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NARM No Longer Waiver-ing

It seems like just yesterday when the President signed into law the Energy Policy Act of 2005. An interesting feature of the Act is Section 651(e), "Treatment of Accelerator-Produced and Other Radioactive Material as Byproduct Material." In essence, it states that, effective November 30, 2007, the U. S. Nuclear Regulatory Commission (USNRC) had to establish licensing requirements and regulations for certain naturally-occurring and accelerator-produced radioactive material (NARM). They were to do so in cooperation with the individual States, many of whom already have standards in place. (Some don't, but most do.)

Almost three years ago today, (August 31, 2005), the USNRC issued a waiver that would allow continued use and possession of NARM while it worked hard to develop the mandated regulatory framework. All that hard work paid off and the agency began terminating the waiver in phases, with Federal agencies, Indian Tribes, Puerto Rico, the US virgin Islands, four States (Delaware, Indiana, Wyoming and Montana) and the District of Columbia becoming full-fledged licensees at the end of 2007 (i.e., Phase 1). Existing state regulations or not, those who possessed NARM on that date were expected to do so in full compliance with the new USNRC rules. By that, the USNRC means (1) existing licensees with NARM in the inventory must apply for license amendments by May 30, 2008, or (2) sites that possess NARM but were heretofore unlicenced must submit their license application by December 1, 2008.

Well and good, but the obvious question is "What's next after Phase 1?" We have the answer for you, and its "Phase 2". The second wave of waivers will expire on September 30, 2008 . . . which is just a short month away. Compliance with the new rules will become your obligation if you happen to possess NARM in Vermont, West Virginia, Missouri, Idaho, South Dakota, Guam and all other previously unidentified territories. Come the end of September, you folks will have six months to file your own amendment or new license applications. The remaining non-Agreement States (i.e., Connecticut, Virginia, New Jersey, Michigan, Alaska and Hawaii), now known as "Phase 3," can keep their waivers for a while longer . . . at least until the summer of 2009. (In case you're wondering, Pennsylvania lost their waiver when they became an Agreement State on March 31, 2008.)

For those of you in the Phase 2 wave, you should have DEFINITELY reviewed the new regulations by now to see what your obligations are going to be. You haven't? Well then, its time for a visit the Federal Register (72 FR 55864) to see what's what. Give us a buzz at IEM if you would like for us to send you a copy, and if we can be of help, call us about that too!

Shipping Radioactivity; The Plot Thickens

In last month's edition of the IEM e-Newsletter we reported on a firm that was about to be fined for failure to comply with USNRC requirements for transporting radioactive material. The moral of that story was that shipping radioactivity can be complicated, and that we wanted our readers to be sure their shippers were trained and qualified.

Since then, our friend KR pointed us to some additional information about the firm that received the Notice of Violation, and about the violation itself. Actually, there were three NOVs, but only one of them caught our attention, and it makes a great (but sad) story.

To set the stage, the violation occurred when the transportation package used by the firm in question, who we'll call Firm A, did not comply with the terms and conditions of the USNRC Certificate of Compliance (COC) for the package. However, here is where the plot thickens. The president of the company that held the COC for the package, who we will call Firm B, performed a maintenance inspection, certified that the package met all of the necessary requirements, then handed it back to its owner, who we will call Firm C. The owner, with a maintenance inspection checklist firmly in hand, was contracted by Firm A to export some radioactive material using the recently-inspected package.

You can probably guess where this is going. The president of Firm B apparently knew darn, good and well that the package didn't conform to the COC. As a result, Firm C relied on an inaccurate checklist when they packaged Firm A's radioactivity for three separate export shipments using the noncompliant package. (Firm A was presumably listed as the shipper.) In other words, Firm A relied on its shipping contractor's certification that the package that was owned by them was A-okay. The shipping contractor, Firm C, relied on the maintenance checklist prepared by Firm B that said their package was A-okay. The USNRC, on the other hand, said the package not only wasn't A-okay, someone was in big trouble.

Here's how it seems to have all sorted it all out: (1) The president of Firm B was prohibited from any involvement in USNRC-licensed activities for three years for deliberately providing inaccurate information to the USNRC licensee; (2) We're not sure what happened to Firm C, if anything; and (3) Firm A received the NOV for using a non-conforming package, along with a potential $9,600 fine. It doesn't seem quite fair to Firm A, does it?

So we have a second moral to this story: Licensees need to know their contractors or the consequences could be grave. If you are a licensee, you are responsible for your radioactive material no matter who you contract to help you with it. If a licensee contracts a shipper with their own shipping cask, Firm A's sad tale shows that the licensee would be held accountable if that cask doesn't conform to its COC. The same would be true if a licensee hired a contractor to perform license-mandated surveys, monitoring, shielding design, etc., and the contractor failed to do the job properly. Likewise, if a licensee hired a contractor to decommission a building or land area and something went south during the process, the licensee would take the heat. The innocent bystanders' defense just won't hold water.

Mistakes can happen. That's why all radioactive materials licensees, IEM included, need to have a way of identifying them as soon as possible when they occur, a means of correcting them, and a process for ensuring it won't happen again. If one contracted only experienced, qualified and *honest* vendors, the chances of following in the footsteps of poor Firm A would be minimized. However, as Firm A knows only too well, they probably won't be eliminated because unscrupulous vendors, like Firm B, are an unfortunate fact of life. Buyers beware . . . and buyer be prepared!

To Learn More . . .

Please be sure to visit the IEM web page at http://www.iem-inc.com., where we frequently post new items about radiation and radioactivity. The news is ripe with it these days. And if can answer any radiation-related questions or provide you with professional assistance, we would love for you to give us a call. In the meantime, have a safe Labor Day weekend, and be careful driving to work next week; the little students will be on the move again and you don't want any close encounters!

Carol D. Berger, President