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REVIEWING REQUESTS TO
CONVERT ACTIVE LICENSES TO
POSSESSION-ONLY LICENSES

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1.0 PURPOSE

This document establishes detailed procedures for reviewing licensee requests to convert an existing license that authorizes one or more activities to a possession-only license. It assumes the licensee wishes to cease all operations under the license. It also assumes that an acceptable radiation safety program already exists and the applicant is seeking relief from regulatory requirements. This document does not apply to the licensing of uranium mills. In addition, it does not apply to requests for new licenses solely to store material. Any request for a new storage license will be handled on a case-by-case basis in coordination with Headquarters. In addition, any request to place only some materials in storage while other operations continue must be handled on a case-by-case basis. This guidance may be used as a guide and program codes for possession-only/standby should be used as secondary codes if such requests are granted.

2.0 OBJECTIVE

To ensure adequate protection of the public health and safety through the proper control and disposition of NRC-licensed material in situations in which a licensee requests a possession-only license.

3.0 BACKGROUND

In the past, licensees have been able to either dispose of their material as low-level radioactive waste or transfer the material to other licensees (e.g., source or device manufacturer) licensed to possess the material. For a number of reasons, including, but not limited to, regulatory and financial uncertainties (e.g., lack of disposal options for Greater-Than-Class-C (GTCC) wastes, being locked out of a waste compact, etc.), licensees are finding it increasingly difficult to divest themselves of the material in their possession. On July 8, 1993, Information Notice 93-50 was issued to inform sealed source licensees what information NRC considers necessary for placing a license into possession-only status if extended storage of sealed sources is necessary.

When a licensee is unable to divest itself of radioactive material, and the licensee is unable to safely maintain control over the material, requests for assistance from the U.S. Department of Energy (DOE) may be appropriate. If this is the case, reviewers should refer to Policy and Guidance Directive (PG) 9-12, Reviewing Efforts to Dispose of Licensed Material and Requesting DOE Assistance, and the NRC/DOE Memorandum of Understanding Concerning the Management of Sealed Sources signed on June 18, 1999 (available on the NRC web site at www.nrc.gov/OPA/reports/doemou.htm).

When a licensee is unable to divest itself of radioactive material, and the licensee is able to safely maintain control over the material, a request for relief from regulatory requirements (i.e., a possession-only license) may be appropriate. This document addresses the procedures to follow when responding to requests for a possession-only license.

4.0 REGULATORY CONSIDERATIONS

In responding to requests for a possession-only license, reviewers should consider the following:

- a. The steps taken by the licensee to divest itself of its material. To verify a licensee's claim of inability to divest itself of the material, the license reviewer should request information from the licensee, in writing, to substantiate the claim. The disposal options that must be addressed are contained in PG 9-12. The guidance for reviewing the licensee's options for disposal is not duplicated here because it is subject to change and use of PG 9-12 will avoid conflicts.
- b. The ability of the licensee to safely possess and store the material for an extended period of time (e.g., until a disposal option is available). Where the licensee has the ability to safely store the material in the near-term, but the licensee's ability to continue to safely store the material for an extended period is suspect (e.g., licensee is experiencing financial difficulties and is expected to file, or has already filed for bankruptcy, but is able to continue operations), the license should be designated for increased NRC contact by telephone to supplement routine inspections. See PG 8-11, "NMSS Procedures for Reviewing Declarations of Bankruptcy."
- c. The need to relieve the licensee of the radioactive material in its possession due to the high degree of probability that the licensee will not be able to safely maintain control of the material and the immediacy of this need.

Reviewers should coordinate with inspection staff and request a special inspection to assess the licensee's situation, unless an inspection has been performed within the last 12 months. The decision to issue a possession-only license is based on the reviewer's evaluation of the licensee's particular situation and the licensee's demonstration that other options have been considered. In all cases, reviewers should make every effort to take appropriate actions before the license expires.

5.0 REVIEWING REQUESTS FOR POSSESSION-ONLY LICENSES

If a licensee requests that its license be converted to possession-only status, review the request as follows:

- 5.1 Determine whether the licensee has permanently ceased operations. If the licensee **has** permanently ceased operations, the licensee is required to begin decommissioning pursuant to 10 CFR 30.36(d), 40.42(d), and 70.38(d). Determine whether the licensee is able to proceed with decommissioning.
- a. If the licensee **can** proceed with decommissioning, instruct the licensee that they should proceed with decommissioning and license termination. Do **not** amend the license to authorize possession only. If the expiration date has not passed, the license should be amended to limit activities to decommissioning only. (Expired licenses do not need to be amended because by rule, decommissioning is the only activity authorized.) If decommissioning is the only activity authorized, change the program code to DECOMMISSIONING (see program codes 3900, 11900, 21135, 21215, 21325, and 22200).

NOTE: Reviewers should coordinate with inspection and decommissioning staff concerning site reviews and inspection activities before the program code is changed.

- b. If the licensee **cannot** proceed with decommissioning (e.g., demonstrates that all reasonable options for disposal have been exhausted), review the licensee's application using the checklist in Enclosure (1). When each item on the checklist has been adequately addressed, issue a possession-only license and change the program code to POSSESSION-ONLY - PERMANENT (see program codes 3800, 11800, and 23300). Change the authorized use condition in the license to read, "Possession and storage only until termination of the license." The license should have a 2-year expiration date (see note below) and may be renewed if the licensee continues to demonstrate that it cannot divest itself of the radioactive material, in spite of the fact that it has taken all reasonable actions within its ability to dispose of the material.

NOTE: When storage is authorized as a result of a licensee's inability to transfer or dispose of the material, storage is not considered to be a "principal activity" as defined in 10 CFR Parts 30, 40, and 70. However, the requirements to notify NRC and undertake decommissioning are not applicable because NRC does not consider there to be **any** principal activity for the licensee to cease. For these licensees, any decommissioning issues will be addressed by NRC when the license comes up for renewal and renewals will be required at least every 2 years. See Revision 1 to Administrative Letter 96-05, "Compliance with the

Rule ‘Timeliness in Decommissioning of Materials Facilities.’” (All generic communications are available on the external NRC web site.)

- 5.2 If the licensee **has not** permanently ceased operations, inform the licensee that its license cannot be converted to possession-only status. Without permanent cessation of operations, the license can only be converted to standby status. The intent of this designation is to clearly identify licensees that intend to restart operations. A standby license may grant some relief from operational requirements. If the licensee requests a standby license, review the licensee's application using the checklist in Enclosure (1). When each item on the checklist has been adequately addressed, issue a standby license and change the program code to STANDBY - NO OPERATIONS (see program codes 3810, 11810, and 23310). Change the authorized use condition in the license to read, "Possession and storage only until the license is amended to authorize restart of [state uses subject to restart]." License conditions applicable to suspended operations may be maintained in the license for convenience while the license is in standby status.

NOTE: The timeliness criteria in 10 CFR 30.36, 40.42, and 70.38 limit periods of inactivity to 24 months unless the Commission has granted a request to extend this time period. Any license converted to standby status should have an expiration date no greater than 24 months from the date that operations ceased or the issue date (whichever is earlier) unless an extended period of inactivity has been authorized. Requests for extended periods of inactivity may be granted under 10 CFR 30.36(f), 40.42(f), and 70.38(f), if they are not detrimental to the public health and safety, and are otherwise in the public interest. When decommissioning is delayed for long periods of time after operations have ceased, there is a risk that safety practices will become lax as key personnel relocate and management interest wanes. In addition, waste disposal costs tend to increase significantly over time and delaying decommissioning will result in higher costs to the public if the government eventually assumes responsibility for the decommissioning. Such requests must explain how postponing decommissioning would be in the public's interest.

END

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CHECKLIST FOR EVALUATING REQUESTS FOR
POSSESSION-ONLY AND STANDBY LICENSES

NOTE: Applicants must comply with all relevant requirements in 10 CFR Parts 30, 40, and 70. The following is a list of general requirements only. Reviewers must ensure that additional requirements associated with site-specific conditions are addressed.

- [] 1. All licensed material to be placed in storage identified. For each sealed source or device containing a sealed source, the licensee has identified (if possible) the source and device by manufacturer, model number, serial number, isotope, activity, date of assay, and date of last leak test.
- [] 2. If the licensee has permanently ceased operations, the application includes a detailed description of all efforts made to dispose of the licensed material, including telephone calls, letters, facsimiles, personal contacts, etc. The disposal options that must be addressed are contained in PG 9-12.
- [] 3. The application includes a clear commitment not to use the licensed material for any purpose, pending disposal or authorization to restart (as applicable).
- [] 4. The application includes a physical description of the facilities where the material will be stored if it is different from storage facilities already approved in the license. Any planned facility changes have been identified and provisions to maintain exposures ALARA are adequate.
- [] 5. If applicable, the application adequately addresses financial assurance for decommissioning in accordance with 10 CFR 30.35, 40.36, or 70.25, as appropriate. Uncertainties with regard to future disposal and decommissioning costs may exist with requests for possession-only licenses where no other options are available. However, these uncertainties do not exempt the licensee from providing decommissioning funding assurance, using the best information available at the time of application. The license reviewer should determine if the proposed financial assurance is appropriate for the licensee's specific situation.
- [] 6. The application identifies the individual who will be responsible for maintaining control of the licensed material while it is in storage. The individual's training and experience (as described in the individual's résumé) are adequate. The necessary qualifications will vary depending on the material being stored. In general, the responsible individual should have a working knowledge of basic radiation safety practices and the regulatory requirements associated with the material being stored.
- [] 7. The application includes an acceptable accountability program for assuring that the licensed material remains in secure storage and is not used (inventory at least

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annually). The program provides reasonable assurance that the licensee will maintain security.

- [] 8. The application includes all planned changes to limit/decrease the licensee's radiation safety program as a result of placing the licensed material in storage. These changes may include, but are not limited to, the following:
 - ___ a. dosimetry services
 - ___ b. worker training programs
 - ___ c. instrument calibration services
 - ___ d. inventories
 - ___ e. internal audits
 - ___ f. maintenance and visual inspection of equipment and facilities
 - ___ g. maintenance of records

- [] 9. If applicable, the application includes a commitment to leak test sealed sources and devices containing sealed sources at least once every 10 years and within 6 months before use or transfer to an authorized recipient.

Note: This supersedes the 3-year leak test provision suggested in Information Notice 93-50. We will continue to use the standard license condition for sources in storage.

- [] 10. The application has been coordinated with inspection and decommissioning staff concerning changes to inspection activities.

- [] 11. If the licensee's ability to safely store the material for an extended period is suspect, designate the license for increased NRC contact by telephone to supplement routine inspections. Contact every 12 months is recommended.

- [] 12. For possession-only licenses, include a condition that states, "The licensee will continue to take all actions within its ability to dispose of its material and notify NRC within 30 days if disposal is achieved."