



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

(STP-06-036, May, Program, Nuclear Material)

May 1, 2006

ALL AGREEMENT STATES, PENNSYLVANIA, VIRGINIA

**GENERALLY LICENSED DEVICES CONTAINING SPECIAL NUCLEAR MATERIAL
(STP-06-036)**

U.S. Nuclear Regulatory Commission (NRC) staff queried the National Sealed Source and Device (SS&D) Registry in the area of Generally Licensed (GL) devices. The results of this search indicated that the three devices listed below contain Special Nuclear Material (SNM) Pu-238. You should note that 10 CFR Parts 31 and 32 limits the possession and distribution of GL devices to sources containing byproduct material. Domestic Licensing of Special Nuclear Material, 10 CFR Part 70, does not include a provision for GL devices.

NRC staff worked with staff from the Texas Bureau of Radiation Control and the device manufacturer to amend the SS&D certificates to clarify that sources containing SNM are not authorized for GL distribution. The manufacturer's distribution license was also amended to remove the SNM authorization from all GL devices. The State of Texas has provided a sample letter (enclosed) sent to its General Licensees who are known to possess these particular devices. The letter advises the General Licensees to either apply for a specific license or return the devices back to the manufacturer or other authorized specific licensee.

We request that each Agreement State Radiation Control Program query their GL device database to identify firms that possess these devices or any other GL devices containing SNM. Any firms identified as possessing these devices should be advised to apply for and obtain a specific license, or return the devices back to the manufacturer or other authorized specific licensee.

The following GL Devices - X-ray Fluorescence Analyzers are known to contain SNM Pu-238.

Thermo MeasureTech (formerly Texas Nuclear Corporation & TN Technologies):
TX-0634-D-113-B Model 9256, TX-0634-D-128-B Model 9254 and TX-0634-D-147-B Model 9800.

Please inform us, **by June 9, 2006**,* of the results of the search of your GL database for devices containing SNM.

*This information request has been approved by OMB 3150-0029, expiration 06/30/07. The estimated burden per response to comply with this voluntary collection is approximately 8 hours. Send comments regarding the burden estimate to the Records and FOIA/Privacy Services Branch (T-5F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet e-mail to infocollects@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202 (3150-0029), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

STP-06-036

If you have any questions regarding this correspondence, please contact me or the individual named below.

POINT OF CONTACT: Lloyd A. Bolling
TELEPHONE: 301-415-2327

INTERNET: LAB@NRC.GOV
FAX: 301-415-3502

/RA by Dennis Sollenberger for//

Dennis Rathbun, Deputy Director
Office of State and Tribal Programs

Enclosure:
As stated

TEXAS DEPARTMENT OF STATE HEALTH SERVICES

EDUARDO J. SANCHEZ, M.D., M.P.H.
COMMISSIONER

1100 W. 49th Street • Austin, Texas 78756
1-888-963-7111 • <http://www.dshs.state.tx.us>

DATE, 2006

CERTIFIED MAIL No. _____
RETURN RECEIPT REQUESTED

COMPANY NAME
ATTN RSO/CONTACT
ADDRESS
CITY STATE ZIP

RE: Inappropriate Possession of
Certain Radioactive Material

Dear RSO/CONTACT:

It has come to our attention that COMPANY NAME may be in possession of certain radioactive material without having in place the appropriate radioactive material license. This situation can be remedied in several ways; (1) by transferring the device(s) containing this radioactive material back to the manufacturer (known as Texas Nuclear, TN Technologies, and/or Thermo MeasureTech); (2) by transferring the device(s) containing this radioactive material to a specific licensee authorized to receive this radioactive material in accordance with a radioactive material license, or (3) by applying for and receiving a specific radioactive material license using the forms enclosed with this letter. If you no longer have this radioactive material, please detail its disposal or disposition.

Some time since May 1987, COMPANY NAME obtained device(s) from the entity now known as Thermo MeasureTech. This device(s) contained radioactive material known as Special Nuclear Material (SNM). SNM can be basically defined as uranium or plutonium. The device(s) was a Model NUMBER, containing ²³⁸Plutonium at an initial activity of XX mCi and shipped to your facility on DATE.

The United States Nuclear Regulatory Commission has determined that the State of Texas inappropriately authorized the distribution of SNM to general licensees. COMPANY NAME is a general licensee, as defined in Title 25 Texas Administrative Code Section 289.251(c)(1) [<http://www.dshs.state.tx.us/radiation/rules.shtm>.] by simply receiving this device(s). The State of Texas is now taking necessary steps to correct this oversight.

Therefore, COMPANY NAME should immediately inventory the radioactive material currently possessed. Based upon the existence of this radioactive material, COMPANY NAME will be required to take action in accordance with the first paragraph of this letter.

RSO/Contact

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Date ?, 2006

Upon receipt of two copies of the information specified above we will resume resolving this situation. Please respond within thirty (30) days from the date of receipt of this letter so that we may expedite the completion of this action.

If you have any questions concerning this topic, please contact me at 512-834-6688 or via electronic mail at David.Fogle@dshs.state.tx.us.

Sincerely,

David B. Fogle, Chief
Advanced Technology Licensing Program
Radioactive Material Licensing Group
Radiation Safety Licensing Branch