



MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
WASTE AND HAZARDOUS MATERIALS DIVISION



Radiological Protection Notice 2008-01

Transfer of Regulatory Authority to the U.S. Nuclear Regulatory Commission

Addressees

All facilities in Michigan that possess nonexempt radioactive material.

Summary

The purpose of this letter is to notify you of upcoming changes in the regulation of radioactive material in Michigan and to make you aware of Michigan's ongoing Agreement State effort. Due to the expanded definition of byproduct material in the federal Atomic Energy Act (AEA), State of Michigan regulation of authority over most sources of naturally occurring and accelerator produced radioactive material (NARM) will end on or before August 7, 2009. Current State of Michigan radioactive material registrants will need to plan for this change.

Background

The federal Energy Policy Act of 2005 (EPAct) expanded the definition of the term "byproduct material" in the AEA to include material made radioactive in an accelerator and discrete sources of radium-226 such as moisture-density gauges and aircraft instruments. Historically, each state has provided regulatory control over NARM within its own borders. Michigan will continue to regulate radium concentrated during oil and gas production and other radioactive material that falls outside the authority of the U.S. Nuclear Regulatory Commission (NRC).

On August 31, 2005, the NRC issued a waiver of the requirements of the EPAct pending the NRC's development of regulations and guidance for the new byproduct material. This waiver allowed states and NARM users to maintain the existing system of regulation and avoid any disruptions due to a sudden change in licensing structure for this material. The assumption of regulatory control by the NRC has been scheduled as a three-phase termination of the waiver. Michigan is among the non-Agreement States for which the waiver will be terminated in the third and final phase. The third phase of the waiver termination is set to occur on or before August 7, 2009.

The new definition of byproduct material gives the NRC regulatory control of most NARM. States that have signed an Agreement (Agreement States) with the NRC to implement the AEA will maintain jurisdiction over this material. In 2006, NRC Chairman Dale Klein wrote to the Governors of all non-Agreement States, asking whether those states would consider negotiating an Agreement with the NRC. In response, Governor Granholm directed the Michigan Department of Environmental Quality (DEQ) and the Department Community Health (DCH) to consult with stakeholders on the issue. In July 2007, Governor Granholm signed a Letter of Intent formally notifying the NRC that Michigan intends to pursue an Agreement. Michigan will not be an Agreement State before the August 2009 waiver termination. Therefore, most Michigan Radioactive Materials Registrations will expire and the registered material will be subject to the licensing and inspection requirements and annual fees of the NRC at the termination of the waiver.

Agreement State Effort

Even though Michigan will not become an Agreement State prior to the waiver termination, staff of DEQ and DCH are still working diligently toward that goal. Michigan is one of a dwindling number of Non-Agreement States and Michigan has more NRC licensees than any other Non-Agreement State.

Staff have been meeting with an Agreement State Advisory Committee (ASAC) since early 2007 to work on details of an Agreement State program for Michigan. The ASAC is composed of NRC licensees and State of Michigan registrants and staffs of the DEQ and DCH. Current efforts of the ASAC have focused on drafting radiation protection rules that would be compatible with NRC regulations for the purposes of becoming an Agreement State. An amended version of Michigan's radiation protection statute (part 135 of the public health code) has been drafted and is awaiting introduction in the legislature.

What You Should Do

The NRC has established a timetable for the licensing of the new material.

Facilities that possess an NRC license prior to the termination of the waiver will have six months from the date of the waiver termination to amend their license to incorporate material currently registered with the State of Michigan.

Facilities registered with the State of Michigan for radioactive materials, but without an NRC license, have twelve months from the date of waiver termination to apply for a new byproduct material license with the NRC.

Facilities that only possess an NRC license and do not have any material currently regulated by the State of Michigan will see little or no change in the regulation of their radioactive material.

Additional Information

Information on the waiver termination timeline and how NRC is implementing the requirements of the EPAct can be found at <http://nrc-stp.ornl.gov/narmtoolbox.html>
Questions regarding licensing of NARM material should be directed to the NRC Region III office:

U.S. NRC Region III
2443 Warrenville Road
Suite 210
Lisle, Illinois 60532-4352
Phone: 800-522-3025
Fax: 630-515-1078

Information on Michigan's Agreement State initiative can be found at <http://www.michigan.gov/agreementstate>
Questions regarding Michigan's Agreement State initiative should be directed to:

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