that the cause of the incident was some individuals' failure to follow written procedures regarding the use of ammunition. DU rounds are to be used strictly during combat or approved tests and are prohibited from peacetime or training use. In March 1999, the Navy located and removed 57 expended rounds of DU ammunition from the Vieques Island range. Radiological surveys identified some DU soil contamination, which was also removed. Recovery activities were discontinued because of the hazards from unexploded non-DU ordnance and the access restrictions placed on the range because of military operational commitments. The Navy plans to resume recovery activities in August 1999. Although the Navy's investigation is ongoing, it has taken several corrective actions to prevent recurrence, and additional actions are being planned. NRC has been evaluating the safety significance of the event and is continuing to review the Navy's actions.

Our staff has assessed the consequences of the incident. DU is a byproduct of the uranium enrichment process, and for a given weight, is less radioactive than naturally occurring uranium. Because the radioactivity is low, direct exposure to DU does not pose a radiological hazard. Although health effects may occur from excessive ingestion or inhalation of DU, it is unlikely that an individual could receive such an intake. Our staff believes that the public health is not endangered by the DU remaining in the firing range from the February 19, 1999, incident.

Honorable A. Donastorg, Jr.

2

NRC is continuing to follow the Navy's actions and will conduct an independent inspection of its DU recovery activities on Vieques Island, and subsequent corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete its report by the end of September 1999. After completing our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

Regarding your concern about notification of this event, it is NRC's practice to make information on events publicly available, through our Web Site, and to coordinate with appropriate authorities on radiological issues within their jurisdictions. We are sensitive to US Virgin Islands concerns about the Navy incident, because of the USVI's proximity to Vieques Island, and we will keep you informed as the Navy reports to us and as we conduct follow-up regulatory activities on this incident.

Thank you for sharing your concern with us. I trust that this reply responds to it.

Sincerely,

Shirley Ann Jackson

cc: The Honorable Pedro Rosello,
Governor of Puerto Rico
RADM Andrew A. Granuzzo, USN,
Chairman, Radiation Safety Committee

Honorable A. Donastorg, Jr.

2

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Shirley Ann Jackson

cc: The Honorable Pedro Rosello,
 Governor of Puerto Rico
 RADM Andrew A. Granuzzo, USN,
 Chairman, Radiation Safety Committee

Distribution: EDO - G19990296

CRC-99-0524 NRC Central File NMS r/f EDO r/f
 CPoland WTravers PTressler NMSS Dir. Off. r/f
 IMNS r/f

To receive a copy of this document, indicate in the box: G://torres/vieques.wpd

"C"= Copy w/o att/encl. "E" = Copy w/att/encl. "N" = No copy *See previous conc

OFC	MSIB	MSIB*	Editor	IMNS	NMSS Dr
NAM	RTorres/lucy/maf	FSturz	EKraus	DCool	CPaperiello
E					
DATE	6/ /15/99	6/15/99	6/15/FAX	6/ /99	6/ /99
OFC	DEDR	EDO			
NAME	FMiraglia	WTravers			
DATE	6/ /99	6/ /99			

OFFICIAL RECORD COPY

6/16/99

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001



DRAFT

The Honorable Adlah "Foncie" Donastorg, Jr.
Chairman, Committee on Planning and Environmental Protection
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00804

Dear Mr. Chairman:

I am responding to the concerns raised in your letter dated June 1, 1999, about the accidental firing of depleted uranium (DU) ammunition on Vieques Island, Puerto Rico. The Department of the Navy's Radiation Safety Committee (RSC) has provided initial and follow-up reports, to the U.S. Nuclear Regulatory Commission (NRC), describing the event, including the cause and planned corrective actions.

The Navy's RSC reported that on February 19, 1999, 263 rounds of DU ammunition were inadvertently fired from two U.S. Marine Corps aircraft during a training exercise at the Live Impact Area of the Vieques Island firing range. The Live Impact Area is located on the eastern tip of the island and covers approximately 2.5 square miles. Because the area is a live firing range, and potentially contains non-DU unexploded ordnance, the area should normally be restricted. The RSC identified this inadvertent firing as a violation of the requirements of the Navy's radioactive materials permit issued by the RSC and reported this, in March 1999, to our regional staff in Atlanta, Georgia. The RSC determined that the cause of the incident was some individuals' failure to follow written procedures regarding the use of ammunition. DU rounds are to be used strictly during combat or approved tests and are prohibited from peacetime or training use. In March 1999, the Navy located and removed 57 expended rounds of DU ammunition from the Vieques Island range. Radiological surveys identified some DU soil contamination, which was also removed. Recovery activities were discontinued because of the hazards from unexploded non-DU ordnance and the access restrictions placed on the range because of military operational commitments. The Navy plans to resume recovery activities in August 1999. Although the Navy's investigation is ongoing, it has taken several corrective actions to prevent recurrence, and additional actions are being planned. NRC has been evaluating the safety significance of the event and is continuing to review the Navy's actions.

Our staff has assessed the consequences of the incident. DU is a byproduct of the uranium enrichment process, and for a given weight, is comparable in radioactivity to naturally occurring uranium. Because the radioactivity is low, direct exposure to DU does not pose a radiological hazard. Although health effects may occur from excessive ingestion or inhalation of DU, it is unlikely that an individual could receive such an intake. Our staff believes that the public health is not endangered by the DU remaining in the firing range from the February 19, 1999, incident.

A-20

Honorable A. Donastorg, Jr.

2

NRC is continuing to follow the Navy's actions and will conduct an independent inspection of its DU recovery activities on Vieques Island, and subsequent corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete its report by the end of September 1999. After completing our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

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Thank you for sharing your concern with us. I trust that this reply responds to it.

Sincerely,

Shirley Ann Jackson

cc: The Honorable Pedro Rosello,
Governor of Puerto Rico
RADM Andrew A. Granuzzo, USN,
Chairman, Radiation Safety Committee

From: Robert J Torres-Colon, NMSS
To: Scott Moore, NMSS
Date: Tue, Jun 22, 1999 4:05 PM
Subject: Questions asked by Carl about Vieques

1. How long it took the Navy to notify the Government of Puerto Rico about the Vieques incident?
6 days

Event was discovered by the Navy on 3/5/99, notified NRC on that same day and notified the Puerto Rico Environmental Quality Board on 3/11/99. This information was taken from the Navy press release informing about the incident.

2. What actually happened in North Beach Quebradas?

Could not find exact location of this place. Cannot obtained US Geological Survey neither US Fish and Wildlife maps, one have to buy them thru internet.

3. Where in fact did the Navy fired the shells? In the Live Impact Area (North Convoy target) according to Navy's press release.

What I did find was a statement made in October 4, 1994 by Rear Admiral Ernest E. Christensen, Jr. that talks about the 7 major conservation zones in Vieques, all located on Navy property on both eastern and western ends of Vieques.

Mail Envelope Properties (376FEC96.507 : 24 : 20600)

Subject: Questions asked by Carl about Vieques
Creation Date: Tue, Jun 22, 1999 4:05 PM
From: Robert J Torres-Colon

Created By: TWFN_DO.TWF4_PO:RJT

Recipients

Post Office TWFN_DO.twf4_po
SWM (Scott Moore)

Domain.Post Office
TWFN_DO.twf4_po

Route
TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	1931	Tuesday, June 22, 1999 4:05 PM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

June 25, 1999

NOTE TO: Douglas M. Collins } R-II
Charles M. Hosey }

FROM: Mark S. Lesser , R-II

SUBJECT: MATERIALS LICENSING/INSPECTION BRANCH 2 ACTIVITIES FOR THE
WEEK OF JUNE 21

I. PLANNED INSPECTIONS ACTIVITIES NEXT WEEK

H. Bermudez will inspect in KY.

II. PLANNED LICENSING ACTIONS

Northland Resources change of ownership amendment will exceed 90 days due to licensee not paying fees.

III. PLANNED TRAINING

ADAMS

IV. OTHER SIGNIFICANT ACTIVITIES PLANNED

M. Lesser will be on annual leave; J. Pelchat will be acting.

V. SIGNIFICANT ACCOMPLISHMENTS FOR THIS WEEK

The Navy informed RII that approximately 30 trespassers have been on the Vieques firing range for several weeks; target practice operations have been suspended and attempts to remove the trespassers have been unsuccessful. The trespassers theoretically have access to DU (although unlikely due to location of rounds in dense vegetation), however the Navy is performing calculations to show that potential exposures would be less than 100 mr in a year.

A-22

From: Scott Moore, *XMSS*
To: Charles Hosey, Douglas Collins, Mark Lesser — *RH*
Date: Fri, Jun 25, 1999 5:18 PM
Subject: Plan to schedule a meeting for Tuesday on PR issue

RII managers and staff:

See previous e-mail re: contact with the Chairman's office.

We were directed earlier this week to get back to the PR Congressman's office, and to keep that office informed about the Vieques Island case (including trying to ascertain the facts regarding where the rounds landed, and whether they landed in a conservation area). I am planning to set up a meeting by telecon between IMNS, RII, and an OCA representative on Tuesday (if possible). I'm not in on Monday, so I'll call on Tuesday morning to try to arrange a mutually agreeable time. Talk to you then.

Scott

CC: Donald Cool, Larry Camper, Robert J Torres-Colon

A-23

Mail Envelope Properties (3773F233.508 : 0 : 20610)

Subject: Plan to schedule a meeting for Tuesday on PR issue
Creation Date: Fri, Jun 25, 1999 5:18 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office ATL_DO.ATL_PO	Delivered	06/25 5:19 PM
CMH1 (Charles Hosey)	Opened	06/28 8:05 AM
DMC (Douglas Collins)	Opened	06/28 6:52 AM
MSL1 (Mark Lesser)	Opened	07/06 7:23 AM
Post Office TWFN_DO.twf4_po	Delivered	06/25 5:18 PM
DAC CC (Donald Cool)	Opened	06/25 5:20 PM
LWC CC (Larry Camper)	Opened	06/25 5:29 PM
RJT CC (Robert J Torres-Colon)	Opened	06/29 7:45 AM
Domain.Post Office	Delivered	Route
ATL_DO.ATL_PO	06/25 5:19 PM	ATL_DO.ATL_PO
TWFN_DO.twf4_po	06/25 5:18 PM	TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	1276	Friday, June 25, 1999 5:18 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

From: Scott Moore, *WMS* *OCA*
To: Betsy Keeling, Charles Hosey, Douglas Collins, ... *RII*
Date: Sun, Jun 27, 1999 1:08 PM
Subject: PROPOSED MEETING ON NAVY DU FIRING ON VIEQUES

RII, Betsy (OCA rep), and Roberto:

Carl wanted us to follow up with the Puerto Rican Congressman's office ---- to get them factual info about the Navy DU firing into Vieques, ascertain the location of the firing (e.g., was it into a conservation area), put the Congressman's office on distribution for correspondence between us and the Navy on this issue, and get back to the Congressman's aide.

Before we do this, we want a coordinated telecon with RII and OCA to discuss how we will follow through.

I suggest meeting at 11 am on Tuesday. Would that time be acceptable to RII and Betsy? (One response from RII recipients will be fine.) If so, please let me know by e-mail or voicemail, and I'll set it up. I'm out Monday, so I'll followup on Tuesday a.m. If 11 am is good, I'll send the call number to RII and give Betsy the room number. Talk to you Tuesday.

Scott
301-415-7875

CC: Donald Cool, Frederick Combs, Larry Camper

A-24

Mail Envelope Properties (37765A81.508 : 0 : 20610)

Subject: PROPOSED MEETING ON NAVY DU FIRING ON VIEQUES
Creation Date: Sun, Jun 27, 1999 1:08 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office ATL_DO.ATL_PO	Delivered	06/27 1:08 PM
CMH1 (Charles Hosey)	Opened	06/28 8:05 AM
DMC (Douglas Collins)	Opened	06/28 6:53 AM
MLF (Michael Fuller)	Opened	06/28 5:52 AM
TRD (Thomas Decker)	Opened	06/28 7:06 AM
Post Office TWFN_DO.twf4_po	Delivered	06/27 1:08 PM
DAC CC (Donald Cool)	Opened	06/28 6:18 AM
FCC CC (Frederick Combs)	Opened	06/28 6:47 AM
LWC CC (Larry Camper)	Opened	06/28 7:59 AM
RJT (Robert J Torres-Colon)	Opened	06/29 7:42 AM
Post Office TWFN_DO.twf5_po	Delivered	06/27 1:08 PM
BJK (Betsy Keeling)	Opened	06/28 9:34 AM
Domain.Post Office	Delivered	Route
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TWFN_DO.twf4_po	06/27 1:08 PM	TWFN_DO.twf4_po
TWFN_DO.twf5_po	06/27 1:08 PM	TWFN_DO.twf5_po

Files	Size	Date & Time
MESSAGE	1667	Sunday, June 27, 1999 1:08 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: No
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

From: Scott Moore, *NAKSS*
To: Joseph DeCicco, Robert J Torres-Colon, *NAKSS*
Date: Fri, Jun 25, 1999 12:17 PM
Subject: See attached proposed changes.

A-25

..... Because the area is a live firing range, and potentially contains non-DU unexploded ordnance, the area should normally be restricted. However, in response to NRC questions, the Navy's RSC informed NRC on June 24, 1999, that approximately 30 individuals have moved onto the range and are staying there. The Navy did not authorize these civilians to move onto the range. [Paragraph Break]

[Insert into paragraph]

..... military operational commitments, according to the Navy. However, the Navy is not currently using the range for live fire exercises. The Navy reportedly plans to resume recovery activities in August 1999, or before, once the civilians leave the range.

Get Larry's approval.

Get Don's approval.

Take it directly to Jim Smith, Chairman's office, who is incorporating the changes.

After you've met with Jim, see Dan Martin (OEDO) and tell him what changes were made.

Mail Envelope Properties (3773AB97.508 : 0 : 20610)

Subject: See attached proposed changes.
Creation Date: Fri, Jun 25, 1999 12:17 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office TWFN_DO.twf4_po	Delivered	06/25 12:17 PM
JXD1 (Joseph DeCicco)	Opened	06/25 12:29 PM
RJT (Robert J Torres-Colon)	Opened	06/25 12:55 PM

Domain.Post Office	Delivered	Route
TWFN_DO.twf4_po	06/25 12:17 PM	TWFN_DO.twf4_po

Files	Size	Date & Time
vieques.wpd	2765	Friday, June 25, 1999 12:16 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-3415

June 28, 1999

Department of the Navy
Naval Radiation Safety Committee
Chief of Naval Operations (N-45)
ATTN: RADM A. Granuzzo
Chairman
Room 636
2211 S. Clark Place
Arlington, VA 22244-5108

SUBJECT: ALLEGATION NO. RII-1999-A-0080

Dear Admiral Granuzzo:

As discussed in a June 24, 1999, telephone conversation between Mr. Michael Fuller, Region II and LCDR John Pomerville of your staff, the U.S. Nuclear Regulatory Commission (NRC) recently received information concerning activities at Vieques Naval Range, Puerto Rico. A description of the concern is enclosed.

We request that you conduct inspections and/or investigations as appropriate to prove or disprove the concern and that you inform us within 30 days of the date of this letter of the resolution of this matter and make the records of your completed action available for NRC inspection.

NRC's evaluation of your response will include a determination that: 1) the individuals conducting the investigation were independent of the organization affected by the concern, 2) the evaluator was competent in the specific functional area, 3) the evaluation was of sufficient depth and scope to substantively address the concern, 4) appropriate root causes and generic implications were considered if the concerns were substantiated, and 5) the corrective actions, if necessary, were sufficient.

Please send your response to Ms. Anne Boland, Enforcement Officer, Enforcement and Investigations Coordination Staff, Region II, with no other copies to the NRC. Please do not submit your response to the Document Control Desk. Because your response may be provided to individuals expressing the concern, to the extent possible, it should not include any personal privacy, proprietary, or safeguards information so that it can be released without redaction. If your response contains personal privacy, proprietary, or safeguards information, such

RETURN RECEIPT REQUESTED
Z 353 109 032

ENCLOSURE CONTAINS INFORMATION
NOT FOR PUBLIC DISCLOSURE

A-27

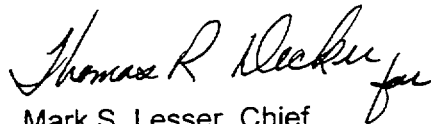
information shall be contained in a separate attachment, appropriately marked, so that it will not be subject to public disclosure. The affidavit required by 10 CFR 2.790(b) must accompany your response if proprietary information is included.

Should you be unable to complete your review within the time requested, please contact us that we can discuss this matter and make appropriate arrangements.

The enclosure to this letter must be controlled as sensitive information and distribution limited to personnel with a legitimate "need-to-know."

If you have any questions regarding this matter, please contact Mr. Oscar DeMiranda, Senior Allegation Coordinator, at (404) 562-4424.

Sincerely,



Mark S. Lesser, Chief
Materials Licensing/Inspection Branch 2
Division of Nuclear Materials Safety

Docket No. 030-29462
License No. 45-23645-01NA

Enclosure: As stated

cc w/encl:
Oscar DeMiranda

ENCLOSURE CONTAINS INFORMATION
NOT FOR PUBLIC DISCLOSURE

~~NOT FOR PUBLIC DISCLOSURE~~

RII-1999-A-0080

ALLEGATION SUMMARY

DEPARTMENT OF THE NAVY

VIEQUES NAVAL RANGE

PUERTO RICO

CONCERN ABOUT PUBLIC EXPOSURE TO DEPLETED URANIUM MUNITIONS

NRC Region II recently received a concern pertaining to potential health hazards to the public from exposure to depleted uranium (DU) munitions and risk of unexploded ordinances to persons crossing the range boundaries and having begun living on the weapons firing range.

The concern is potential radiation hazard to the public from exposure to depleted uranium. Associated with this concern, the NRC Region II Office was informed by the Navy on March 5, 1999, that two U.S. Marine Corps aircraft expended 263 DU rounds at the Vieques Naval Range. Each round contains 148 grams of DU.

Enclosure

~~NOT FOR PUBLIC DISCLOSURE~~

June 28, 1999

Department of the Navy
Naval Radiation Safety Committee
Chief of Naval Operations (N-45)
ATTN: RADM A. Granuzzo
Chairman
Room 636
2211 S. Clark Place
Arlington, VA 22244-5108

SUBJECT: ALLEGATION NO. RII-1999-A-0080

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RETURN RECEIPT REQUESTED
Z 353 109 032

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Sincerely,

*original signed by
T. Decker for!*

Mark S. Lesser, Chief
Materials Licensing/Inspection Branch 2
Division of Nuclear Materials Safety

Docket No. 030-29462
License No. 45-23645-01NA

Enclosure: As stated

cc w/encl:
Oscar DeMiranda

*see previous concurrence

OFFICE	RII:DNMS	RII:DNMS	RII:EICS				
SIGNATU							
NAME	MFuller*	CHosey*	ABoland*				
DATE	6/ /99	6/ /99	6/ /99	6/ /99	6/ /99	6/ /99	6/ /99
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY

DOCUMENT NAME: A:\Navyref1.wpd

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Sincerely,

Mark S. Lesser, Chief
 Materials Licensing/Inspection Branch 2
 Division of Nuclear Materials Safety

Docket No. 030-29462
 License No. 45-23645-01NA

Enclosure: As stated

cc w/encl:
 Oscar DeMiranda

OFFICE	RII:DNMS	RII:DNMS	RII:EICS					
SIGNATU	<i>See Previous</i>	<i>See Previous</i>	<i>MSL for ASB</i>					
NAME	MFuller	CHosey	ABoland					
DATE	6/ /99	6/ /99	6/28/99	6/ /99	6/ /99	6/ /99	6/ /99	6/ /99
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY

DOCUMENT NAME: A:\Navyref1.wpd

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Mark Lesser, Chief
Materials Licensing/Inspection Branch 2
Division of Nuclear Materials Safety

Docket No. 030-29462
License No. 45-23645-01NA

Enclosure: As stated

cc:w/encl:
Oscar DeMiranda

Add Anne Boland
encl

OFFICE	RII:DNMS	RII:DNMS	RII:DNMS					
SIGNATURE	<i>M Full</i>	<i>CHosey</i>	<i>ABoland</i>					
NAME	MFuller	CHosey	ABoland					
DATE	6/25/99	6/25/99	6/ /99	6/ /99	6/ /99	6/ /99	6/ /99	6/ /99
COPY?	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO	YES NO

OFFICIAL RECORD COPY

DOCUMENT NAME: A:\Navyref1.wpd

ENCLOSURE CONTAINS INFORMATION
NOT FOR PUBLIC DISCLOSURE

From: Scott Moore, *XMISS*
To: John Hickey, Larry Camper, Robert J Torres-Colon, *XMISS*
Date: Tue, Jun 29, 1999 9:44 AM
Subject: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES CONTAMINATION
EVENT

FYI. See attached. I had already followed up with RII and asked that they contact the Navy.

Scott

A-28

From: Scott Moore
To: Charles Hosey, Douglas Collins, Michael Fuller
Date: Tue, Jun 29, 1999 9:17 AM
Subject: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES CONTAMINATION EVENT

Region II:

See attached. I'll talk to OPA about getting back to the newspaper. Would presume that you would get back to the Navy (since they've already had conversations with you on this issue). If you think that it would be more appropriate for IMNS to contact the Navy, please let me know.

Scott
301-415-7875

CC: Donald Cool

From: Michael Weber
To: Donald Cool, Elizabeth Hayden
Date: Tue, Jun 29, 1999 8:44 AM
Subject: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES CONTAMINATION EVENT

I discussed with the Chairman the article from the *San Juan Star* that quoted her as stating that the NRC will take enforcement action against the Navy for violations that occurred in the inadvertent firing of DU on Vieques Island in February 1999. The reporter went beyond the statements made by the Chairman regarding enforcement action. She stated that the NRC was determining what violations, if any, had occurred. If the NRC concluded that there were violations, the agency would take appropriate action. Please correct this message back through channels to the Navy and the *San Juan Star*.

Thanks

CC: Carl Paperiello, Douglas Collins, Frank Miraglia...

Mail Envelope Properties (3778CDA5.508 : 0 : 20610)

Subject: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES
CONTAMINATION EVENT

Creation Date: Tue, Jun 29, 1999 9:44 AM

From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office TWFN_DO.twf4_po	Delivered	06/29 9:44 AM
JWH1 (John Hickey)	Opened	06/29 10:04 AM
LWC (Larry Camper)	Opened	06/29 10:28 AM
RJT (Robert J Torres-Colon)	Opened	06/29 10:45 AM

Domain.Post Office	Delivered	Route
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Files	Size	Date & Time
Mail MESSAGE	711	Tuesday, June 29, 1999 9:44 AM

Options

Auto Delete: No

Expiration Date: None

Notify Recipients: Yes

Priority: Standard

Reply Requested: No

Return Notification: None

Concealed Subject: No

Security: Standard

To Be Delivered: Immediate

Status Tracking: Delivered & Opened

From: Michael Fuller *RT*
To: Scott Moore *RMSS*
Date: Tue, Jun 29, 1999 9:48 AM
Subject: Re: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES CONTAMINATION EVENT

Scott,
I will see that the message is communicated back to the Navy through the proper channels.

A-29

Mail Envelope Properties (3778CE99.C91 : 24 : 51485)

Subject: Re: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES
CONTAMINATION EVENT
Creation Date: Tue, Jun 29, 1999 9:48 AM
From: Michael Fuller
Created By: ATL_DO.ATL_PO:MLF

Recipients

Post Office TWFN_DO.TWF4_PO
SWM (Scott Moore)

Domain.Post Office

TWFN_DO.TWF4_PO

Route

TWFN_DO.TWF4_PO

Files

MESSAGE

Size

708

Date & Time

Tuesday, June 29, 1999 9:48 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Michael Fuller, *RII*
To: Scott Moore *nmss*
Date: Tue, Jun 29, 1999 10:25 AM
Subject: 11:00 conference call

Scott,
RII can be reached at (404) 562-4707. Chuck Hosey, John Pelcat (Acting Branch Chief) and myself will be participating. We will be standing by at 11:00 am.

CC: Charles Hosey, John Pelchat

A-30

Mail Envelope Properties (3778D76F.C91 : 24 : 51485)

Subject: 11:00 conference call
Creation Date: Tue, Jun 29, 1999 10:25 AM
From: Michael Fuller

Created By: ATL_DO.ATL_PO:MLF

Recipients

Post Office ATL_DO.ATL_PO
CMH1 CC (Charles Hosey)
JMP2 CC (John Pelchat)

Post Office TWFN_DO.twf4_po
SWM (Scott Moore)

Domain.Post Office
ATL_DO.ATL_PO
TWFN_DO.twf4_po

Route
ATL_DO.ATL_PO
TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	694	Tuesday, June 29, 1999 10:25 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Robert J Torres-Colon, *YMSS*
To: Michael Fuller, *RI*
Date: Tue, Jun 29, 1999 11:56 AM
Subject: FYI Vieques Conservation Areas

Mike:

I found out on internet a 1994 statement from the Navy that describes seven conservation zones in Vieques, PR. These zones were negotiated thru a memorandum of understanding signed in 1983 between then governor of Puerto Rico, Carlos Romero Barcelo (now congressman), and the acting secretary of the Navy James F. Goodrich.

URL of this statement is <http://www.chinfo.navy.mil/navpalib/baseclos/chri1004.txt>

Roberto

CC: Scott Moore

A-31

Mail Envelope Properties (3778ECB7.507 : 24 : 20600)

Subject: FYI Vieques Conservation Areas
Creation Date: Tue, Jun 29, 1999 11:56 AM
From: Robert J Torres-Colon

Created By: TWFN_DO.TWF4_PO:RJT

Recipients

Post Office ATL_DO.ATL_PO
MLF (Michael Fuller)

Post Office TWFN_DO.twf4_po
SWM CC (Scott Moore)

Domain.Post Office
ATL_DO.ATL_PO
TWFN_DO.twf4_po

Route
ATL_DO.ATL_PO
TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	1105	Tuesday, June 29, 1999 11:56 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Douglas Collins, *RT*
To: Charles Hosey, *RT*, Donald Cool, Mark Lesser, Scott ...
Date: Tue, Jun 29, 1999 4:42 PM
Subject: Fwd: NY Times Query on Navy DU in Puerto Rico

A-32

From: Kenneth Clark
To: Elizabeth Hayden, Joe Gilliland, Sue Gagner, Vi...
Date: Tue, Jun 29, 1999 4:12 PM
Subject: NY Times Query on Navy DU in Puerto Rico

New York Times Miami correspondent, Pamela Mercer, interviewed RII radiation specialist and inspector Mike Fuller by telephone this afternoon, along with Sr. PAO Ken Clark, about what the NRC is doing to handle the U.S. Navy report of use of depleted uranium in an aircraft firing exercise at the Navy's Vieques live fire target area in Puerto Rico.

Fuller explained that the Navy reported the event to the NRC and removed some of the expended rounds. He said further that he is the NRC inspector handling the inspection and that he is awaiting the Navy's clearance of other, explosive material from the firing range site before accompanying Navy personnel as they recover the DU. We explained that the radiation levels in the rounds is very low and does not pose any immediate threat to persons or the environment. We also confirmed that the DU rounds are penetration rounds and do not contain explosives.

We declined to speculate on possible further action, telling her that agency officials will make a decision when the inspection report has been completed as to what, if any, further action is appropriate.

CC: Douglas Collins, Jon Johnson, Luis Reyes, Micha...

Mail Envelope Properties (37792FD1.C83 : 15 : 51263)

Subject: Fwd: NY Times Query on Navy DU in Puerto Rico
Creation Date: Tue, Jun 29, 1999 4:42 PM
From: Douglas Collins

Created By: ATL_DO.ATL_PO:DMC

Recipients

Post Office ATL_DO.ATL_PO
 CMH1 (Charles Hosey)
 MSL1 (Mark Lesser)

Post Office TWFN_DO.twf4_po
 DAC (Donald Cool)
 SWM (Scott Moore)

Domain.Post Office

ATL_DO.ATL_PO
 TWFN_DO.twf4_po

Route

ATL_DO.ATL_PO
 TWFN_DO.twf4_po

Files
 Mail

Size**Date & Time****Options**

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Scott Moore, ^{AT&T} ^{OPA}
To: Elizabeth Hayden, Sue Gagner
Date: Tue, Jun 29, 1999 6:21 PM
Subject: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES CONTAMINATION EVENT

Beth and Sue (in case you have the lead on this):

See attached, that Mike Weber sent us (and OPA) this morning.

I've been in contact with RII. RII will followup with the Navy to pass along Mike's message about the Chairman's comments to the newspaper. RII is NRC's lead for the Navy's Master Material License. The Navy had already seen the article and had been in contact with RII about it.

We presume that you will followup with the newspaper? Considering that they apparently did not quote the Chairman correctly, it would probably be best for you to talk to the paper. If you need any info as backup, see us we have lots of info on this case.

Finally, you need to be informed that the Chairman, Carl, and Dennis Rathbun met with Puerto Rico's Congressman on June 17, to discuss the case. In followup, Mike Weber called the Chief of Naval Operations' office, and spoke to the CNO's Special Assistant for Public Affairs. The issue is generating lots of discussion Navy use of this island for a firing range is a hot political topic in PR. We've responded to the Legislature of the U.S. Virgin Islands about this incident, and RII's being asked about it by other newspapers. If you want to be briefed before you contact the San Juan Star, let us know. Roberto Torres is our contact here, in IMNS, on this issue. Mike Fuller is RII's contact.

Please let me know whether you will followup with the San Juan Star. Thanks.

Scott
415-7875

CC: Betsy Keeling, Charles Hosey, Donald Cool, Doug...

A-33

Mail Envelope Properties (377946D0.508 : 0 : 20610)

Subject: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES
CONTAMINATION EVENT
Creation Date: Tue, Jun 29, 1999 6:21 PM
From: Scott Moore
Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office ATL_DO.ATL_PO	Delivered	06/29 6:24 PM
CMH1 CC (Charles Hosey)	Opened	06/30 7:45 AM
DMC CC (Douglas Collins)	Opened	06/30 7:02 AM
MLF CC (Michael Fuller)	Opened	06/30 5:50 AM
Post Office OWFN_DO.owf1_po	Delivered	06/29 6:29 PM
EAH (Elizabeth Hayden)	Opened	06/30 9:17 AM
SFG (Sue Gagner)	Opened	06/30 8:07 AM
Post Office TWFN_DO.twf4_po	Delivered	06/29 6:21 PM
DAC CC (Donald Cool)	Opened	06/30 8:10 AM
FCC CC (Frederick Combs)	Opened	07/01 7:17 AM
JWH1 CC (John Hickey)	Opened	06/30 8:45 AM
LWC CC (Larry Camper)	Opened	06/30 8:47 AM
RJT CC (Robert J Torres-Colon)	Opened	06/30 7:46 AM
Post Office TWFN_DO.twf5_po	Delivered	06/29 6:23 PM
BJK CC (Betsy Keeling)	Opened	06/30 7:49 AM
Domain.Post Office	Delivered	Route
ATL_DO.ATL_PO	06/29 6:24 PM	ATL_DO.ATL_PO
OWFN_DO.owf1_po	06/29 6:29 PM	OWFN_DO.owf1_po
TWFN_DO.twf4_po	06/29 6:21 PM	TWFN_DO.twf4_po
TWFN_DO.twf5_po	06/29 6:23 PM	TWFN_DO.twf5_po

Files	Size	Date & Time
Mail		
MESSAGE	2419	Tuesday, June 29, 1999 6:21 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No

From: Scott Moore *NYMSS*
To: John Hickey, Larry Camper, Robert J Torres-Colon — *NYMSS*
Date: Tue, Jun 29, 1999 7:01 PM
Subject: Fwd: NY Times Query on Navy DU in Puerto Rico

FYI.

Scott

A-34

Mail Envelope Properties (37795045.508 : 0 : 20610)

Subject: Fwd: NY Times Query on Navy DU in Puerto Rico
Creation Date: Tue, Jun 29, 1999 7:01 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office TWFN_DO.twf4_po	Delivered	06/29 7:01 PM
JWH1 (John Hickey)	Opened	06/30 8:46 AM
LWC (Larry Camper)		
RJT (Robert J Torres-Colon)	Opened	06/30 7:48 AM
Domain.Post Office	Delivered	Route
TWFN_DO.twf4_po	06/29 7:01 PM	TWFN_DO.twf4_po

Files	Size	Date & Time
Mail		
MESSAGE	568	Tuesday, June 29, 1999 7:01 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

From: Michael Weber, ~~HG~~ NMSS ~~XMSS~~
To: Donald Cool, Elizabeth Hayden, ~~HG~~ OPA
Date: Tue, Jun 29, 1999 8:44 AM
Subject: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES CONTAMINATION EVENT

I discussed with the Chairman the article from the *San Juan Star* that quoted her as stating that the NRC will take enforcement action against the Navy for violations that occurred in the inadvertent firing of DU on Vieques Island in February 1999. The reporter went beyond the statements made by the Chairman regarding enforcement action. She stated that the NRC was determining what violations, if any, had occurred. If the NRC concluded that there were violations, the agency would take appropriate action. Please correct this message back through channels to the Navy and the *San Juan Star*.

Thanks

CC: Carl Paperiello, Douglas Collins, Frank Miraglia...

A-35

From: Scott Moore, ^{NMSS} ^{RII} ^{NMSS} ^{RII}
To: Charles Hosey, Donald Cool, Douglas Collins, Jo...
Date: Wed, Jun 30, 1999 8:56 AM
Subject: Re: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES CONTAMINATION
EVENT

See attached reply from Sue Gagner. She followed up on the newspaper portion of Mike Weber's request, and is following up further. I'm forwarding this to you, RII, so that you'll know that OPA is in contact with Navy's Public Affairs in Puerto Rico.

Scott

A-36

Mail Envelope Properties (377A13EB.508 : 0 : 20610)

Subject: Re: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES
CONTAMINATION EVENT
Creation Date: Wed, Jun 30, 1999 8:56 AM
From: Scott Moore
Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office ATL_DO.ATL_PO	Delivered	06/30 8:56 AM
CMH1 (Charles Hosey)	Opened	06/30 9:49 AM
DMC (Douglas Collins)	Opened	06/30 9:16 AM
MLF (Michael Fuller)	Opened	06/30 8:42 AM
Post Office TWFN_DO.twf4_po	Delivered	06/30 8:56 AM
DAC (Donald Cool)	Opened	06/30 9:27 AM
JWH1 (John Hickey)	Opened	06/30 9:02 AM
LWC (Larry Camper)		
RJT (Robert J Torres-Colon)	Opened	06/30 9:15 AM
Domain.Post Office	Delivered	Route
ATL_DO.ATL_PO	06/30 8:56 AM	ATL_DO.ATL_PO
TWFN_DO.twf4_po	06/30 8:56 AM	TWFN_DO.twf4_po

Files	Size	Date & Time
Mail		
MESSAGE	869	Wednesday, June 30, 1999 8:56 AM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 1, 1999

Reader's Viewpoint
Attention: Douglas Zehr
San Juan Star
P.O. Box 364187
San Juan, Puerto Rico 00936-4187

By Fax: 787/782-0310

Dear Mr. Zehr:

I am writing to correct portions of an article you carried on June 19. The article and its headline, "NRC to sanction Navy for use of toxic ammunition at Vieques site" go too far by saying that the NRC has made decisions that actually have not been made yet.

It misquotes our former Chairman, Shirley Ann Jackson, regarding the NRC's reaction to the Navy's use of depleted uranium ammunition at the Vieques live-fire target area. Dr. Jackson recalls telling your reporter that the NRC was determining what violations, if any, had occurred. If the NRC concluded that there were violations, the agency would take appropriate enforcement action.

(Dr. Jackson was Chairman of the NRC at the time your article appeared. Her term expired yesterday.)

We would appreciate your correcting this information for the benefit of your readers.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth A. Hayden".

Elizabeth A. Hayden
Deputy Director
Office of Public Affairs

A-37

Total Days Open

CLOSED CASE CHRONOLOGY

Recd/Entered 6/8/99

6/17/99 6:46:34 P

RII-1999-A-0080

Thursday, July 01, 1999

Date Closed

<u>CONCERN NO.</u>	<u>ACTION NO.</u>	<u>PERSON ASSIGNED</u>	<u>DATE ASSIGNED</u>	<u>DATE DUE</u>	<u>DATE COMPLETE</u>	<u>DAYS TO COMPLETE</u>
1	5	LESSER	6/28/99	7/28/99		
Response to Referral						
AWAITING LICENSEE RESPONSE REFERRED ON 6/28.						
	4	IGNATONIS	6/15/99	7/15/99	6/24/99	9
Referral Letter						
PREPARE ENCLOSURE FOR REFERRAL LETTER.						
	3	LESSER	6/15/99	7/15/99	6/28/99	13
Referral Letter						
REFER ISSUE TO THE DEPARTMENT OF THE NAVY.						
	2	IGNATONIS	6/8/99	7/8/99	6/15/99	7
Initial ARB Meeting						
DISCUSS CONTENTS OF ALLEGATION REPORT FOR APPROPRIATE ACTION.						
	1	IGNATONIS	6/8/99	7/8/99		
Acknowledgement Letter						
ACKNOWLEDGE RECEIPT OF INFORMATION AND INFORM ACTIONS TAKEN.						

A-38

xmss
RII

From: Robert J Torres-Colon
To: Douglas Collins, Hector Bermudez, Jose Diaz, Ma...
Date: Tue, Jul 6, 1999 4:43 PM
Subject: Conference call

FYI:

Tomorrow Wednesday July 7, 1999 Scott Moore plans to call Region II between 3:30 pm and 4:00 pm for a follow up on the Vieques DU issue. The Office of Congressional Affairs is asking us to keep them with updated information.

Roberto

CC: Scott Moore

Mail Envelope Properties (37826A57.507 : 24 : 20600)

Subject: Conference call
Creation Date: Tue, Jul 6, 1999 4:43 PM
From: Robert J Torres-Colon

Created By: TWFN_DO.TWF4_PO:RJT

Recipients

Post Office ATL_DO.ATL_PO

DMC (Douglas Collins)
 HXB1 (Hector Bermudez)
 JXD2 (Jose Diaz)
 MLF (Michael Fuller)
 MSL1 (Mark Lesser)

Post Office TWFN_DO.twf4_po

SWM CC (Scott Moore)

Domain.Post Office

ATL_DO.ATL_PO
 TWFN_DO.twf4_po

Route

ATL_DO.ATL_PO
 TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	858	Tuesday, July 6, 1999 4:43 PM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Scott Moore *-XMS*
To: Betsy Keeling *-OEA*
Date: Wed, Jul 7, 1999 10:54 AM
Subject: We're calling RII at 4:10. Want to join?

Betsy,

Roberto and I are having a telecon with RII at 4:10 today, to get the latest update on Vieques. We should then call the congressional assistant tomorrow, if that's possible for you.

Do you want to join us at 4:10? If so, please stop by my office (T-8-F-24) around then. If we don't see you, then we'll fill you in tomorrow on any new info.

Tomorrow, I'm in ADAMS training. I'm available at lunch time and after 3:30 pm to make the call to the assistant. When would work best for you?

Scott
415-7875

CC: Robert J Torres-Colon

A-40

Mail Envelope Properties (37836A31.508 : 0 : 20610)

Subject: We're calling RII at 4:10. Want to join?
Creation Date: Wed, Jul 7, 1999 10:54 AM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office TWFN_DO.twf4_po	Delivered	07/07 10:54 AM
RJT CC (Robert J Torres-Colon)	Opened	07/07 12:06 PM
Post Office TWFN_DO.twf5_po	Delivered	07/07 10:54 AM
BJK (Betsy Keeling)	Opened	07/07 10:58 AM
Domain.Post Office	Delivered	Route
TWFN_DO.twf4_po	07/07 10:54 AM	TWFN_DO.twf4_po
TWFN_DO.twf5_po	07/07 10:54 AM	TWFN_DO.twf5_po

Files	Size	Date & Time
MESSAGE	1293	Wednesday, July 7, 1999 10:54 AM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened



UNITED STATES
NUCLEAR REGULATORY COMMISSION

REGION II
SAM NUNN ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW, SUITE 23T85
ATLANTA, GEORGIA 30303-8931

July 8, 1999

Centers for Disease Control and Prevention (CDC)
ATTN: Ms. Carol Connell, ATSDR
Mail Stop: E 56
1600 Clifton Rd., NE
Atlanta, GA 30333

SUBJECT: ALLEGATION REPORT RII-1999-A-0080

Dear Ms. Connell:

This is to acknowledge your communications with Mr. John Pelchat of the NRC on June 8, 1999, concerning potential radiation health hazards to the public from exposure to depleted uranium munitions at the Vieques Naval Range in Puerto Rico. Since this matter is of regulatory concern, we opened an NRC allegation case file number, RII-1999-A-0080 on this matter.

We have referred this matter to the Department of the Navy on June 28, 1999, and requested for a response. We will evaluate their response and advise you of their findings.

Should you have any questions or comments during the interim regarding this matter, please call me at (404) 562-4426 during the office hours from 7:30 a.m. to 5:15 p.m.

Sincerely,

A handwritten signature in cursive script that reads "Al Ignatonis".

Al Ignatonis,
Senior Allegation Coordinator

A-41

From: Mark Lesser *RL*
To: Scott Moore *1 mss*
Date: Thu, Jul 8, 1999 4:48 PM
Subject: Fwd: Vieques and the UN Resolution

A-42

From: Douglas Collins
To: Mark Lesser
Date: Wed, Jul 7, 1999 8:46 AM
Subject: Fwd: Vieques and the UN Resolution

From: Jose Diaz
To: Charles Hosey, Douglas Collins, Hector Bermudez, ...
Date: Wed, Jul 7, 1999 7:49 AM
Subject: Vieques and the UN Resolution

Below is an article on Vieques that appeared today on the website for "El Nuevo Dia" newsletter. It is a software translation, so be careful, but it clearly describes UN involvement in this issue, pertaining to a resolution asking for the cease of military operations in the island.

+++++ Article Begins here +++++

The Committee of anti-colonization of the UN approved this Tuesday by majority a resolution in which urges the United States United to cease the military maneuvers in the island of Vieques and permit that the Puerto Rican people exercises their law to the free determination.

The text, promoted through Cuba, was approved with 12 votes to favor and five against after a long debate on the juridical status of Puerto.

The resolution reaffirms the law "inalienable" of the Puerto Rican people to the free determination and independence and reiterates that it constitutes a Latin American nation and Caribbean that has its own and unmistakable national identity.

The document, that will be introduced to the General Assembly of the UN so that it ratify it, expressed the hope of the international community that the USA takes on its responsibility of propitiating a process that permits to the people of Puerto to exercise to the full extent their law to the free determination and the independence.

Also, it encourages the government from Washington to cease the exercises and the military maneuvers of their armed forces in the island of Vieques.

According to the resolution, USA utilizes for this purpose for more than 50 years the municipality, the one which has restricted the access of the civil population "to a space hardly equivalent at fourth part of the island with the corresponding aftermath for the health of the population, the environment and the economical and social development of the territory.

Same, expressed their hope that the president of USA welcomes the application for the liberation of the prisoners Puerto Rican that complete sentences in American prisons for causes related with the fight for the independence of the island favorably.

The document, whose adoption was welcomed with a hot applause of the Puerto Rican representatives, it marks that a consensus exists in Puerto in favor of the liberation of these prisoners, that have completed 15 years of jail at fewer.

The resolution remembers that July 25 will be turned 101 old years of the intervention from United States in Puerto, the one which motivated this Tuesday a call of the governor Pedro Rosello, to not only this Committee recognize the right of the island to the free determination, but rather also includes it on the list of territories not autonomous, the one which would implicate recognition that it has not been solved the colonial situation.

This will cause, also, the application to Puerto Rico of a Declaration adopted in 1960 for the General Assembly of the UN for the one which the organism committed to eliminate the colonialism for the year 2000.

The resolution was voted in spite of that the delegation from Russia requested their postponement for one day since it said don't have instructions of their government, position that they supported some

African countries like mountain range Lioness and Tanzania.

However, a majority of delegating agreed in that historically, the resolutions about Puerto have been subjected to voting because the impossibility of achieving a consensus and the need to have a decision taken.

Mail Envelope Properties (37850E89.27A : 16 : 10149)

Subject: Fwd: Vieques and the UN Resolution
Creation Date: Thu, Jul 8, 1999 4:48 PM
From: Mark Lesser

Created By: ATL_DO.ATL_PO:MSL1

Recipients

Post Office TWFN_DO.twf4_po
SWM (Scott Moore)

Domain.Post Office
TWFN_DO.twf4_po

Route
TWFN_DO.twf4_po

Files	Size	Date & Time
Mail		

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

→ NALSS
→ NALSS
From: Scott Moore
To: Donald Cool, John Hickey, Josephine Piccone, Ro...
Date: Thu, Jul 8, 1999 6:37 PM
Subject: EDO ITEM: TELECON W/ CONGRESSMAN BARCELO'S ASST.

Attached is a proposed EDO Item regarding our telecon this afternoon with Yvonne Benner, Congressman Barcelo's assistant, regarding the Navy misfiring DU at Vieques Island.

FYI: The political issues re: Vieques are still growing, rather than decreasing. The United Nations is now getting involved, considering a resolution calling for stopping the Navy's use of Vieques for military operations.

Ms. Benner had a lot of questions many of which are more appropriately answered by the Navy.

If the EDO Item looks okay to you (Don, Josie, and John), then please let Charlotte know so that she may get it in. Although the call took place after the deadline for submitting EDO Items, we could also include the attached writeup with the Event Summaries, which go into the same folder.

Scott

CC: Brian Smith, Gregory Sackett, Joseph DeCicco, S...

A-43

EDO ITEM

TELECON WITH CONGRESSMAN BARCELO'S ASSISTANT ON NAVAL INCIDENT INVOLVING FIRING DEPLETED URANIUM AT LIVE FIRE RANGE ON VIEQUES ISLAND, PUERTO RICO

Staff from IMNS and the Office of Congressional Affairs spoke to Yvonne Benner, an assistant to Congressman Carlos Romero-Barcelo, the U.S. Congressman from Puerto Rico, on July 8, 1999, about an incident involving military aircraft misfiring depleted uranium (DU) rounds at a firing range on Vieques Island, Puerto Rico, earlier this year. The telecon was in follow up to a meeting between the Chairman, Dr. Paperiello, Dennis Rathbun, and the Congressman, regarding this incident.

The staff told Ms. Benner that, according to the Navy, none of the DU rounds landed in the conservation areas on Vieques Island. The staff described the Navy's plans to clean up the DU rounds, and NRC's actions in oversight of the Navy under the master materials license. Ms. Benner asked a number of specific questions, mostly related to the location of the mis-fired rounds, the timing of the Navy's follow up to remove the DU, the Navy's authorization to use DU under its license, and the authority of other countries (especially NATO countries) to fire DU rounds at the firing range on Vieques Island. The IMNS staff answered Ms. Benner's questions, referred her to the Navy on several issues (e.g., range safety questions, use of the range by foreign militaries), and agreed to provide Congressman Barcelo's office with a map of the aircraft flights (that the Navy had provided to NRC), pictures of the area fired upon and subsequently surveyed/searched, and a description from the Navy's license of the authorized uses of DU ordnance.

IMNS staff took the electronic files for the map and pictures, and the hardcopy of the license section that authorized the use of DU, to OCA (Betsy Keeling) following the telecon, for transmittal to Ms. Benner. Before releasing the information, IMNS staff verified with Region II staff that the documents are releasable.

Mail Envelope Properties (3785282C.508 : 0 : 20610)

Subject: EDO ITEM: TELECON W/ CONGRESSMAN BARCELO'S ASST.
Creation Date: Thu, Jul 8, 1999 6:37 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office TWFN_DO.twf4_po	Delivered	07/08 6:37 PM
BWS1 CC (Brian Smith)	Opened	07/09 6:25 AM
DAC (Donald Cool)	Opened	07/09 6:17 AM
GDS CC (Gregory Sackett)	Opened	07/09 7:25 AM
JMP1 (Josephine Piccone)	Opened	07/09 7:59 AM
JWH1 (John Hickey)	Opened	07/12 7:20 AM
JXD1 CC (Joseph DeCicco)	Opened	07/09 8:26 AM
RJT (Robert J Torres-Colon)	Opened	07/09 7:41 AM
SXS2 CC (Sami Sherbini)	Opened	07/12 6:33 AM

Domain.Post Office	Delivered	Route
TWFN_DO.twf4_po	07/08 6:37 PM	TWFN_DO.twf4_po

Files	Size	Date & Time
benner.wpd	4561	Thursday, July 8, 1999 6:19 PM
MESSAGE	1543	Thursday, July 8, 1999 6:37 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

-MISS
-MISS

From: Robert J Torres-Colon
To: Donald Cool, Frederick Sturz, John Hickey, Scot...
Date: ~~Wed, Sep 22, 1999 7:49 PM~~ Fri, Jul 9, 1999 9:41 AM
Subject: Latest news report from Vieques 7/8 and 7/9/99

I thought all of you might be interested in having an update on the Vieques issue since the NRC will probably be involved in future public hearings. Attached latest news.

Roberto

A-44

News articles that appear in El Nuevo Día, Puerto Rico on 7/8 & 7/9/99
Reporters: Jose A. Delgado/Leonor Mulero

1) Special Panel on Department of Defense operations in Vieques assembled by order of President Clinton began hearings today (7/9/99) in Rosslyn, Virginia. It is expected that within the next weeks EPA, NRC, National Security Council, and other federal agencies testify in the hearings. Panel will decide the future of the US Navy maneuvers in Vieques.

2) Secretary of Defense William Cohen named the members of this Special Panel.

Frank Rush - Adjutant Secretary of Defense for Military Administration Affairs (President)
Lee Hamilton - Ex-Democrat Congressman
Richard Neal - Retired General, US Marine Corps
Diego Hernandez - Retired Admiral, US Navy

News article that appear in El Nuevo Día, Puerto Rico on 7/9/99
Reporter: Benjamin Torres Gotay

1) US Congressman Robert Menendez (D-New Jersey) visited Vieques yesterday and met with the mayor of Vieques, local political figures, civic leaders, Admiral Kevin Moran (USN) and Chief of Naval Operations of Roosevelt Roads James Stark.

2) Congressman overflow the firing range with Stark, Moran and local political figures and was not satisfied with the Navy's answers on the necessity of Vieques as a live ammunition military training grounds.

3) Congressman favors that the USN leaves Vieques and promised to push into the US House of Representatives public hearings on the Vieques issue and make fellow congressman aware of this situation.

END

Mail Envelope Properties (3785FBFE.507 : 24 : 20600)

Subject: Latest news report from Vieques 7/8 and 7/9/99
Creation Date: Fri, Jul 9, 1999 9:41 AM
From: Robert J Torres-Colon

Created By: TWFN_DO.TWF4_PO:RJT

Recipients

Post Office TWFN_DO.twf4_po
DAC (Donald Cool)
FCS (Frederick Sturz)
JWH1 (John Hickey)
SWM (Scott Moore)

Domain.Post Office

TWFN_DO.twf4_po

Route

TWFN_DO.twf4_po

Files	Size	Date & Time
news.wpd	3949	Friday, July 9, 1999 9:39 AM
MESSAGE	817	Friday, July 9, 1999 9:41 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

-AMSS
-AMSS
From: Scott Moore
To: Robert J Torres-Colon
Date: Fri, Jul 9, 1999 12:16 PM
Subject: Re: Latest news report from Vieques 7/8 and 7/9/99

Roberto,

Please forward to RII --- Doug Collins, Charles Hosey, Michael Fuller, Mark Lesser. Thanks.

Scott

>>> Robert J Torres-Colon 07/09 9:41 AM >>>

I thought all of you might be interested in having an update on the Vieques issue since the NRC will probably be involved in future public hearings. Attached latest news.

Roberto

A-45

Mail Envelope Properties (37862059.508 : 0 : 20610)

Subject: Re: Latest news report from Vieques 7/8 and 7/9/99
Creation Date: Fri, Jul 9, 1999 12:16 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office TWFN_DO.TWF4_PO	Delivered	07/09 12:16 PM
RJT (Robert J Torres-Colon)	Opened	07/09 1:05 PM

Domain.Post Office	Delivered	Route
TWFN_DO.TWF4_PO	07/09 12:16 PM	TWFN_DO.TWF4_PO

Files	Size	Date & Time
MESSAGE	1224	Friday, July 9, 1999 12:16 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

RI
RI
From: Mark Lesser
To: Douglas Collins, Michael Fuller
Date: Mon, Aug 9, 1999 3:38 PM
Subject: Presidential commission inquiring about Vieques

FYI, I was called by Mr. Jim Finch, a member of the presidential commission appointed to provide recommendations on determining the future use of Vieques by the Navy. I told him what our inspection plan is for DU contamination cleanup. He was interested in when we would write a report. I told him after the inspection is done, and we would be happy to cooperate to support his charter.

CC: Charles Hosey, Scott Moore

A-46

Mail Envelope Properties (37AF2E33.27A : 16 : 10149)

Subject: Presidential commission inquiring about Vieques
Creation Date: Mon, Aug 9, 1999 3:38 PM
From: Mark Lesser

Created By: ATL_DO.ATL_PO:MSL1

Recipients

Post Office ATL_DO.ATL_PO
 CMH1 CC (Charles Hosey)
 DMC (Douglas Collins)
 MLF (Michael Fuller)

Post Office TWFN_DO.twf4_po
 SWM CC (Scott Moore)

Domain.Post Office

ATL_DO.ATL_PO
 TWFN_DO.twf4_po

Route

ATL_DO.ATL_PO
 TWFN_DO.twf4_po

Files

MESSAGE

Size

923

Date & Time

Monday, August 9, 1999 3:38 PM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No

Security: Standard

From: Scott Moore *→ MOSS*
To: Robert J Torres-Colon *→ MOSS*
Date: Sat, Aug 14, 1999 2:58 PM
Subject: Fwd: Presidential commission inquiring about Vieques

Roberto,

Since Mr. Finch was calling you, too, please make sure that we are coordinating with RII on our answers. We want all of NRC giving him the same answer, and ideally I'd like to have a single point of contact for him please follow through with Mark. I don't care whether the contact is RII or us, but I don't want him to be bouncing RII's answers off of us, and vice-versa, shopping for the best answer. Since he's only been in contact with us by phone and e-mail, and nobody's personally met him or received official correspondence, we have no firm assurance that he's who he says he is. To my knowledge, we don't know what his role is on the Commission, either (although we do know that there is a Commission). I'm not doubting his authenticity, just inserting a bit of care. I want us to proceed cautiously. Thanks.

Scott

CC: Mark Lesser, Michael Fuller

A-47

Mail Envelope Properties (37B5BC55.508 : 0 : 20610)

Subject: Fwd: Presidential commission inquiring about Vieques
Creation Date: Sat, Aug 14, 1999 2:58 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office ATL_DO.ATL_PO	Delivered	08/14 2:58 PM
MLF CC (Michael Fuller)	Opened	08/16 6:27 AM
MSL1 CC (Mark Lesser)	Opened	08/16 7:45 AM
Post Office TWFN_DO.twf4_po	Delivered	08/14 2:58 PM
RJT (Robert J Torres-Colon)	Opened	08/14 3:21 PM
Domain.Post Office	Delivered	Route
ATL_DO.ATL_PO	08/14 2:58 PM	ATL_DO.ATL_PO
TWFN_DO.twf4_po	08/14 2:58 PM	TWFN_DO.twf4_po

Files	Size	Date & Time
Mail		
MESSAGE	1520	Saturday, August 14, 1999 2:58 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

From: Scott Moore *NMSS* *RJT*
To: Mark Lesser, Michael Fuller
Date: Mon, Aug 16, 1999 1:47 PM
Subject: Re: Vieques Update

Mike and Mark,

Thanks. Appreciate the update.

Please put Roberto (RJT, Robert J Torres-Colon) on "cc" for any info regarding Vieques. He's our contact here for that issue and, in the event I'm out, will followup to make sure the message gets to the correct people in NMSS. By this e-mail, I'm asking him to do the same with you. Also, since DOD's panel member is calling both us and you, I've asked Roberto to coordinate with you on any answers that we give. Finally, Roberto is monitoring the INTERNET traffic on this issue, so feel free to contact him directly if you need to discuss the situation.

A question for you ---- is the Navy going to contact Congressman Barcelo's office, to let him know about the timing of the recovery being pushed back from Aug/Sep into October? Please let us know. We'll need to let OCA know, and they may want to inform Congressman Barcelo's staff. It would be a lot easier if Navy did it themselves.

Scott
301-415-7875

>>> Michael Fuller 08/16 11:34 AM >>>

CDR Higgins (NRSC Executive Secretary) called last week and informed me that the plans to go to Vieques for recovery of DU, scheduled for August/September time frame, has been postponed until at least October. The Commanding Officer responsible for the range has "closed" the range and according to CDR Higgins, the range will have to be "safed" before anyone will be allowed to commence DU recovery operations. He stated that they may have to explode some ordinance, in-place, and only ordinance specialists will have access (other than the protesters), until it is deemed safe for others.

This announcement was expected, due to the presence of the protesters. The Navy has consistently stated that they cannot begin to clear the range until the protesters are gone.

That's all I have for now. I will keep you informed of any changes, and future updates.

CC: Robert J Torres-Colon

A-48

Mail Envelope Properties (37B84ECE.508 : 0 : 20610)

Subject: Re: Vieques Update
Creation Date: Mon, Aug 16, 1999 1:47 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office ATL_DO.ATL_PO	Delivered	08/16 1:48 PM
MLF (Michael Fuller)	Opened	08/16 1:42 PM
MSL1 (Mark Lesser)	Opened	08/16 3:34 PM

Post Office TWFN_DO.twf4_po	Delivered	08/16 1:47 PM
RJT CC (Robert J Torres-Colon)	Opened	08/16 2:00 PM

Domain.Post Office	Delivered	Route
ATL_DO.ATL_PO	08/16 1:48 PM	ATL_DO.ATL_PO
TWFN_DO.twf4_po	08/16 1:47 PM	TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	2954	Monday, August 16, 1999 1:47 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

From: Scott Moore
To: Betsy Keeling, Carl Paperiello, Dennis Rathbun, ...
Date: Mon, Aug 16, 1999 2:12 PM
Subject: Fwd: Vieques Update

NMSS
OCA
EDO
OCA

NMSS and OCA Management:

See attached info. Navy's recovery of the DU on Vieques is being pushed back from Aug/Sep until "at least October." They need to make the range safe, first, before they can enter.

I've asked Mike Fuller, RII, to get back to me to let us know whether the Navy informed Congressman Barcelo's office about the later date for recovery.

Scott
301-415-7875

CC: Charles Hosey, Douglas Collins, Mark Lesser, Mi...

A-49

Mail Envelope Properties (37B8549C.508 : 0 : 20610)

Subject: Fwd: Vieques Update
Creation Date: Mon, Aug 16, 1999 2:12 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office ATL_DO.ATL_PO	Delivered	08/16 2:13 PM
CMH1 CC (Charles Hosey)	Opened	08/16 2:26 PM
DMC CC (Douglas Collins)	Opened	08/16 2:14 PM
MLF CC (Michael Fuller)	Opened	08/16 1:43 PM
MSL1 CC (Mark Lesser)	Opened	08/16 3:35 PM
Post Office OWFN_DO.owf5_po	Delivered	08/16 2:13 PM
DKR (Dennis Rathbun)	Opened	08/16 4:12 PM
Post Office TWFN_DO.twf4_po	Delivered	08/16 2:12 PM
CJP1 (Carl Paperiello)	Opened	08/17 3:36 PM
DAC (Donald Cool)	Opened	08/16 2:13 PM
GDS (Gregory Sackett)	Opened	08/16 2:15 PM
JMP1 (Josephine Piccone)	Opened	08/16 3:14 PM
JWH1 (John Hickey)	Opened	08/16 2:53 PM
MJV (Martin Virgilio)	Opened	08/16 2:16 PM
RJT (Robert J Torres-Colon)	Opened	08/16 2:32 PM
Post Office TWFN_DO.twf5_po	Delivered	08/16 2:13 PM
BJK (Betsy Keeling)	Opened	08/16 2:31 PM
Domain.Post Office	Delivered	Route
ATL_DO.ATL_PO	08/16 2:13 PM	ATL_DO.ATL_PO
OWFN_DO.owf5_po	08/16 2:13 PM	OWFN_DO.owf5_po
TWFN_DO.twf4_po	08/16 2:12 PM	TWFN_DO.twf4_po
TWFN_DO.twf5_po	08/16 2:13 PM	TWFN_DO.twf5_po

Files	Size	Date & Time
Mail		
MESSAGE	1151	Monday, August 16, 1999 2:12 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard

Reply Requested:	No
Return Notification:	None
Concealed Subject:	No
Security:	Standard
To Be Delivered:	Immediate
Status Tracking:	Delivered & Opened

From: Mark Lesser ^{RJT}
To: Scott Moore ^{NMSS}
Date: Tue, Aug 17, 1999 11:08 AM
Subject: Re: Vieques Update

Mike is checking with the Navy RSC to see if the Navy informed Congressman Barcelo of their schedule change. I agree with you that it would be nice if the Navy was keeping him informed however, we are finding that the Navy's Radiation Safety Committee does not appear to have a direct link to congress, and so has to run and find out. I would recommend that if we made any commitments to Barcelo to keep him informed, then we should update him, through OCA, on what we know.

>>> Scott Moore 08/16 1:47 PM >>>
Mike and Mark,

Thanks. Appreciate the update.

Please put Roberto (RJT, Robert J Torres-Colon) on "cc" for any info regarding Vieques. He's our contact here for that issue and, in the event I'm out, will followup to make sure the message gets to the correct people in NMSS. By this e-mail, I'm asking him to do the same with you. Also, since DOD's panel member is calling both us and you, I've asked Roberto to coordinate with you on any answers that we give. Finally, Roberto is monitoring the INTERNET traffic on this issue, so feel free to contact him directly if you need to discuss the situation.

A question for you ----- is the Navy going to contact Congressman Barcelo's office, to let him know about the timing of the recovery being pushed back from Aug/Sep into October? Please let us know. We'll need to let OCA know, and they may want to inform Congressman Barcelo's staff. It would be a lot easier if Navy did it themselves.

Scott
301-415-7875

>>> Michael Fuller 08/16 11:34 AM >>>
CDR Higgins (NRSC Executive Secretary) called last week and informed me that the plans to go to Vieques for recovery of DU, scheduled for August/September time frame, has been postponed until at least October. The Commanding Officer responsible for the range has "closed" the range and according to CDR Higgins, the range will have to be "safed" before anyone will be allowed to commence DU recovery operations. He stated that they may have to explode some ordinance, in-place, and only ordinance specialists will have access (other than the protesters), until it is deemed safe for others.

This announcement was expected, due to the presence of the protesters. The Navy has consistently stated that they cannot begin to clear the range until the protesters are gone.

That's all I have for now. I will keep you informed of any changes, and future updates.

A-50

Mail Envelope Properties (37B97AF3.27A : 16 : 10149)

Subject: Re: Vieques Update
Creation Date: Tue, Aug 17, 1999 11:08 AM
From: Mark Lesser

Created By: ATL_DO.ATL_PO:MSL1

Recipients

Post Office TWFN_DO.TWF4_PO
SWM (Scott Moore)

Domain.Post Office
TWFN_DO.TWF4_PO

Route
TWFN_DO.TWF4_PO

Files	Size	Date & Time
MESSAGE	3550	Tuesday, August 17, 1999 11:08 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

AMSS
RI
From: Scott Moore
To: Mark Lesser, Michael Fuller
Date: Tue, Aug 17, 1999 11:01 AM
Subject: Re: Fwd: Vieques Update

Mark or Mike:

Please let me know what the Navy says (about whether they've contacted Congressman Barcelo's office), and either "cc" Betsy Keeling, OCA, or I will get back to her. See attached. Thanks.

Scott

CC: Charles Hosey, Douglas Collins, Robert J Torres-...

A-51.

Mail Envelope Properties (37B97953.508 : 0 : 20610)

Subject: Re: Fwd: Vieques Update
Creation Date: Tue, Aug 17, 1999 11:01 AM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office ATL_DO.ATL_PO	Delivered	08/17 11:02 AM
CMH1 CC (Charles Hosey)	Opened	08/18 8:25 AM
DMC CC (Douglas Collins)	Opened	08/17 12:30 PM
MLF (Michael Fuller)	Opened	08/17 10:13 AM
MSL1 (Mark Lesser)	Opened	08/17 11:08 AM
Post Office TWFN_DO.twf4_po	Delivered	08/17 11:01 AM
RJT CC (Robert J Torres-Colon)	Opened	08/17 11:10 AM
Domain.Post Office	Delivered	Route
ATL_DO.ATL_PO	08/17 11:02 AM	ATL_DO.ATL_PO
TWFN_DO.twf4_po	08/17 11:01 AM	TWFN_DO.twf4_po

Files	Size	Date & Time
Mail		
MESSAGE	883	Tuesday, August 17, 1999 11:01 AM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

RAI
7/27/99

From: Michael Fuller
To: Mark Lesser, Scott Moore
Date: Tue, Aug 17, 1999 11:17 AM
Subject: Re: Fwd: Vieques Update

Scott,
I asked CDR Higgins (NRSC Executive Secretary) this morning, to find out if they had informed Congressman Barcelo's office about the anticipated delay in the Vieques range recovery operations. He said he would find out for me and get back to me by this afternoon. I will let you know what I find out.
Mike

CC: Charles Hosey, Douglas Collins, Robert J Torres-...

A-52

Mail Envelope Properties (37B97D06.C91 : 24 : 51485)

Subject: Re: Fwd: Vieques Update
Creation Date: Tue, Aug 17, 1999 11:17 AM
From: Michael Fuller

Created By: ATL_DO.ATL_PO:MLF

Recipients

Post Office ATL_DO.ATL_PO
CMH1 CC (Charles Hosey)
DMC CC (Douglas Collins)
MSL1 (Mark Lesser)

Post Office TWFN_DO.twf4_po
RJT CC (Robert J Torres-Colon)
SWM (Scott Moore)

Domain.Post Office
ATL_DO.ATL_PO
TWFN_DO.twf4_po

Route
ATL_DO.ATL_PO
TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	935	Tuesday, August 17, 1999 11:17 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

AMS
RII

From: Robert J Torres-Colon
To: Douglas Collins, Mark Lesser, Michael Collins, ...
Date: Thu, Aug 19, 1999 11:22 PM
Subject: Latest news article regarding Vieques

El Nuevo Dia Newspaper 8/19/99, San Juan, Puerto Rico
(<http://www.endi.com/manual/locales/vieques.html>)

Vicepresident Al Gore recommended president Clinton that the US Navy has to look for another place to conduct its military manoeuvres and leave Vieques.

Gore telephoned governor of Puerto Rico, Pedro Rosello, on Wednesday 9:00 pm and told him that after having a meeting with Clinton, in which the Vieques situation was analyzed, he (Gore) recommended Clinton that the US Navy has to abandon Vieques.

Mail Envelope Properties (37BCC9DD.507 : 24 : 20600)

Subject: Latest news article regarding Vieques
Creation Date: Thu, Aug 19, 1999 11:22 PM
From: Robert J Torres-Colon

Created By: TWFN_DO.TWF4_PO:RJT

Recipients

Post Office ATL_DO.ATL_PO
 DMC (Douglas Collins)
 MSL1 (Mark Lesser)

Post Office TWFN_DO.twf3_po
 MDC1 (Michael Collins)

Post Office TWFN_DO.twf4_po
 SWM (Scott Moore)

Domain.Post Office

ATL_DO.ATL_PO
 TWFN_DO.twf3_po
 TWFN_DO.twf4_po

Route

ATL_DO.ATL_PO
 TWFN_DO.twf3_po
 TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	1152	Thursday, August 19, 1999 11:22 PM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

TMSS
DCA
TMSS

From: Scott Moore
To: Betsy Keeling, Donald Cool, John Hickey, Joseph...
Date: Sat, Aug 21, 1999 1:59 PM
Subject: Fwd: Latest news article regarding Vieques

See attached.

Vice President Gore recommended to President Clinton that the Navy leave Vieques.

Scott

A-54

Mail Envelope Properties (37BEE918.508 : 0 : 20610)

Subject: Fwd: Latest news article regarding Vieques
Creation Date: Sat, Aug 21, 1999 1:59 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office TWFN_DO.twf4_po	Delivered	08/21 1:59 PM
DAC (Donald Cool)	Opened	08/23 6:21 AM
JMP1 (Josephine Piccone)	Opened	08/22 10:27 AM
JWH1 (John Hickey)	Opened	08/23 7:26 AM
Post Office TWFN_DO.twf5_po	Delivered	08/21 1:59 PM
BJK (Betsy Keeling)	Opened	08/23 7:27 AM
Domain.Post Office	Delivered	Route
TWFN_DO.twf4_po	08/21 1:59 PM	TWFN_DO.twf4_po
TWFN_DO.twf5_po	08/21 1:59 PM	TWFN_DO.twf5_po

Files	Size	Date & Time
Mail MESSAGE	818	Saturday, August 21, 1999 1:59 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

From: Mark Lesser *ML*
To: Robert J Torres-Colon, Scott Moore, *RJTS*
Date: Mon, Aug 23, 1999 10:18 AM
Subject: Navy reporting status to Congress

The Navy RSC does not know if congressman Barcelo has been informed of the cleanup schedule change and appears to be reluctant to find out. The Navy RSC is not aware of any commitments they made to the Congressman to keep his staff informed of status changes.

A-55

Mail Envelope Properties (37C15819.27A : 16 : 10149)

Subject: Navy reporting status to Congress
Creation Date: Mon, Aug 23, 1999 10:18 AM
From: Mark Lesser

Created By: ATL_DO.ATL_PO:MSL1

Recipients

Post Office TWFN_DO.twf4_po
RJT (Robert J Torres-Colon)
SWM (Scott Moore)

Domain.Post Office

TWFN_DO.twf4_po

Route

TWFN_DO.twf4_po

Files

MESSAGE

Size

793

Date & Time

Monday, August 23, 1999 10:18 AM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Robert J Torres-Colon *RTCS*
To: Scott Moore *SMSS*
Date: Mon, Aug 23, 1999 12:32 PM
Subject: Re: Fwd: Navy reporting status to Congressman Romero Barcelo

fyi

A-56

Mail Envelope Properties (37C17798.507 : 24 : 20600)

Subject: Re: Fwd: Navy reporting status to Congressman Romero Barcelo
Creation Date: Mon, Aug 23, 1999 12:32 PM
From: Robert J Torres-Colon

Created By: TWFN_DO.TWF4_PO:RJT

Recipients

Post Office TWFN_DO.twf4_po
SWM (Scott Moore)

Domain.Post Office
TWFN_DO.twf4_po

Route
TWFN_DO.twf4_po

Files	Size	Date & Time
Mail MESSAGE	552	Monday, August 23, 1999 12:32 PM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Betsy Keeling, OCA
To: Robert J Torres-Colon, TRASS
Date: Mon, Aug 23, 1999 11:57 AM
Subject: notification to Cong. staffer

I called Congressman Barcelo's office and talked to Yvonne Benner to inform her of the schedule change. She appreciated the call. She was going to give the Congressman a call who is currently in Puerto Rico to let him know.

A-57

From: Douglas Collins *DC*
To: Scott Moore *mess*
Date: Mon, Aug 23, 1999 2:50 PM
Subject: Re: Fwd: notification to Cong. staffer

Thanks Scott. We have made the point to the Navy RSC before, and will make it again, that they need to keep Congress current since it is better for the info to come directly from them, vs. us. But if asked, we will let Congress know what we know.

>>> Scott Moore 08/23 2:45 PM >>>

After receiving the RII e-mail that the Navy RSC is not sure whether the Congressman's Office has been notified about the schedule change for the DU recovery, Roberto Torres contacted OCA to let our OCA contact (Betsy Keeling) know. Betsy contacted Yvonne Benner, Congressman Barcelo's staff person whom we'd talked to previously, to inform her about the schedule change, then got back to us. Betsy's response is attached. Ms. Benner is going to call the Congressman, who's in Puerto Rico at the moment.

Roberto will be talking with Betsy about the best way to pursue further information that we (NRC) receive from the Navy RSC e.g., whether we need to ask the Navy's RSC whether they've contacted the Congressman or not in all cases, or whether we should just presume the info didn't get to the Congressman and we (NRC) should pass it along.

I see NRC in a difficult position on this case we're in the middle between the Navy and the Congressman's office, and we're passing info back and forth between the two. It would be much better, in my opinion, to get the Navy to contact Congressman Barcelo directly. Each time we pass along new info to Ms. Benner, we open an opportunity for new questions that we can't answer immediately which obliges us contact the Navy to get the info, then call the Congressman's office back, repeating the cycle. After Roberto gets with Betsy about the best approach, IMNS and RII need to caucus and discuss how to proceed.

Scott

CC: Charles Hosey, Donald Cool, John Hickey, Joseph...

A-58

Mail Envelope Properties (37C197F5.C83 : 15 : 51263)

Subject: Re: Fwd: notification to Cong. staffer
Creation Date: Mon, Aug 23, 1999 2:50 PM
From: Douglas Collins

Created By: ATL_DO.ATL_PO:DMC

Recipients

Post Office ATL_DO.ATL_PO

CMH1 CC (Charles Hosey)

MLF CC (Michael Fuller)

MSL1 CC (Mark Lesser)

TRD CC (Thomas Decker)

Post Office TWFN_DO.twf4_po

DAC CC (Donald Cool)

JMP1 CC (Josephine Piccone)

JWH1 CC (John Hickey)

RJT CC (Robert J Torres-Colon)

SWM (Scott Moore)

Domain.Post Office

ATL_DO.ATL_PO

TWFN_DO.twf4_po

Route

ATL_DO.ATL_PO

TWFN_DO.twf4_po

Files

MESSAGE

Size

2693

Date & Time

Monday, August 23, 1999 2:50 PM

Options

Expiration Date: None

Priority: Standard

Reply Requested: No

Return Notification: None

Concealed Subject: No

Security: Standard

RTI
→ XMS

From: Mark Lesser
To: Robert J Torres-Colon
Date: Tue, Sep 7, 1999 3:17 PM
Subject: Re: FOIA request on DU incident Vieques

We have no records of DU or other radioactive material used by the Navy on Vieques, other than the 2/99 inadvertent expenditure. The Navy does not authorize any DU or radioactive material use on Vieques.

>>> Robert J Torres-Colon 09/03 7:59 AM >>>
Douglas, Mark, Michael:

I have received FOIA 99-344 requesting **NRC records** of depleted uranium incident (2/99) involving US Navy in Vieques, Puerto Rico. I need the following information from Region II records, if such info. exists.

- 1) All records concerning the Navy's use of depleted uranium on Vieques at any time (other than the 2/99 incident), including but not limited to reports, briefings memos and all record of investigation and resolutions.
- 2) All records of all incidents of the Navy's use of potentially radioactive or potentially harmful materials other than depleted uranium on Vieques from 1980 to present, including but not limited to reports, briefings memos and all record of investigation and resolutions.
- 3) All records of all activities by the Navy in Vieques in the possession of the Nuclear Regulatory Commission from the inception of the NRC to present.

Due date for this FOIA is 9/13/99.

Have a good Labor Day weekend.

Roberto

CC: Douglas Collins

A-59

Mail Envelope Properties (37D564D7.27A : 16 : 10149)

Subject: Re: FOIA request on DU incident Vieques
Creation Date: Tue, Sep 7, 1999 3:17 PM
From: Mark Lesser

Created By: ATL_DO.ATL_PO:MSL1

Recipients

Post Office ATL_DO.ATL_PO
DMC CC (Douglas Collins)

Post Office TWFN_DO.twf4_po
RJT (Robert J Torres-Colon)

Domain.Post Office

ATL_DO.ATL_PO
TWFN_DO.twf4_po

Route

ATL_DO.ATL_PO
TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	2422	Tuesday, September 7, 1999 3:17 PM

Options

Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

DATA ON THE INGESTION OF DEPLETED URANIUM

1. Composition of the Depleted Uranium Round:

The following composition of DU was obtained from a study conducted by the U.S. Army Center for Health Promotion and Preventive Medicine in an investigation of the effects of DU during the Gulf War.

Isotope	Percent by Weight	Activity pCi/μg	Fractional Activity
²³⁴ U	0.0006	3.8×10^{-2}	0.1
²³⁵ U	0.2	4.3×10^{-3}	0.01
²³⁶ U	0.0003	2.0×10^{-4}	0.0005
²³⁸ U	99.8	3.4×10^{-1}	0.89

According to the report, the DU contained several oxides of uranium, including U₃O₈, UO₂, and UO₃. The first two oxides are considered fairly insoluble, the last moderately soluble. The airborne activity classes for this mix, following impact of a DU round with armor plate, but without an ensuing fire, were estimated in the report to be about 17 - 43 % Class D aerosols and 57 - 83 % Class Y aerosols.

The gastrointestinal absorption fraction f_1 for uranium compounds has been found in a number of experiments on animals and humans to vary between 0.02 for soluble compounds to 0.002 for insoluble compounds. Making the reasonable assumption that the aerosol classes reflect corresponding GI solubilities, the appropriate f_1 value to use for ingestion of a round of DU is estimated by linear weighting as follows. The average percentages for the aerosol classes noted above are 30% for Class D (soluble) and 70% for Class Y (insoluble). Using these percentages, the weighted f_1 is found to be $(0.02 \times 0.3 + 0.002 \times 0.7)$ or 0.0074, rounded to 0.01. This is, of course, a rather gross estimate, because it is not clear whether the interpolation should be linear, as was done in this case, or something else, such as logarithmic, nor that Classes D and Y aerosols represent the same solubility end-points as the end-points of the f_1 range. However, the value of 0.01 is probably a good estimate of the appropriate f_1 value for the DU round.

2. Radiological Toxicity

ICRP Publication 69 lists the following dose coefficient for ²³⁸U ingestion (the values are comparable for the other uranium isotopes):

Bone surface dose equiv.	=	2.6 rem/μCi	ingested
Kidney dose equiv.	=	0.9 rem/μCi	ingested
Effective dose equiv.	=	0.2 rem/μCi	ingested

The specific activity for depleted uranium is approximately 0.4 μCi/gm. Converting the above to dose per unit weight gives the following:

Bones surface dose equiv.	=	1.0 rem/gm	ingested
Kidney dose equiv.	=	0.4 rem/gm	ingested
Effective dose equiv.	=	0.1 rem/gm	ingested

A-60

The above values are based on a fractional absorption value f_1 of 0.02, obtained from ICRP 69. Note that ICRP 30 had previously recommended an f_1 value of 0.05. No distinction is made in either publication regarding the chemical form of the various uranium compounds.

Experimental data show that the f_1 values for uranium vary over a wide range, between 0.005 to 0.02. The data also showed that highest f_1 values were generally obtained for $\text{UO}_2(\text{NO}_3)_2 \cdot 6\text{H}_2\text{O}$, and UO_2F_2 , was about half as high for UO_3 and UO_4 , and one to two orders of magnitude lower for UCl_4 , U_3O_8 , UO_2 , and UF_4 . However, large variations were also found based on the physiological status of the person or animal. Animals that were unfed before administration of the uranium showed uptakes that were an order of magnitude higher than those that were well fed before administration.

Using the f_1 value of 0.01 derived in Section (1) above, and assuming the doses to be directly proportional to the f_1 value, the doses arising from ingestion of the DU would be as follows:

Bone surface dose	=	0.5 rem/gm ingested
Kidney	=	0.2 rem/gm ingested
Effective	=	0.05 rem/gm ingested

A DU round contains 148 grams of depleted uranium. If the assumption is made that a whole round is ingested in a form that will be subject for normal digestion, the doses, using the above data, would be as follows:

Bone surface dose	=	70 rem
Kidney dose	=	30 rem
Effective dose	=	7 rem

It should be noted that the assumption that the ingested DU will be subject to normal digestive processes will most likely not be valid. The round will likely be ingested in the form of a lump of DU, and will probably be only partially broken down during passage through the gastrointestinal tract. This will lead to much smaller doses than those calculated above assuming complete breakdown of the ingested bolus.

The 10 CFR Part 20 ingestion ALI (occupational) is $10 \mu\text{Ci}/\text{yr}$, equivalent to $25 \text{ gm}/\text{yr}$, based on the radiological toxicity of uranium. ALIs for members of the public are not defined.

3. Chemical Toxicity

Information on the effects of acute ingestion of uranium is sparse, but the available information provides some idea of the consequences to be expected. The NRC imposes an occupational airborne concentration limit of 0.2 mg per m^3 for soluble uranium in any 40-hr work week. For an inhalation rate of 1.2 m^3 per hour, this represents an intake of 10 mg per week.

Rats fed $2.8 \text{ mg}/\text{kg}/\text{day}$ soluble uranium over a 30-day period showed renal damage. Using the same factor for a 70 kg adult, the intake for renal damage would be about $0.2 \text{ gm}/\text{day}$, or 6 gm over a 30-day period. The same experiments showed no renal effects when the animals were fed insoluble uranium. Studies have also shown that the fractional uptake of uranium from the GI varies inversely with the amount ingested. This means that the fractional uptake resulting from ingestion of a DU round will be much smaller than that normally observed in experiments

conducted using much smaller quantities of uranium. In one experiment, a person ingesting about 1 gm of a highly soluble form of uranium (uranyl nitrate) experienced acute nausea, vomiting, and diarrhea within a few hours, but recovered completely within a day.

Using the data on the ingestion of 1 gm of soluble uranium noted above, and assuming that the f_1 value for this highly soluble form of uranium was 0.02, the uranium uptake to produce the observed clinical symptoms would be about 0.02 gm. Assuming that a round is fully digested, the f_1 value that would result in an uptake of 0.02 gm is 0.00014. This value is below the lower end of experimentally observed f_1 values. The assumption of complete digestion thus leads to the conclusion that the uptake from the round would probably be higher than 0.02 gm, and that severe clinical symptoms would be expected.

4. Contamination of the Water Supply

Reports indicate that, of the 263 rounds fired, 57 were retrieved and 206 remain in the ground. The total amount of DU remaining in the ground is therefore 30.5 kg. The 10 CFR Part 20 limit on the concentration of uranium in liquid effluents is 3×10^{-7} $\mu\text{Ci/ml}$. To reach this concentration, the uranium in the ground would have to be dispersed in 4.1×10^7 liters of water. This is equivalent to a body of water measuring 140 x 140 meters and 2 meters deep. It is unclear whether sufficient ground water is available at the site to provide this level of dilution before the uranium reaches a drinking water source. It should be noted that this calculation makes the assumption that the DU in the rounds will reach the ground water by leaching into the soil and dispersing as a result of rainfall.

5. Conclusions

Based on the above data and calculations, the radiological risks arising from ingestion of a round of depleted uranium are relatively small, and are unlikely to lead to any clinical effects. Chemical toxicity is the main concern in this case. The outcome of ingesting a DU round based on chemical toxicity is uncertain because data on acute intakes of large amounts of uranium is lacking, and also because of uncertainties regarding the solubility and digestive behavior of an ingested round.

The chemical effect of ingesting a DU round will depend on the amount of uranium absorbed from the round. As noted in Section (3) above, the assumption of complete digestion leads to a high uptake with likely severe clinical symptoms. However, because the round represents a large amount of uranium, and the f_1 values shown in the literature were obtained from experiments using relatively very low amounts of ingested uranium, the f_1 value for the round would be expected to fall close to the low solubility end of the range, if not lower. In addition, the round, when ingested, will be in a solid, dense, form, and will most likely not be completely digested, leading to a further decrease in the f_1 value. How far these two factors, namely high mass intake and bolus form, will lower the f_1 factor, is difficult to assess because of the absence of sufficient data.

A

Conservation Area - None of conserv. areas
are included in the
Live Impact Area

DU fired into the North Convoy Inner
Range.

Areas that Navy has set aside on
its own

Navy made a good case on its Jur
RSC that

Cdr Higgins, Adm Grunzo,
report directly to CNO

Confirm that none of conserv.
areas were impacted by DU

Cleanup: if it hadn't been for protestors,
they would've gone in &
cleaned up. They have
trespassers.

Both
When rounds
recovered
and during
surveys.

EOD teams standing by.

Buried 8-12" below surface, 10' apart.

Confirm measurements + surveys of impacted
area.

A-61

A-6a

- IF fired in a conservation area, why can't they clear earlier?
- Our commitment: keep them on distribution.
- How long until Navy actually tells PR after what they do?
- Where did Navy actually fire it?

Projectiles fired North Beach
Cuebradas Conservation Area Class II
Cuebradas

Albe Bernart?
Ask Rathbun
Check w/ Congressman's Assistant
What actually happened?

John Pelchat
Mike Feller

Navy not meeting its commitments to PR
Advertising to foreign nations to use firing
range there

Week before
last week,
Thurs.
Chum
can't
Dennis

PR Meeting
(B)

March: 57 rounds

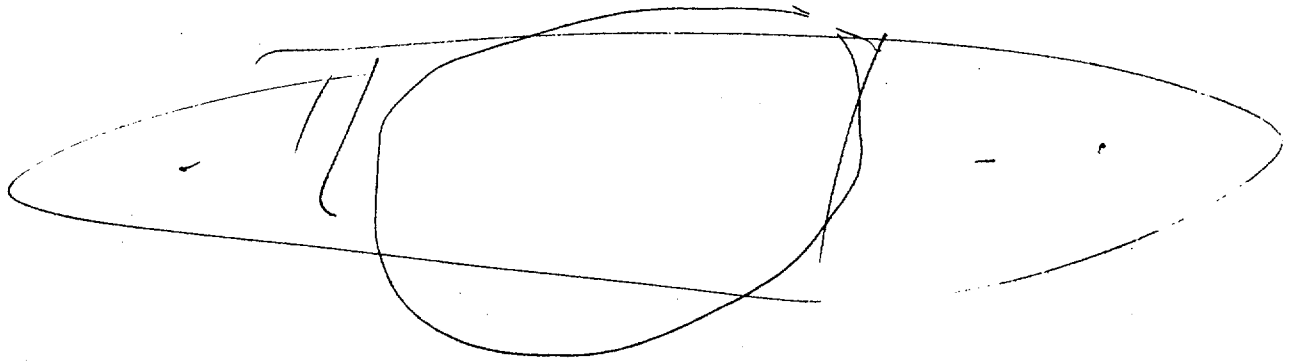
Everything kept + that covered by brush + where unexpl. DLE may be.

Cdr Roosevelt Roads? said refurbish. ~~is~~ earlier than Aug.

Now that protesters in, Aug/Sep timeframe for refurbishment.

As soon as they have a date.

~ 30 civilians



404-562-4955

(C)

Q: Will training by Navy take place?

Q: Is DA pre-positioned.

Getting back to her on conservation areas.

Evon Bennett

Congressman Carlos Rueter-Barcelo

Here until 5:30

Cdr. Higgins - no new info
this a.m.

plan to go in + retrieve/decontaminate when
squatters leave the range
Some are camping w/in 1 mile (S) of where DA rounds landed.

fired: 263

recovered: 57

+ some soil (1 fringed when it hit water)

25 mm DA rounds, armor-penetrating

As far as we know, only on land.

Navy following: Naval message to all command activities re-emphasizing prohib of firing DA rounds for

Revised specific procedures on more clear instructions on how DA should be

used

P: \viegues2.3

The Honorable Adlah "Foncie" Donastorg, Jr.
Chairman, Committee on Planning and Environmental Protection
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00804

Dear Mr. Chairman:

I am responding to the concerns raised in your letter dated June 1, 1999, about the accidental firing of depleted uranium (DU) ammunition on Vieques Island, Puerto Rico. The Department of the Navy's Radiation Safety Committee (RSC) has provided initial and follow-up reports, to the U.S. Nuclear Regulatory Commission (NRC), describing the event, including the cause and planned corrective actions.

The Navy's RSC reported that on February 19, 1999, 263 rounds of DU ammunition were inadvertently fired from two U.S. Marine Corps aircraft during a training exercise at the Live Impact Area of the Vieques Island firing range. The Live Impact Area is located on the eastern tip of the island and covers approximately 2.5 square miles. Because the area is a live firing range, and potentially contains non-DU unexploded ordnance, the area should normally be restricted. The RSC identified this inadvertent firing as a violation of the requirements of the Navy's radioactive materials permit issued by the RSC and reported this, in March 1999, to our regional staff in Atlanta, Georgia. The RSC determined that the cause of the incident was some individuals' failure to follow written procedures regarding the use of ammunition. DU rounds are to be used strictly during combat or approved tests and are prohibited from peacetime or training use. In March 1999, the Navy located and removed 57 expended rounds of DU ammunition from the Vieques Island range. Radiological surveys identified some DU soil contamination, which was also removed. ~~Recovery activities were discontinued because of the hazards from unexploded non-DU ordnance and the access restrictions placed on the range because of military operational commitments. The Navy plans to resume recovery activities in August 1999.~~ Since an unrelated accidental fatality on the firing range in April 1999, a group of local protesters has been illegally trespassing in the restricted area. The Navy's plans, to resume recovery activities in August 1999, have been complicated by this matter. While ~~Although~~ the Navy's investigation is ongoing, it has taken several corrective actions to prevent recurrence, and additional actions are being planned. NRC has been evaluating the safety significance of the event and is continuing to review the Navy's actions.

Our staff has assessed the consequences of the incident. DU is a byproduct of the uranium enrichment process, and for a given weight, is less radioactive than naturally occurring uranium. Because the radioactivity is low, direct exposure to DU does not pose a radiological hazard. Although health effects may occur from excessive ingestion or inhalation of DU, it is unlikely that an individual could receive such an intake. Our staff believes that the public health is not endangered by the DU remaining in the firing range from the February 19, 1999, incident.

A-64

Honorable A. Donastorg, Jr.

2

NRC is continuing to follow the Navy's actions and will conduct an independent inspection of its DU recovery activities on Vieques Island, and subsequent corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete its report by the end of September 1999. After completing our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

Regarding your concern about notification of this event, it is NRC's practice to make information on events publicly available, through our Web Site, and to coordinate with appropriate authorities on radiological issues within their jurisdictions. We are sensitive to US Virgin Islands concerns about the Navy incident, because of the USVI's proximity to Vieques Island, and we will keep you informed as the Navy reports to us and as we conduct follow-up regulatory activities on this incident.

Thank you for sharing your concern with us. I trust that this reply responds to it.

Sincerely,

Shirley Ann Jackson

cc: The Honorable Pedro Rosello,
Governor of Puerto Rico
RADM Andrew A. Granuzzo, USN,
Chairman, Radiation Safety Committee

Honorable A. Donastorg, Jr.

2

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Sincerely,

Shirley Ann Jackson

cc: The Honorable Pedro Rosello,
Governor of Puerto Rico
RADM Andrew A. Granuzzo, USN,
Chairman, Radiation Safety Committee

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CRC-99-0524

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NAM E	RTorres/lucy/maf		FSturz		EKraus		DCool		CPaperiello	
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The Honorable Adlah "Foncie" Donastorg, Jr.
Chairman, Committee on Planning and Environmental Protection
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00804

Dear Mr. Chairman,

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The Navy's RSC reported that on February 19, 1999, 263 rounds of DU ammunition were inadvertently fired from two U.S. Marine Corps aircraft during a training exercise at the Live Impact Area of the Vieques Island firing range. The Live Impact Area is located on the eastern tip of the island and covers approximately 2.5 square miles. The area is restricted from public access. The RSC identified this as a violation of the requirements of the Navy's radioactive materials permit issued by the RSC and reported this in March 1999, to our regional staff in Atlanta, Georgia. The RSC determined that the cause of the incident was a failure by individuals to follow written procedures for the use of ammunition. DU rounds are to be used strictly during combat or approved tests and are prohibited from peacetime or training use. In March 1999, the Navy located and removed 57 expended rounds of DU ammunition from the Vieques Island range. Radiological surveys identified some DU soil contamination which was also removed. Recovery activities were discontinued because of the hazards from unexploded non-DU ordnance and the access restrictions placed on the range because of operational commitments. The Navy plans to resume recovery activities in August 1999. Although the Navy's investigation is ongoing, they have taken several corrective actions to prevent recurrence and additional actions are being planned. The Nuclear Regulatory Commission has been evaluating the safety significance of the event and is continuing to review the Navy's actions.

An initial assessment of the consequences of the incident was performed by our staff. DU is a byproduct of the uranium enrichment process and for a given weight, is less radioactive than naturally occurring uranium. Because the radioactivity is low, direct exposure to the DU does not pose a radiological hazard. Although health effects may be anticipated from excessive ingestion or inhalation of DU, public access to the Live Impact Area is normally restricted and the area is guarded 24 hours a day; thus it is unlikely that an individual could receive such exposure. Our staff believes that the Navy's actions to date are appropriate and that the public health is not endangered.

The NRC is continuing to follow the Navy's actions and will conduct an independent inspection of their DU recovery activities on Vieques Island and corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete their report by the end of September 1999. Following completion of our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

With regard to your concern about the failure of local authorities in the Virgin Islands to receive notification of this event, we recognize the importance of keeping officials informed of radiological issues and acknowledge that notification should have been provided to interested parties shortly after we received notification of this event. You can be assured that in the future appropriate officials in the Virgin Islands will be promptly notified of events involving NRC licensed material in or near the Virgin Islands.

Thank you for sharing your concern with us. I trust that this response satisfies your concerns in this area.

Sincerely,

P:\wieques1.wpd

With regard to your concern about notification regarding this event, it is the NRC's practice to make information regarding events publicly available, through our Web Site, and to coordinate with appropriate authorities on radiological issues within their jurisdictions. We are sensitive to concerns in the US Virgin Islands regarding the Navy incident, because of the USVI's proximity to Vieques Island, and we will keep you informed as the Navy reports to us and as we conduct follow up regulatory activities on this incident.

p:\usvi.wpd

..... Because the area is a live firing range, and potentially contains non-DU unexploded ordnance, the area should normally be restricted. However, in response to NRC questions, the Navy's RSC informed NRC on June 24, 1999, that approximately 30 individuals have moved onto the range and are staying there. The Navy did not authorize these civilians to move onto the range. [Paragraph Break]

[Insert into paragraph]

..... military operational commitments, according to the Navy. However, the Navy is not currently using the range for live fire exercises. The Navy reportedly plans to resume recovery activities in August 1999, or before, once the civilians leave the range.

Get Larry's approval.

Get Don's approval.

Take it directly to Jim Smith, Chairman's office, who is incorporating the changes.

After you've met with Jim, see Dan Martin (OEDO) and tell him what changes were made.

P:\viegues.wpd

Pursuant to the authority stated in OPNAVINST 6470.3, Naval Radiation Safety Committee, and in reliance on statements made by the applicant, permission is hereby granted for the acquisition, receipt, possession, use, storage and disposal of radioactive materials listed below subject to the conditions listed in this permit.

1 - COMMAND COMMANDER CRANE DIVISION NAVAL SURFACE WARFARE CENTER 300 HIGHWAY 361 CRANE, IN 47522-5001	2 - PERMIT NO. 13-00164-L1NP
	3 - AMENDMENT NO. 2
	4 - DOCKET NO.
	5 - EXPIRATION DATE 31 AUGUST 2002

6 - RADIOACTIVE MATERIAL

A. Uranium

7 - CHEMICAL/ PHYSICAL FORM

A. Depleted uranium (DU) alloy penetrators in munitions

8 - MAXIMUM QUANTITY AUTHORIZED

A. Not to exceed 5,000,000 Kilograms.

9. Authorized Use

A. For storage as war reserve material. CIWS (20mm) shipboard ammunition may be utilized at sea for Pre Action Calibration and Alignment (functionality/serviceability) firing as specified in Crane letter 5104 Ser 4012/7028 of 21 July 1997.

10. Live fire training exercises of DU munitions will only be conducted at facilities specifically authorized to conduct such firings under separate radioactive material permits or NRC licenses.

11. Rework or demilitarization of DU munitions and the use of any material in any chemical, metallurgical or nuclear process is not authorized under this.

A-65

NAVAL RADIATION SAFETY COMMITTEE

One Liner for Navy Viequez Update

Navy verified for RII on Thursday, 6/24, that stories reported in the popular media that approximately 30 trespassers are on the Navy's firing range on Vieques, are true. The Navy has attempted to have the trespassers removed by local law enforcement officials. However, according to the Navy, the local law enforcement officials, as well as Commonwealth of Puerto Rico law enforcement officials have refused to cooperate and are not sympathetic to the Navy's needs.

The firing range is temporarily shutdown and the Navy has imposed use restrictions until the trespasser issue is resolved. Furthermore, the Navy still plans to resume recovery of remaining DU in August, provided that the situation with the trespassers is resolved. Navy representatives have not ruled out resuming recovery operations sooner if conditions warrant.

The Navy has performed a preliminary dose assessment for the trespassers (members of the public) which indicates that none of the individuals are likely to receive a dose in excess of the regulatory limit of 100 mrem per year from exposure to the DU. RII concurs with the Navy's assessment based upon the information provided.

The risk from exposure to the DU is minimal compared to the risk associated with potential unexploded ordinance that may be located in the vicinity of the trespassers.

A-66

DRAFT

This text
was changed on
1/29/99
JMD

The Honorable Adlah "Foncie" Donastorg, Jr.
Chairman, Committee on Planning and Environmental Protection
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00804

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Our staff initially assessed the consequences of the incident. DU is a byproduct of the uranium enrichment process, and for a given weight, is less radioactive than naturally occurring uranium. Because the radioactivity is low, direct exposure to DU does not pose a radiological hazard. Although health effects may occur from excessive ingestion or inhalation of DU, it is unlikely that an individual could receive such an intake. Our staff believes that the public health is not endangered by the DU remaining in the firing range from the February 19, 1999, incident.

NRC is continuing to follow the Navy's actions and will conduct an independent inspection of its DU recovery activities on Vieques Island, and subsequent corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete its report by the end of September 1999. After completing our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

Regarding your concern about notification of this event, it is NRC's practice to make

A-67

DRAFT

information on events publicly available, through our Web Site, and to coordinate with appropriate authorities on radiological issues within their jurisdictions. We are sensitive to US Virgin Islands concerns about the Navy incident, because of the USVI's proximity to Vieques Island, and we will keep you informed as the Navy reports to us and as we conduct follow-up regulatory activities on this incident.

Thank you for sharing your concern with us. I trust that this reply responds to it.

Sincerely,

Shirley Ann Jackson

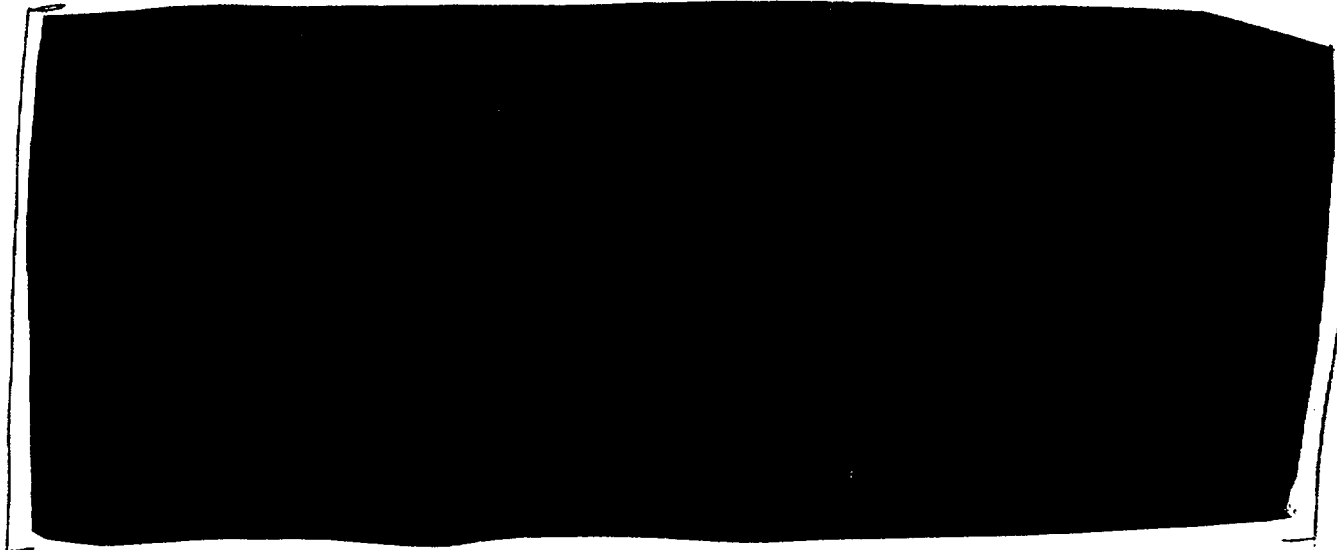
cc: The Honorable Pedro Rosello, Governor of Puerto Rico
RADM Andrew A. Granuzzo, USN, Chairman, Radiation Safety Committee

From: Sue Gagner, *OPA*
To: Scott Moore, *NMSS*
Date: Wed, Jun 30, 1999 8:16 AM
Subject: Re: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES CONTAMINATION EVENT

I called the San Juan Star yesterday to correct the story, but they said they wanted a letter. I have prepared that, and we sent it to Mike Weber. Beth will sign it. It is very short.

Lt. Commander McDonald of Navy Public Affairs in Puerto Rico has been calling me about this. However, he apparently works some strange hours or something, cause he usually calls late in the day when no one is here. I have a call in to him now—since early yesterday. Will tell him that indeed the story was not correct and that we are in contact with the San Juan Star.

>>> Scott Moore 06/29 6:21 PM >>>
Beth and Sue (in case you have the lead on this):



*Ex.
5
NMSS*

Please let me know whether you will followup with the San Juan Star. Thanks.

Scott
415-7875

CC: Elizabeth Hayden

B-1

Mail Envelope Properties (377A0AB8.F0F : 13 : 61680)

Subject: Re: Fwd: ARTICLE IN SAN JUAN STAR (JUNE 19) ON VIEQUES
CONTAMINATION EVENT
Creation Date: Wed, Jun 30, 1999 8:16 AM
From: Sue Gagner
Created By: OWFN_DO.OWF1_PO:SFG

Recipients

Post Office OWFN_DO.owf1_po
EAH CC (Elizabeth Hayden)

Post Office TWFN_DO.twf4_po
SWM (Scott Moore)

Domain.Post Office
OWFN_DO.owf1_po
TWFN_DO.twf4_po

Route
OWFN_DO.owf1_po
TWFN_DO.twf4_po

Files	Size	Date & Time
MESSAGE	3135	Wednesday, June 30, 1999 8:16 AM

Options

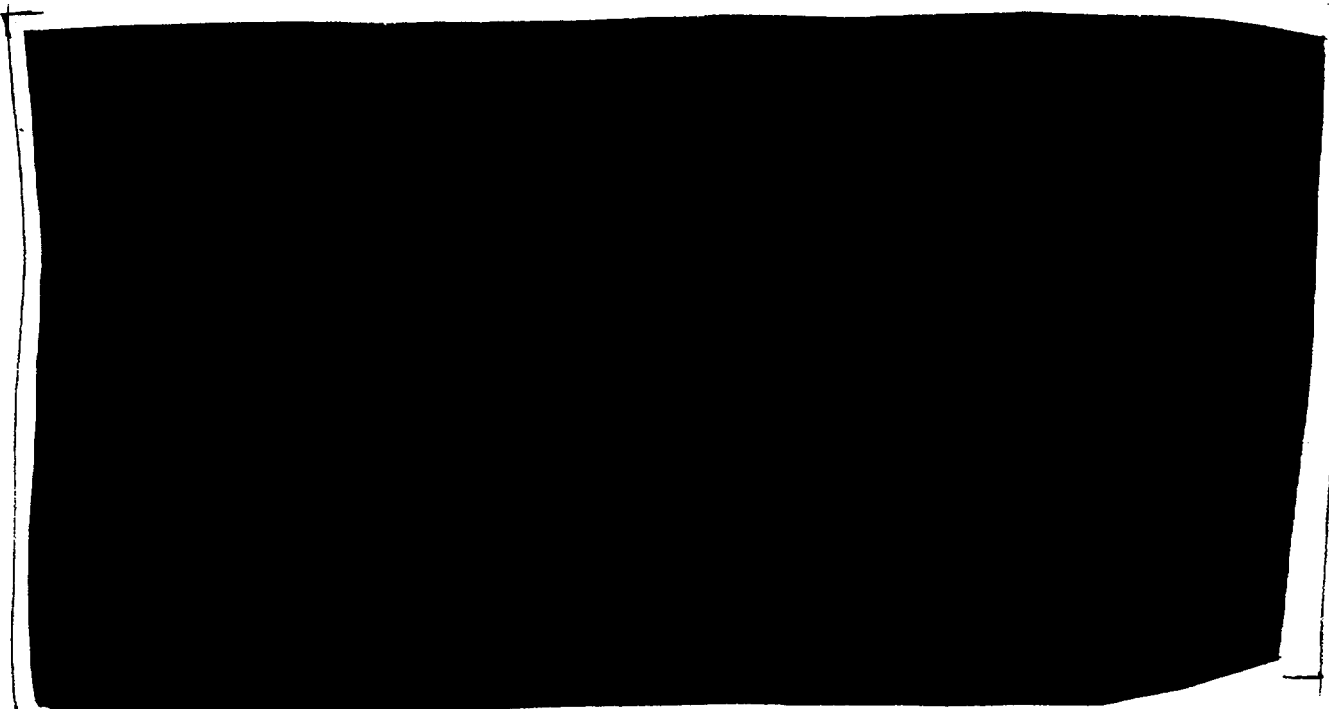
Expiration Date: None
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

From: Scott Moore, *NMSS*
To: Mark Lesser, Michael Fuller, *RII*
Date: Wed, Jul 7, 1999 10:50 AM
Subject: Re: Conference call

Mark and Mike:

You can call me at 4:10 your time 301-415-7875 if that's convenient. Roberto and I will be on this end. I'll invite Betsy Keeling, OCA, too, if she wants to hear.



NMSS

Ex. 5

Scott
301-415-7875

>>> Robert J Torres-Colon 07/07 7:33 AM >>>
That's fine. We will schedule it between 4:10 pm and 4:30 pm.

Roberto

cc: Scott

>>> Mark Lesser 07/06 5:10 PM >>>
We may need to schedule it later in the afternoon, as we will be in a qualification board between 2:00 and 4:00. Also, Hector and Jose are not the lead inspectors on this issue. Mike Fuller and myself are the contacts.

Region II

>>> Robert J Torres-Colon 07/06 4:43 PM >>>
FYI:

Tomorrow Wednesday July 7, 1999 Scott Moore plans to call Region II between 3:30 pm and 4:00 pm for a follow up on the Vieques DU issue. The Office of Congressional Affairs is asking us to keep them with updated information.

Roberto

B-2

CC: Betsy Keeling, Charles Hosey, Douglas Collins, ...

Mail Envelope Properties (3783694D.508 : 0 : 20610)

Subject: Re: Conference call
Creation Date: Wed, Jul 7, 1999 10:50 AM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office ATL_DO.ATL_PO	Delivered	07/07 10:51 AM
CMH1 CC (Charles Hosey)	Opened	07/07 1:07 PM
DMC CC (Douglas Collins)	Opened	07/07 11:12 AM
MLF (Michael Fuller)	Opened	07/12 6:08 AM
MSL1 (Mark Lesser)	Opened	07/07 11:49 AM
TRD CC (Thomas Decker)	Opened	07/08 7:35 AM

Post Office TWFN_DO.twf4_po	Delivered	07/07 10:50 AM
JWH1 CC (John Hickey)	Opened	07/07 10:51 AM
RJT CC (Robert J Torres-Colon)	Opened	07/07 12:02 PM

Post Office TWFN_DO.twf5_po	Delivered	07/07 10:51 AM
BJK CC (Betsy Keeling)	Opened	07/07 10:56 AM

Domain.Post Office	Delivered	Route
ATL_DO.ATL_PO	07/07 10:51 AM	ATL_DO.ATL_PO
TWFN_DO.twf4_po	07/07 10:50 AM	TWFN_DO.twf4_po
TWFN_DO.twf5_po	07/07 10:51 AM	TWFN_DO.twf5_po

Files	Size	Date & Time
MESSAGE	4115	Wednesday, July 7, 1999 10:50 AM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

From: Scott Moore
To: Douglas Collins, Mark Lesser, Michael Fuller
Date: Mon, Aug 9, 1999 6:35 PM
Subject: Re: Presidential commission inquiring about Vieques

Mark,

FYI — Roberto also had talked to him (Friday, I think), but Roberto's out this week. [REDACTED] Ex. 6
[REDACTED] If you or Roberto have any further contact with Mr. Finch, we need to coordinate answers between RII and IMNS. This is especially true since Finch was asking Roberto about timing of NRC's report on the decon we want to make sure that you agree with our responses, and vice-versa.

Scott

>>> Mark Lesser 08/09 3:38 PM >>>

FYI, I was called by Mr. Jim Finch, a member of the presidential commission appointed to provide recommendations on determining the future use of Vieques by the Navy. I told him what our inspection plan is for DU contamination cleanup. He was interested in when we would write a report. I told him after the inspection is done, and we would be happy to cooperate to support his charter.

CC: Charles Hosey

Mail Envelope Properties (37AF57CB.508 : 0 : 20610)

Subject: Re: Presidential commission inquiring about Vieques
Creation Date: Mon, Aug 9, 1999 6:35 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office ATL_DO.ATL_PO	Delivered	08/09 6:36 PM
CMH1 CC (Charles Hosey)	Opened	08/10 8:26 AM
DMC (Douglas Collins)	Opened	08/10 7:19 AM
MLF (Michael Fuller)	Opened	08/16 5:52 AM
MSL1 (Mark Lesser)	Opened	08/11 7:52 AM

Domain.Post Office	Delivered	Route
ATL_DO.ATL_PO	08/09 6:36 PM	ATL_DO.ATL_PO

Files	Size	Date & Time
MESSAGE	1659	Monday, August 9, 1999 6:35 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

From: Scott Moore , *MISS*
To: Betsy Keeling , *OCA*
Date: Mon, Aug 16, 1999 5:13 PM
Subject: Re: Fwd: Vieques Update

Betsy,

You're absolutely correct. See my last para on attached. Will let you know once RII tells me.

Scott

>>> Betsy Keeling 08/16 2:33 PM >>>
Scott,



*Ex.
5
OCA*

Betsy

CC: Robert J Torres-Colon

B-A

Mail Envelope Properties (37B87EE9.508 : 0 : 20610)

Subject: Re: Fwd: Vieques Update
Creation Date: Mon, Aug 16, 1999 5:13 PM
From: Scott Moore

Created By: TWFN_DO.TWF4_PO:SWM

Recipients	Action	Date & Time
Post Office TWFN_DO.twf4_po	Delivered	08/16 5:13 PM
RJT CC (Robert J Torres-Colon)	Opened	08/17 8:13 AM
Post Office TWFN_DO.TWF5_PO	Delivered	08/16 5:13 PM
BJK (Betsy Keeling)	Opened	08/17 7:16 AM
Domain.Post Office	Delivered	Route
TWFN_DO.twf4_po	08/16 5:13 PM	TWFN_DO.twf4_po
TWFN_DO.TWF5_PO	08/16 5:13 PM	
	TWFN_DO.TWF5_PO	

Files	Size	Date & Time
Mail		
MESSAGE	1425	Monday, August 16, 1999 5:13 PM

Options

Auto Delete: No
Expiration Date: None
Notify Recipients: Yes
Priority: Standard
Reply Requested: No
Return Notification: None

Concealed Subject: No
Security: Standard

To Be Delivered: Immediate
Status Tracking: Delivered & Opened

June 1, 1999

PRELIMINARY NOTIFICATION OF EVENT OR UNUSUAL OCCURRENCE PNO-II-99-020

This preliminary notification constitutes EARLY notice of events of POSSIBLE safety or public interest significance. The information is as initially received without verification or evaluation, and is basically all that is known by Region II staff (Atlanta, Georgia) on this date.

Facility

U. S. Department Of The Navy
Crystal City, Virginia
Dockets: 03029462 License No: 45-23645-01NA

Licensee Emergency Classification

Notification of Unusual Event
Alert
Site Area Emergency
General Emergency
X Not Applicable

Subject: PRESS INTEREST IN EVENT INVOLVING DEPLETED URANIUM AMMUNITION

On May 28, 1999, Region II received press inquiries regarding a February 19, 1999 event in which depleted uranium (DU) ammunition was inadvertently expended on the Live Impact Area (LIA) of the Vieques Naval Range, on Vieques Island in Puerto Rico. The range is a naval weapons firing range and is a restricted area. The NRC was informed of the event on March 5, 1999, after it was identified.

During a training exercise, two U. S. Marine Corps Harrier aircraft expended 263 DU rounds. Each round contains 148 grams of DU in the form of a pencil shaped penetrator. The LIA is located on the eastern tip of the island of Vieques and covers approximately 2.5 square miles. Interviews with the Marine pilots isolated the affected area to a small portion of the LIA called the North Convoy. The LIA is guarded 24 hours per day and only a few individuals are authorized access.

A team of Navy Health Physicists was deployed to the area between March 10 and 19, 1999. The team performed visual and radiological surveys and determined that the penetrators were 10 to 20 feet apart along three distinct paths. A total of 57 penetrators were recovered. Due to dense vegetation in portions of the affected area, the search was suspended because of the possibility of unexploded conventional ordinance. The Navy plans to resume recovery operations in August 1999. The Navy will provide additional information subsequent to this further work.

Region II has been following the Navy's response to this incident and will continue to do so.

The Commonwealth of Puerto Rico has been notified. This information is current as of June 1, 1999, at 11:00 am.

Contact: Michael Fuller
(404)562-4714

ACCESSION # 9906020001

ACTION

EDO Principal Correspondence Control

FROM:

DUE: 06/18/99

EDO CONTROL: G19990296

DOC DT: 06/01/99

FINAL REPLY:

Senator Adlah "Foncie" Donastorg, Jr.
Legislature of the Virgin Islands

TO:

Chairman Jackson

FOR SIGNATURE OF :

** GRN **

CRC NO: 99-0524

Chairman

DESC:

ROUTING:

ACCIDENT INVOLVING RADIOACTIVE SHELLS MISTAKENLY
FIRED DURING TRAINING EXERCISES BY A U.S. NAVY
MARINE FIGHTER JET LOADED WITH DEPLETED URANIUM

Travers
Knapp
Miraglia
Norry
Blaha
Burns
Collins, NRR
Congel, IRO
Lohaus, SP
Caputo, OI
Reyes, RII
Dunn Lee, IP
Cyr, OGC

DATE: 06/09/99

ASSIGNED TO:

CONTACT:

NMSS

Papariello

SPECIAL INSTRUCTIONS OR REMARKS:

IMNS Action
Due to NMSS Director's Office
By 6/15/99
acid 6/10/99

RECEIVED DATE: 6/11/99
ASSIGNED TO: MSIA/TOLLES
RMS DUE DATE: 6/14/99

94123

ARC FILE CENTER COPY

9907140084 990429
FOR CORRESPONDENCE PDR
CORRESPONDENCE PDR



Legislature of the Virgin Islands

CAPITOL BUILDING, CHARLOTTE AMALIE
ST. THOMAS, U.S. VIRGIN ISLANDS 00804

18737

ADLAH "FONCIE" DONASTORG, JR.
SENATOR

Liaison to the U.S. Congress

CHAIRMAN
Planning & Environmental Protection

VICE CHAIRMAN
Committee on Health

P.O. Box 1690
(340) 774-0880
(340) 693-3665
Fax: (340) 693-3634
email:foncie@senate.gov.vi

MEMBER, Committee on:
Rules
Economic Development,
Agriculture
& Consumer Protection

June 1, 1999

Dr. Shirley Ann Jackson
Chairman
US Nuclear Regulatory Commission
One White Flint North
11555 Rockville Pike
Rockville, Maryland 20852-2738

Dear Dr. Jackson,

I am writing you with concerns regarding an accident involving radioactive shells mistakenly fired during training exercises by a U.S. Navy Marine fighter jet. According to the Navy, 263 armor-piercing shells loaded with depleted uranium were fired during practice exercises over the Puerto Rican Island of Vieques earlier this year.

As you probably know, the United States Virgin Islands lie within site of Vieques and residents here are quite disturbed to learn of the release of radioactive material in any quantity.

Neither Virgin Islands officials nor the local representative of the Environmental Protection Agency were notified of this incident, which reportedly took place in March. It is my understanding that such a release does not pose a significant danger to human health, however, I believe it is incumbent on responsible authorities to notify local officials and agencies so that we can respond appropriately. If even a simple letter had gone out in March the public could have been reassured of their safety rather than allowing fears to simmer over the long Memorial Day weekend.

It is further noted that these shells were inadvertently loaded aboard the fighter jet in Florida or Virginia and that this was an isolated incident. I am greatly disturbed at the thought of such cavalier handling of deadly materials. Even a small accident could irrevocably impact public health and the delicate ecology of the Caribbean.

9907140092 990429
CORRESPONDENCE PDR

D-3

I ask that the Nuclear Regulatory Commission exercise its full authority in investigating this matter and in punishing the responsible party. Further, I suggest the commission consider supporting a ban on military exercises in this region that involve even the possibility of the inadvertent release of radioactive materials.

Finally, I believe the citizens of this territory would be greatly comforted by an official report as to the risks involved with the release of depleted uranium in Vieques. As Chairman of the 23rd Legislature's Committee on Planning and Environmental Protection and Liaison to the U.S. Congress, I maintain that clean air and clean water are basic human rights. As I have pledged to protect the rights of the people of this territory, I believe they are entitled to a full report on this incident.

I look forward to your prompt response.

Sincerely,


Adlah "Foncle" Donastorg

cc: The Honorable Al Gore, Vice President of the United States
Mr. Jim Casey, V.I. Office of the U.S. Environmental Protection Agency
The Honorable Pedro Rosello, Governor of Puerto Rico



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

June 29, 1999

The Honorable Adlah "Foncie" Donastorg, Jr.
Chairman, Committee on Planning and Environmental Protection
Legislature of the Virgin Islands
Capitol Building, Charlotte Amalie
St. Thomas, U.S. Virgin Islands 00804

Dear Mr. Chairman:

I am responding to the concerns raised in your letter dated June 1, 1999, about the accidental firing of depleted uranium (DU) ammunition on Vieques Island, Puerto Rico. The Department of the Navy Radiation Safety Committee (RSC) has provided initial and follow-up reports to the U.S. Nuclear Regulatory Commission (NRC) describing the event, including the cause and planned corrective actions.

The RSC reported that on February 19, 1999, two U.S. Marine Corps aircraft inadvertently fired 263 rounds of DU ammunition during a training exercise at the Live Impact Area of the Vieques Island firing range. The Live Impact Area is located on the eastern tip of the island and covers approximately 2.5 square miles. Because the area is a live firing range, and potentially contains non-DU unexploded ordnance, access to the area should normally be restricted. In response to NRC questions, however, the RSC informed the NRC on June 24, 1999, that approximately 30 individuals have moved onto the range and are living there. The Navy did not authorize these civilians to move onto the range.

The RSC identified the inadvertent firing of the DU as a violation of the requirements of the Navy's radioactive materials permit issued by the RSC and reported this, in March 1999, to our regional staff in Atlanta, Georgia. The RSC determined that the cause of the incident was failure to follow written procedures regarding the use of ammunition. DU rounds are to be used strictly during combat or approved tests and are prohibited from peacetime or training use. In March 1999, the Navy located and removed 57 expended rounds of DU ammunition from the Vieques Island range. Radiological surveys identified some DU soil contamination, which also was removed. According to the Navy, recovery activities were discontinued because of the hazards from unexploded non-DU ordnance and the access restrictions placed on the range because of military operational commitments. However, the Navy is not currently using the range for live fire exercises. The Navy has reported to us that they plan to resume recovery activities in August 1999, or before, once the civilians leave the range. Although the investigation is ongoing, the Navy has taken several corrective actions to prevent recurrence, and has planned additional action. The NRC has been evaluating the safety and environmental significance of the event and is continuing to review the effectiveness of corrective actions.

The NRC staff has assessed the consequences of the incident and determined that the DU contamination does not pose an immediate safety concern. DU is comparable in radioactivity to naturally occurring uranium. Because the radioactivity is relatively low, occasional direct exposure to DU does not pose a significant radiological hazard. Although health effects may

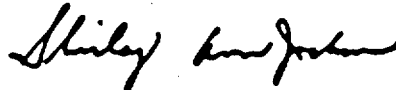
100004

occur from excessive ingestion or inhalation of DU, an individual on the range is unlikely to receive such an intake. The NRC staff believes that the public health is not endangered by the DU remaining on the firing range from the February 19, 1999, incident. However, the NRC is continuing to follow the actions by the Navy and will conduct an independent inspection of its DU recovery activities on Vieques Island, and subsequent corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete its report by the end of September 1999. After completing our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

Regarding your concern about notification of this event, it is NRC practice to make information on events publicly available, including through our Internet website, and to coordinate with appropriate authorities on radiological issues within their jurisdictions. We are sensitive to U.S. Virgin Islands concerns about the Navy incident because of your proximity to Vieques Island, and we will keep you informed as the Navy reports to us and as we conduct follow-up regulatory activities on this incident.

Thank you for sharing your concern with us. I trust that this reply responds to it.

Sincerely,



Shirley Ann Jackson

cc: The Honorable Pedro Rosello,
Governor of Puerto Rico
RADM Andrew A. Granuzzo, USN,
Chairman, Radiation Safety Committee
The Honorable Carlos Romero-Barcelo
Resident Commissioner of Puerto Rico

Honorable A. Donastorg, Jr.

-2-

NRC is continuing to follow the Navy's actions and will conduct an independent inspection of its DU recovery activities on Vieques Island, and subsequent corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete its report by the end of September 1999. After completing our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

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Thank you for sharing your concern with us. I trust that this reply responds to it.

Sincerely,

Shirley Ann Jackson

cc: The Honorable Pedro Rosello,
Governor of Puerto Rico
RADM Andrew A. Granuzzo, USN,
Chairman, Radiation Safety Committee

Distribution: EDO - 019990296

CRC-99-0524

NRC Central File

NMS r/f

EDO r/f

CPoland

WTravers

PTressler

NMSS Dir. Off. r/f

IMNS r/f

To receive a copy of this document, indicate in the box: G:/torres/vieques.wpd

C = Copy w/o att/encl. *E* = Copy w/att/encl. *N* = No copy

*See previous conc

OPC	MSIB*	MSIB*	Editor*	IMNS*	NMSS Dir*
NAME	RTorres	FSturz	EKraus	DCool	CPapertello
DATE	6/15/99	6/15/99	6/15/FAX	6/16/99	6/17/99
OPC	DEDR*	EDO*	OCM		
NAME	FMiraglia	WTravers	SJackson		
DATE	6/22/99	6/22/99	6/29/99		

OFFICIAL RECORD COPY

"This correspondence addresses policy issues previously resolved by the Commission, transmits factual information, or restates Commission policy."

Honorable A. Donastorg, Jr.

-2-

NRC is continuing to follow the Navy's actions and will conduct an independent inspection of its DU recovery activities on Vieques Island, and subsequent corrective actions. The results will be reviewed for adequacy and appropriate enforcement action. The Navy is scheduled to complete its report by the end of September 1999. After completing our inspection activities this fall, we will provide you with the results of our inspection and a copy of the Navy report of this event.

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Thank you for sharing your concern with us. I trust that this reply responds to it.

Sincerely,

Shirley Ann Jackson

cc: The Honorable Pedro Rosello,
Governor of Puerto Rico
RADM Andrew A. Granuzzo, USN,
Chairman, Radiation Safety Committee

Distribution: EDO - 01990298

CRC-99-0524

NRC Central File

NMS r/1

EDO r/1

CPoland

WTravers

PTressler

NMSS Dir. Off. r/1

IMNS r/1

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C = Copy w/o att/encl. *E* = Copy w/att/encl. *N* = No copy

*See previous conc

OFC	MSIB*	MSIB*	Editor*	IMNS*	NMSS Dr*
	RTorres	FSturz	EKraus	DCool	CPaperiello
DATE	6/15/99	6/15/99	6/15/FAX	6/16/99	6/17/99
OFC	DEDR	EDO			
NAME	FM...	WTravers			
DATE	6/15/99	6/22/99			

OFFICIAL RECORD COPY

This correspondence addresses policy issues previously resolved by the Commission, transmits factual information, or restates Commission policy.

Licewater

MATERIALS LICENSE

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974 (Public Law 93-438), and Title 10, Code of Federal Regulations, Chapter I, Parts 30, 31, 32, 33, 34, 35, 36, 39, 40, and 70, and in reliance on statements and representations heretofore made by the licensee, a license is hereby issued authorizing the licensee to receive, acquire, possess, and transfer byproduct, source, and special nuclear material designated below; to use such material for the purpose(s) and at the place(s) designated below; to deliver or transfer such material to persons authorized to receive it in accordance with the regulations of the applicable Part(s). This license shall be deemed to contain the conditions specified in Section 183 of the Atomic Energy Act of 1954, as amended, and is subject to all applicable rules, regulations, and orders of the Nuclear Regulatory Commission now or hereafter in effect and to any conditions specified below.

Licensee	In accordance with the letter dated February 1, 1999 3. License No. 45-23645-01NA
1. Department of the Navy Naval Radiation Safety Committee 2. Chief of Naval Operations (N45) Room 638 2211 S. Clark Place Arlington, VA 22244-5108	is amended in its entirety to read as follows:
	4. Expiration Date: Indefinite
	5. Docket No. 030-29462

- | | | |
|---|--|---|
| 6. Byproduct, source, and/or special nuclear material

A. Any byproduct material
B. Any source material
C. Special nuclear material | 7. Chemical and/or physical form

A. Any
B. Any
C. Any | 8. Maximum amount that licensee may possess at any one time under this license

A. As needed
B. As needed
C. As needed; however, quantities for any site or permit authorized by the Naval Radiation Safety Committee shall not exceed the critical mass quantities as determined by the procedures specified in 10 CFR, Part 150.11(a) |
|---|--|---|

9. Authorized Use:

A., B., and C. For uses authorized by the Naval Radiation Safety Committee including, but not limited to the following:

- (1) Medical research, diagnosis and therapy as defined in 10 CFR Part 35.
- (2) Research and development as defined in 10 CFR Part 30.
- (3) Radiography as defined in 10 CFR Part 34.

**MATERIALS LICENSE
SUPPLEMENTARY SHEET**License No.
45-23645-01NADocket No.
030-29462

Amendment No.

10

CONDITIONS

10. Licensed materials may be used under the Department of the Navy control at locations permitted by the Naval Radiation Safety Committee and at temporary job sites of the licensee anywhere in the United States consistent with the representations made in the application and conditions of this license.
11. Licensed materials may only be used by, or under the supervision of, individuals designated by the Naval Radiation Safety Committee.
12. United States Navy and Marine Corps regulations, policies, and directives governing the use of licensed radioactive materials must be consistent with the Nuclear Regulatory Commission's regulations.
13. The Naval Radiation Safety Committee shall assure that all installation, repair, maintenance, or removal of irradiators and teletherapy equipment involving the removal of shielding or access to radioactive material will be performed by persons specifically authorized to perform these activities by the Nuclear Regulatory Commission or an Agreement State.
14. The Naval Radiation Safety Committee shall assure that all human research uses of licensed materials will be approved by a Food and Drug Administration approved Radioactive Drug Research Committee.
15. The Naval Radiation Safety Committee shall submit requests for approval to the Nuclear Regulatory Commission for exemptions from the Commission's regulations.
16. The licensee is exempt from the provisions of 10 CFR 70.24 insofar as this section applies to materials under this license.
17.
 - A. The licensee shall require permittees to conduct a physical inventory every six months to account for all sources and/or devices received and possessed under their respective permits.
 - B. Notwithstanding Paragraph A of this Condition, the licensee may authorize permittees to conduct a physical inventory every twelve months of certain sealed sources and/or devices specified in the letter dated January 14, 1992 and of depleted uranium (DU) ammunition as specified in the letter dated May 27, 1998.
 - C. The licensee shall require that permittees maintain records of physical inventories for five years from the date of each inventory. Records shall include the quantities and kinds of licensed material, manufacturer's name and model numbers, location of the sources and/or devices, and the date of the inventory.
18. Notwithstanding the requirements of 10 CFR 36.51(a)(3), the licensee is authorized to permit medical facilities using licensed materials to determine the apparent exposure rate measured with a radiation detection instrument from a dedicated check source in accordance with the procedures described in the letters dated March 22, 1993 and June 23, 1993.

**MATERIALS LICENSE
SUPPLEMENTARY SHEET**License No.
45-23645-01NADocket No.
030-29462Amendment No.

10

19. Notwithstanding the requirements of 10 CFR 34.20(a) and (e), and pursuant to 10 CFR 34.51, the Naval Undersea Warfare Center, Keyport Division may use its U. S. Nuclear Corporation Model BCOK-3 exposure device in accordance with procedures contained in letter dated December 5, 1995.
20. Pursuant to the provisions of 10 CFR 36.17(b) and in reliance upon statements and commitments contained in the licensee's letters dated July 1, 1996 and July 11, 1996, the licensee is exempted from the requirements of 10 CFR 36.23(a), §36.23(b), §36.23(c) §36.23(f), §36.27(a), §36.27(b), and §36.31(a), as applied to the non-medical use of the AECL Theratron 780 teletherapy unit located at the Naval Medical Center, Portsmouth, VA.
21. Except as specifically provided otherwise in this license, the licensee shall conduct its program in accordance with the statements, representations, and procedures contained in the documents, including any enclosures, listed below. The Nuclear Regulatory Commission's regulations shall govern unless the statements, representations and procedures in the licensee's application and correspondence are more restrictive than the regulations.
- A. Applications dated:**
- (1) August 14, 1988
 - (2) May 11, 1988
- B. Letters dated:**
- (1) February 9, 1987
 - (2) June 22, 1988
 - (3) April 24, 1989
 - (4) September 14, 1989
 - (5) January 14, 1992 (modified physical inventory procedures)
 - (6) March 22, 1993 and June 23, 1993 (modified operability check for medical facility survey equipment)
 - (7) December 5, 1995 (Navy request to continue to use a U. S. Nuclear Corporation Model BCOK-3 radiographic exposure device within Keyport's permanent radiography cell facility)
 - (8) July 1, 1996 and July 11, 1996 (Licensee's commitments for non-medical use of teletherapy unit.)

**MATERIALS LICENSE
SUPPLEMENTARY SHEET**License No.
45-23645-01NADocket No.
030-29462Amendment No.
10**21. (Continued)**

- (9) November 5, 1997 (deletion of material no longer in Navy's possession and update terminology)
- (10) May 27, 1998 (extend inventory period for DU ammunition from 6 months to 12 months)
- (11) June 8, 1998 (Licensee's alternative requirements for individuals to be designated as Radiation Safety Officers for radiography)
- (12) December 21, 1998 (change licensee's mailing address)
- (13) February 1, 1999 (excluding attachment) [authorize the Joint National Naval Medical Center (NNMC) and National Cancer Institute Hematology-Oncology Service to possess and use licensed materials at NNMC, Bethesda, MD]

C. Understandings dated:

March 23, 1987 between the Department of the Navy and the Nuclear Regulatory Commission (as amended effective issue date of this license).

FOR THE U.S. NUCLEAR REGULATORY COMMISSION**MICHAEL L. FULLER**

DATE _____

BY _____

Region II, Division of Nuclear Materials Safety
61 Forsyth Street, Suite 23T85
Atlanta, GA 30303



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

IN REPLY REFER TO

5104
N455/9U595385
1 Apr 99

U.S. Nuclear Regulatory Commission
Region II
61 Forsyth Street, SW
Suite 23T85
Atlanta, GA 30303

Gentlemen:

SUBJECT: IMPROPER EXPENDITURE OF DEPLETED URANIUM MUNITIONS

This letter is submitted per 10 CFR 30.50 as an initial report to an incident which occurred on February 19, 1999, concerning depleted uranium (DU) ammunition expended on the Live Impact Area of the Vieques Naval Range, Atlantic Fleet Weapons Training Facility, Naval Station Roosevelt Roads, Puerto Rico.

Headquarters Marine Corps personnel first identified the incident on March 5, 1999 during a review of ordnance expenditure databases. The Naval Radiation Safety Committee verbally reported this incident to the Nuclear Regulatory Commission, Region II, on that same day.

The firing of DU ammunition on Navy or Marine Corps firing ranges is a violation of the Navy's Master Material License No. 45-23645-01NA, and specifically, the Naval Radioactive Material Permit No. 13-00164-LLNP pertaining to depleted uranium. A formal Joint Marine Corps - Navy investigation is in progress and corrective measures will be implemented to prevent future occurrences. Supporting documentation is contained in enclosure (1).

Sincerely,

G.A. HIGGINS
Commander, MSC, U.S. Navy
Executive Secretary
Naval Radiation Safety Committee

Enclosure: (1) Report of Depleted Uranium Recovery Operations

Copy to:
CMC SD
NAVSEA 04N
NAVSEADET RASO
NSWC CRANE

Subject: IMPROPER EXPENDITURE OF DEPLETED URANIUM MUNITIONS

Report of Depleted Uranium Recovery Operations

On February 19, 1999, during a training exercise on the Live Impact Area of the Vieques Inner Range on the island of Vieques, Puerto Rico, two U.S. Marine Corps Harrier aircraft expended 263 depleted uranium (DU) 25mm rounds. Each 25mm round contains 148 grams of DU in the form of a pencil shaped penetrator. The Live Impact Area (LIA) is located on the eastern tip of the Island of Vieques and covers approximately 2.5 square miles (reference Figure 1). Only a few individuals are authorized access to the area and it is guarded 24 hours per day. Interviews with the Marine pilots isolated the affected area to a small portion of the LIA called the North Convoy (reference Figure 2).

A preliminary investigation into the cause of the incident revealed that two individuals did not follow standard written procedures. Procedures dictate that the individuals issuing and receiving ammunition must check the Notice of Ammunition Reclassification (NAR) database for each type of ammunition prior to the transfer occurring. The NAR specifies that these 25mm DU rounds are "war reserve" and are to be used strictly during combat and are restricted from peacetime or training use. Both individuals failed to refer to the NAR prior to the DU ammunition being issued. A formal Joint Marine Corps - Navy investigation is currently being conducted.

A team of Navy health physicists was dispatched to Vieques between 10 and 19 March 1999, to locate and recover as many DU rounds as possible. Visual searches and radiological surveys indicated that only a limited area of the North Convoy site was actually affected. Penetrators were located approximately 10 to 20 feet apart along three distinct paths radiating in a northern direction between two armored tank targets (reference Figure 3). This pattern corresponded to the direction of fire employed by both Harrier pilots. Buried penetrators were visually located by the presence of a depression, hole, or divot in the soil and confirmed radiologically using a 2" X 2" sodium iodide detector. Penetrators were found as deep as 18 inches in the soil and were easily detected using this method.

A total of 57 DU penetrators were recovered, most of them completely intact, and located within the shrubbery and grass just north of the North Convoy target area (reference Figure 3). Only a few holes exhibited residual contamination after the penetrator was removed. In each case, part of the penetrator

Subject: IMPROPER EXPENDITURE OF DEPLETED URANIUM MUNITIONS

had fractured into smaller pieces which were too difficult to recover. The contaminated soil was collected and packaged for appropriate disposal.

A thorough radiological survey of the affected area, out to the perimeter of the vegetation, was conducted using a 2" X 2" sodium iodide detector following the recovery of all penetrators (reference Figure 3). No additional penetrators or residual contamination were noted as a result of the radiological survey. Due to the dense vegetation and the possibility of hidden unexploded conventional ordnance, surveys were limited to the immediate vicinity of the North Convoy target site. Visual and radiological surveys were conducted at several other target sites on the Live Impact Area to confirm that only the North Convoy site was involved. No penetrators or contamination were found at these sites. All recovered penetrators and contaminated soil have been placed in containers and securely stored until proper disposal can be arranged.

A return to the North Convoy site to continue surveys and remediation efforts is scheduled for May 6-15, 1999. A follow on report will be submitted June 1, 1999, providing additional recovery information following the May 1999 site visit.

PRESS RELEASE

FOR IMMEDIATE RELEASE

011-99

May 31, 1999

CEIBA- In early March 1999, officials at Naval Station Roosevelt Roads were notified that on February 19, 1999, U.S. Marine Corps Harrier jets, assigned to the amphibious assault ship USS Kearsarge, accidentally fired 263 25mm rounds of depleted uranium (DU) armor piercing ammunition into the north convoy target at the Navy's live impact range in Vieques.

After learning of the incident on March 5, Navy officials immediately notified the Nuclear Regulatory Commission (NRC), the agency that has oversight of licensed radioactive material, and immediately took the required steps to recover as much of the ammunition as possible from the impact area. Trained Navy health physicists surveyed the range using highly sensitive equipment able to detect low levels of radioactivity. The ammunition was confined to the range area and the clean-up crew recovered 57 of the 263 rounds. Navy environmental personnel notified local officials of the Puerto Rico Environmental Quality Board on March 11 of the unauthorized use of DU ammunition on the Vieques range.

This is the only documented case of depleted uranium being used on the live impact range. The use of depleted uranium on the Vieques range is strictly prohibited, and the cause of the incident is under investigation. The remoteness of the target area and its restricted access limits the likelihood of exposure to the public.

Depleted uranium is a heavy metal, that is a product of the process for converting (enriching) natural uranium, and in this form poses minimal risk to human health or the environment. While the military uses DU in ammunition for its armor-piercing capability, DU is also widely used in civilian industry, primarily for stabilizers in airplanes and boats.

Heavy metals (uranium, lead, tungsten, etc.) have chemical toxicity properties that, in high doses, can potentially cause health concerns. The DU expended on the Vieques Range was a very small quantity and poses no threat to public health, welfare, or the environment. The Navy is dedicated to preserving and protecting the environment of Vieques and is taking all measures to ensure DU toxic properties do not and will not affect the natural resources of the island. Navy officials have expressed regrets over this unfortunate, one-time event. During periodic cleanup and refurbishment of the range, the Navy will continue to monitor the area.

The principal aquifers supplying water for the island are in the Valle de Esperanza and the Valle de Resolucion located on the western side of the island, minimizing any possible affects to the people, natural resources or animal species near the Vieques range. Recognizing the need for environmental responsibility, the Navy immediately dedicated personnel and money to recover the unauthorized ammunition.

The Navy will continue to monitor the range to ensure there are no traces of toxic properties

E-2

because of this one time incident.

For additional information concerning Navy-related issues, please call Roberto Nelson at 865-4409/4022, 403-1778 or 401-9615.



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON, D.C. 20350-2000

PDR
Docket
Mike

IN REPLY REFER TO

5104
N455/9U595543
1 June '99

U.S. Nuclear Regulatory Commission
Region II
61 Forsyth Street, SW
Suite 23T85
Atlanta, GA 30303

Gentlemen:

SUBJECT: IMPROPER EXPENDITURE OF DEPLETED URANIUM MUNITIONS

This letter is submitted per 10 CFR 30.50 as a follow up report to an incident which occurred on February 19, 1999 concerning depleted uranium (DU) ammunition expended on the Live Impact Area of the Vieques Naval Range, Atlantic Fleet Weapons Training Facility, Naval Station Roosevelt Roads, Puerto Rico. The Naval Radiation Safety Committee initially reported this incident to the Nuclear Regulatory Commission Region II verbally on March 5, 1999 and submitted a written report April 1, 1999.

As noted in our April 1, 1999 letter, a contributing cause of the incident was the failure of individuals to follow standard ammunition handling protocols. Four widely used instructions within the Navy and Marine Corps dictate that the "Use Restrictions" of all ammunition must be checked in the Notice of Ammunition Reclassification (NAR) database before it is issued or received. The weapons community readily adheres to this protocol. However in this case, the responsible individuals did not initially check the Notice of Ammunition Reclassification (NAR) database before issuing or receiving the depleted uranium munitions. The NAR specifies that the 25m DU rounds are designated as "war reserve" and as such, are to be used during combat only and are restricted from peacetime or training use. A Joint Navy-Marine Corps investigation was conducted to determine additional facts surrounding the incident. The scope of the investigation covered all aspects of the issue, receipt, and firing of the depleted uranium rounds. It included personnel interviews and a thorough review of Navy and Marine Corps ammunition supply processes. A formal investigation report has been completed and is currently being reviewed for approval through the chain-of-command.

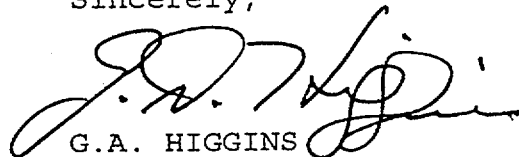
E-3

In response to this incident, the Naval Radiation Safety Committee has taken the following corrective actions in addition to those described in our April 1, 1999 report.

- The Marine Corps issued a naval message to all ammunition activities reemphasizing the prohibition of firing the 25mm and 120mm depleted uranium rounds for peacetime and training use.
- Applicable Navy and Marine Corps instructions have been revised to include the specific use restrictions for depleted uranium ammunition.
- A self-inspection checklist for compliance with the Naval Radioactive Material Permit (NRMP) for depleted uranium munitions was forwarded to all storage facilities.
- The Marine Corps has initiated the inclusion of specific depleted uranium information in its Ordnance Occupational Courses.

Since our April 1, 1999 report, no further recovery of depleted uranium rounds has occurred due to the recent access restrictions imposed on the Vieques Inner Range. Further recovery operations are planned to commence in middle August to September 1999 timeframe and Navy will forward a report of recovery actions on or around the first week of September 1999.

Sincerely,



G.A. HIGGINS
Commander, MSC, U.S. Navy
Executive Secretary
Naval Radiation Safety Committee

Copy to:
CMC SD
NAVSEA 04N
NAVSEADET RASO
NSWC CRANE

Naval Radiation Safety Committee



Expenditure of Depleted Uranium (DU)
Rounds at Vieques Inner Training Range,
Puerto Rico

Prepared by: CDR Farrand, MSC, USN
NAVSEA-04R

Presented by: CDR Higgins, MSC, USN
OPNAV Staff N455

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Naval Radiation Safety Committee



Chronology of Events

- February 19, 1999
 - ◆ 2 USMC Harrier aircraft expend 263 DU rounds on the Vieques Inner Training Range.
- March 5, 1999
 - ◆ Expenditure first discovered during review of ordnance database.
 - ◆ NRC notified.

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Naval Radiation Safety Committee



Chronology of Events... *Continued*

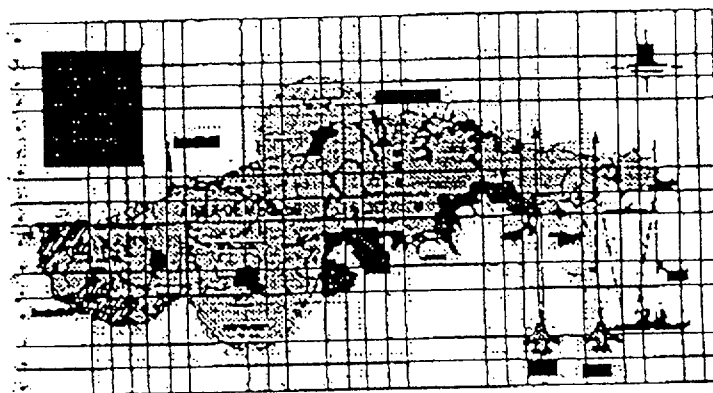
- March 10, 1999
 - ◆ Joint investigation initiated.
 - ◆ Recovery of DU munitions commenced.
- April 1, 1999
 - ◆ Fomal report forwarded to NRC.
- June 1, 1999
 - ◆ Follow-up report of actions to date to NRC.

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Vieques Island, Puerto Rico
Inner Training Range

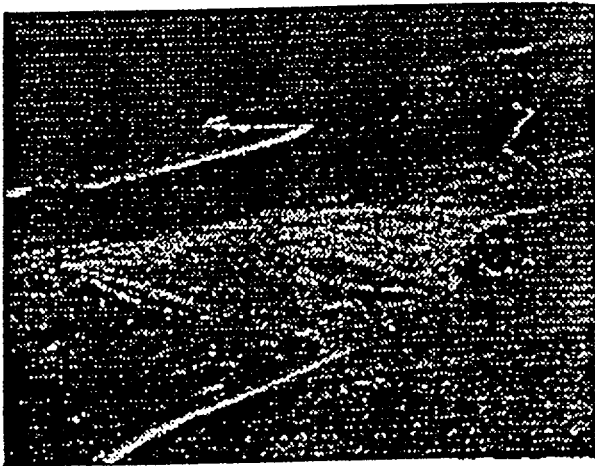


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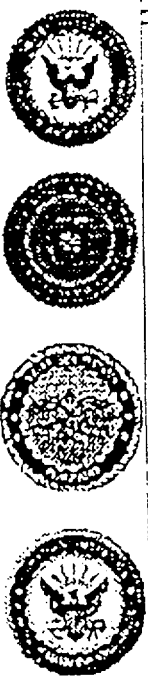


North Convoy Vieques Inner Range

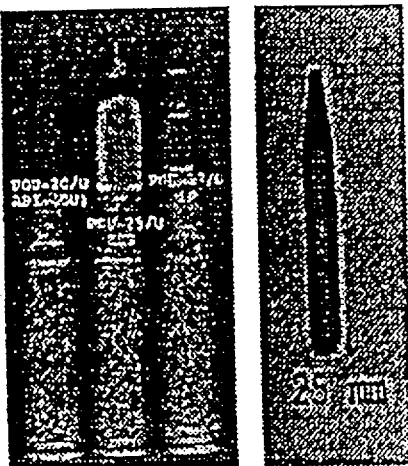


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25 mm PGU-20/U
NALC A979
Armor Piercing
Incendiary (API)
148 grams DU



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Causes of Incident

- Personnel did not follow standard protocol to check all ammunition use restrictions before its issue and receipt.
- This requirement is specified in:
 - ◆ OP-4 "Ammunition Explosives Afloat"
 - ◆ MARFORLANT Order 4000.10G
 - ◆ SURFLANTINST 4080.1E
 - ◆ Notice of Ammunition Reclassification Manual (NAR)

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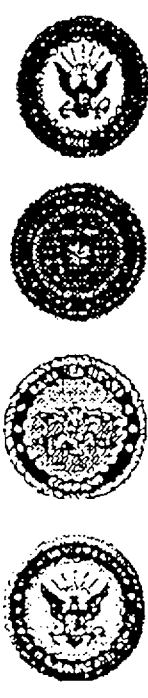


Corrective Actions

- Marine Corps issued naval message to all ammunition activities emphasizing the conditions of the NRMP. Specifically:
 - ◆ Prohibiting firing the 25mm DU munitions for training, testing, or any other non-combat purpose.
 - ◆ Manufacturing, reworking, or demilitarizing DU munitions was not authorized.
 - ◆ Reporting requirements.

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Investigation

- Marine Corps and Navy joint investigation:
 - ◆ Interviewed all personnel involved in the issue, receipt, and firing of the DU rounds.
 - ◆ Reviewed shipboard and Navy ammunition supply processes.
 - ◆ Report is going through the chain of command for review.

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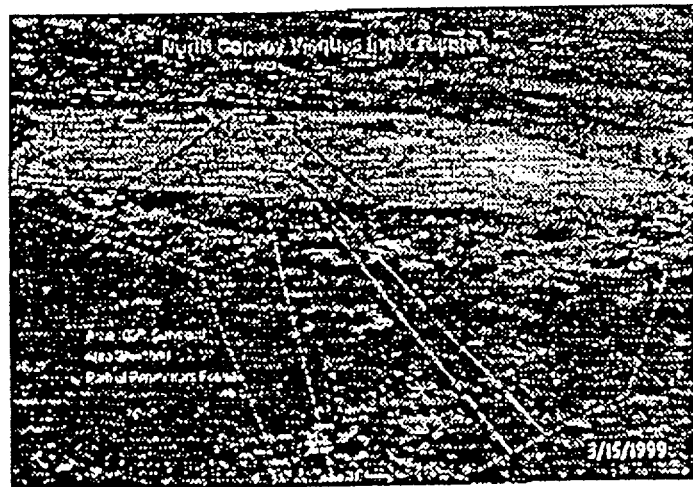
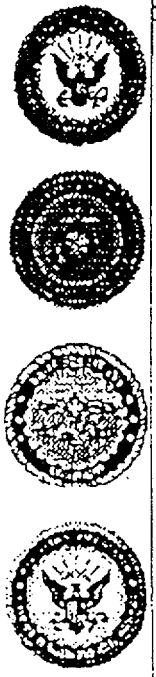
More Corrective Actions

- Navy Instructions and Marine Corps Orders revised to include DU ammunition restrictions.
- Self-Inspection Checklist for DU NRMP compliance forwarded to all storage facilities.
- Marine Corps Ordnance Occupation Courses to include DU training.

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Radiation Surveys Conducted



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Recovery Operations To Date



- 57 Penetrators recovered.
- Approximately 1 cubic foot soil.
- Pieces of metal.
- Continue recovery operations in August / September 1999 during scheduled range refurbishment.

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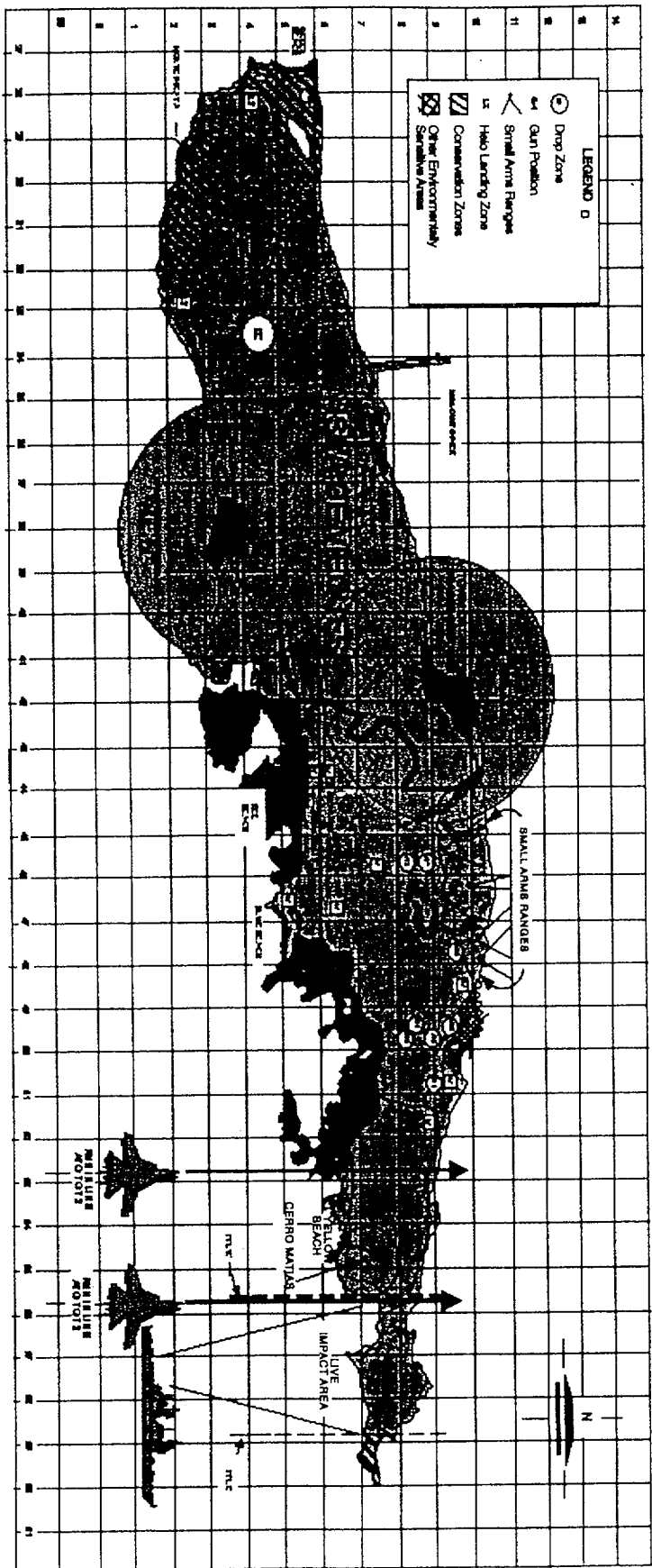
Naval Radiation Safety Committee



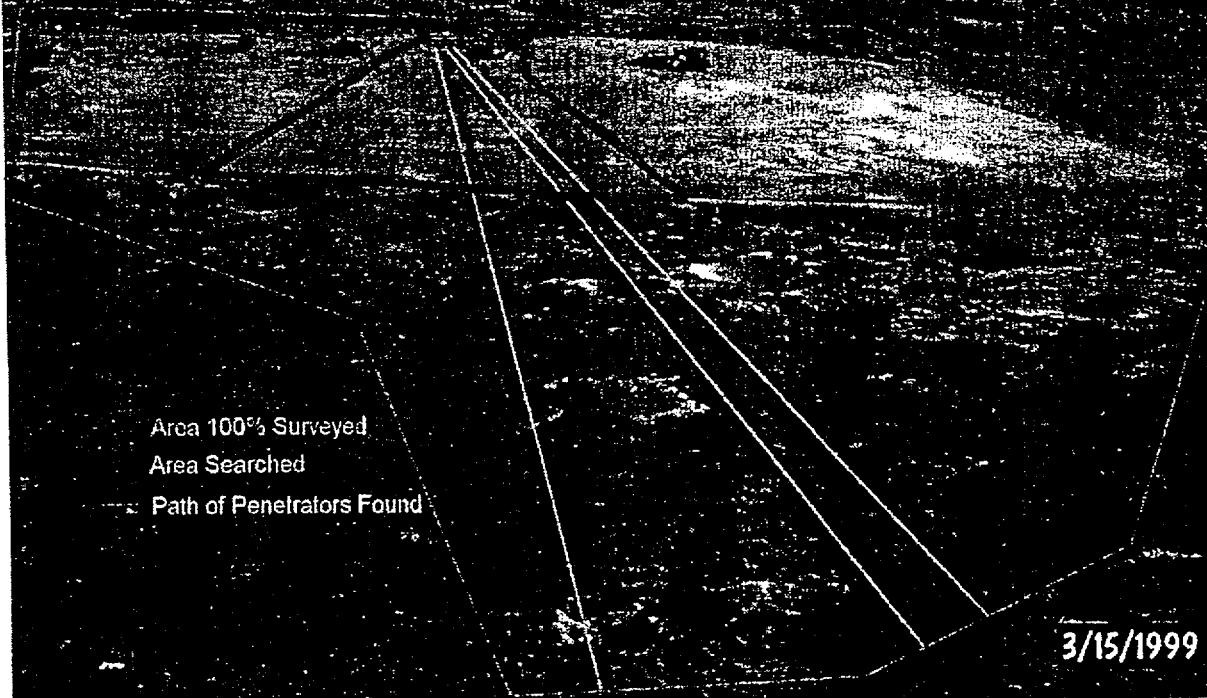
Questions

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VIEQUES ISLAND AND INNER RANGE



North Convoy Vieques Inner Range



Area 100% Surveyed

Area Searched

Path of Penetrators Found

3/15/1999