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NRC TAKES STEPS TO IMPROVE MANAGEMENT OF DEVICES CONTAINING RADIOACTIVE MATERIAL

The Nuclear Regulatory Commission is taking steps to improve control over certain devices containing radioactive material by instituting a registration and labeling program and strengthening civil penalty provisions.

The Commission's decisions include consideration of issues raised during a public briefing of the Commission on January 21, which featured presentations by representatives of the American Iron and Steel Institute, Steel Manufacturers Association, Institute of Scrap Recycling Industries, Organization of Agreement States, and the Conference of Radiation Control Program Directors, as well as the NRC staff.

The devices, which are regulated by the NRC or the Agreement States (30 states that have assumed, by mutual agreement, part of the NRC's regulatory authority), are designed and manufactured primarily for the purpose of measuring, gauging and controlling the thickness, density and other characteristics of materials during industrial and other processes.

As a result of inadequate control, some devices have been inadvertently mixed with metal scrap intended to be melted down and recycled into other products. In some cases, the devices have been accidentally smelted in steel mills, resulting in radioactive contamination of the mills themselves, of their metal products, and of slag and furnace dust. There is a risk of radiation exposure to unsuspecting workers and members of the public. In addition, the costs of mill decontamination, waste disposal and temporary mill closings following such contaminated smeltings have been as high as \$23 million per event.

The devices subject to this decision have historically been subject to minimal regulatory oversight. Generally licensed devices, when properly used and controlled, represent a minimal radiological risk. However, the loss of control of these devices can pose a radiological risk to members of the public.

In an April 13 memorandum, the Commission directed its staff to develop a proposed rule, for public comment, that will require a registration and follow-up program for about 6000 general licensees that possess devices identified by an NRC-Agreement State working group report. The proposed rule will also require these general licensees to pay fees and will require permanent labeling of the devices. The fee may be assessed for each licensee at the time of initial registration and annual re-registration.

The registration program will provide for follow-up of cases where there are no responses to the registration request, or where discrepancies are found between responses and NRC records. The agency will explore with distributors their willingness to voluntarily assist the NRC and Agreement States in this follow-up effort. The extent of follow-up will take into consideration the risk to public health and safety that the radioactive material or device in question poses, as well as the likelihood of finding the device. Procedures will call for all information about lost sources to be made public in a timely manner.

The NRC will implement an enforcement program that includes a short amnesty program for general licensees, and increased civil penalties for both general and specific licensees if they lose devices or radioactive materials. The Commission directed that the increased civil penalties should be significantly greater than the costs of proper disposal or transfer of radioactive material or a device. The agency will work with Agreement States in implementing enforcement programs so that their policies and procedures will have the same impact as NRC's.

The Commission further directed the NRC staff to consider whether additional devices should be subject to registration and to perform a risk ranking if a phase-in approach is used. The staff will also evaluate whether the current basis for granting general licenses (as opposed to specific licenses) is adequate with respect to the consequences of off-site accidents, such as loss of shielding of the radioactive material or melting in metal-making furnaces.

The Commission also directed the staff to continue efforts involving "orphan" radioactive materials--those for which the owner is unknown.

Efforts to address the orphan source problem will include consulting with the Department of Energy (DOE), the Environmental Protection Agency, the Federal Emergency Management Agency and the states to define jurisdictions and regulatory responsibilities. The NRC will also coordinate closely with the Conference of Radiation Control Program Directors (an organization that includes representatives of all states) to ensure that a similar regulatory framework is applied to (1) radioactive material and devices containing material subject to regulation by the NRC or Agreement States, and (2) material or devices containing naturally occurring or accelerator-produced radioactive material.

The Commission also directed the NRC staff to finalize a memorandum-of-understanding with DOE on orphan sources, and to consider the pros and cons of establishing a contract program that would enable licensees or DOE to take possession of and arrange for proper transfer or disposal of orphan sources.

The NRC will terminate the rulemaking that it began in 1991, when it issued a proposed rule change regarding devices containing radioactive material. Portions of this proposed rule, which will enable NRC to request information from certain general licensees to provide the regulatory basis for initiation of a registration program, will be reissued for public comment.

Copies of the "Final Report of the NRC-Agreement State Working Group to Evaluate Control and Accountability of Licensed Devices" (NUREG-1551, published October 1996) are available for review in the NRC Public Document Room, 2120 L Street, NW, Washington, DC 20555-0001. They may also be purchased from the Government Printing Office, P.O. Box 37082, Washington, DC 20402-9328.

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