

REGIONAL COMMENTS ON DRAFT
POLICY AND GUIDANCE DIRECTIVE (PG) 1-27,
“REVIEWING REQUESTS TO CONVERT
ACTIVE LICENSES TO POSSESSION-ONLY LICENSES”
TRANSMITTED AUGUST 16, 1999

Region 1:

Global concern - Many licensees request to convert only part of the radioactive material on their license to possession-only status. They intend to continue principal activities with some radioactive material listed on the license and request that other material, usually sealed sources, be placed in a storage-only or possession-only status. PG 1-27 does not adequately address this common licensing situation.

Response - This guidance is intended for requests to place all activities in a possession-only status. Requests to place some materials in storage and continue other activities would have to be reviewed on a case-by-case basis to determine the impact on fees, surveillance frequencies, and other requirements. This guidance may be used as a guideline. A statement to this affect was added to Section 1.

Adequacy of two-year renewal frequency - A two-year renewal frequency is a good approach to assure that these types of licenses remain vigilant in their attempts to transfer radioactive materials in storage or maintain adequate security and accountability for radioactive materials in “standby.”

Other specific comments

1. In the third paragraph of your memorandum dated August 16, 1999, you state that, “Licensees will be informed of program code changes at least 30 days before the changes are made.” At present, licensees are not notified of program code changes. Is it NMSS’ intent that licensees would now be notified of these changes and, if so, by what vehicle would they be notified?

Response - The intent was to perform a one-time review of the those licenses in the existing, possession-only, program codes (3800, 11800, and 23300) to determine whether any licenses should be changed to the new standby program codes (3810, 11810, and 23310). Our records indicate the RI and RII each have about 20 licenses to review and RIII and RIV each have about 10 licenses to review. The transmittal memo was clarified.

2. Under Section 3.0, in the third paragraph, it states, “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.” From which regulatory requirement(s) are we relieving the licensee? Possession-only licenses are still subject to all applicable regulations.

Response - The regulatory requirements are the fees and license conditions which would be changed if the authorized use is changed to possession and storage only.

3. Under Section 4.0(a), it states "The disposal options that must be addressed are contained in PG 9-12." Will PG 9-12 be replaced by a NUREG?
Response - We are not aware of any plans to incorporate the procedures for requesting DOE assistance in a NUREG. It is our understanding that all policy and guidance directives not incorporated into a NUREG already, will be considered when the staff prepares Volume 20 of NUREG-1556, Administrative Procedures Associated with Materials Licensing."
4. In the "Note" under Section 5.2, it states, "Any license converted to a 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." Under what circumstances would we grant an extension beyond 24 months?
Response - Pursuant to 30.36(f), 40.42(f), and 70.38(f), requests for extended periods of inactivity may be granted 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 will have to be reviewed on a case-by-case basis, but licensees will have to explain how postponing decommissioning would be in the public's interest. This information was added to the note.
5. Item 2 of Enclosure 1, states, "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." This level of detail does not appear to be warranted as it's not clear to us how we would use the information. If the licensee has material they do not want and cannot get rid of, they should concisely describe how they tried to dispose of the licensed material.
Response - When evaluating whether licensees have exhausted all reasonable options, reviewers need to know exactly who the licensee has contacted, what was requested, and what response was received. Detailed information is required when we request DOE to retrieve sealed sources. No change was made.
6. Item 3 of Enclosure 1 is not necessary. The license will contain a condition that covers this restriction.
Response - We believe it is useful to confirm that the condition is in the license. No change was made.
7. The third sentence in item 5 of Enclosure 1 contains a typographical error. The word "would" should be replaced by the word "do."
Response - The change was made.
8. Item 7 of Enclosure 1 states, "The application includes an acceptable accountability program for assuring that the licensed material remains in secure storage and is not used (inventory at least annually)." NRC standard policy for inventory of sealed sources is to require that licensees conduct physical inventories every six months to account for all sealed sources and devices

containing licensed material possessed under the license. A one year inventory frequency will reduce the assurance that the licensee will maintain security and accountability of material in their possession.

Response - This is part of the relief granted when the license is changed to possession-only. A less frequent inventory is adequate if the licensee never removes the material from storage for use. This provision was included in the guidance published in Information Notice 93-50. No change was made.

9. Item 8 of Enclosure 1 states, "The application includes all planned changes to the licensee's radiation safety program as a result of placing the licensed material in storage." We should clarify that the planned changes will be to limit/decrease the magnitude of their radiation safety program.

Response - The change was made.

10. Item 9 of Enclosure 1 states, "If applicable, the application includes a commitment to leak test sealed sources and devices containing sealed sources at least once every 3 years..." Why are we asking that sealed sources in storage be leak tested once every three years when NRC standard leak test policy has been:

Not to require leak testing of sources in storage which are not being used,

When they are removed from storage for use or transfer to another person, and have not been tested within the required leak test interval, they shall be tested before use or transfer, and

No sealed source or detector cell shall be stored for a period of more than 10 years without being tested for leakage and/or contamination?

Response - When we drafted Information Notice 93-50, we asked what the leak test frequency should be for sealed sources in storage. The responses ranged from every 6 months to never. We noted that the inspection frequency for possession-only licenses (at that time) was every 3 years and the record retention requirements were 3 years, so we decided that leak testing every 3 years was a logical compromise. It was noted that a large number of licenses had conditions for a 10-year leak test, but it was decided in 1993 that the standard license conditions could be revised during routine license renewals.

After revisiting this issue and considering our new strategic goals, we decided that increasing the leak test frequency is unjustified. Historically, we haven't had a significant problem with sources leaking in storage and the existing standard license condition is sufficient to maintain safety. The guidance has been revised to state that we will continue to use the standard license condition with the 10-year leak test, contrary to the guidance in Information Notice 93-50.

11. Item 12 of Enclosure 1 states, "For possession-only licenses, include a condition that 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." To assure consistent wording and use of this license condition, it should be included within PG 1-27. It should also be added to the list of standard license conditions.

Response - We agree. The condition has been forwarded to RGB with a request to add it to the list of standard license conditions.

12. In Attachment 2, in the last sentence of the description for Program Codes 03800, 11800, and 23300 it states, "Additionally, program codes which were used previous to this code should be used as secondary codes to ensure traceability of license types within LTS." Shouldn't this statement also appear in parenthetical clauses under each of the Program Code descriptions for 03810, 11810, and 23310? Will inclusion of previous program code(s) as a secondary code have the unintentional effect of increasing the licensee's fees?

Response - The attachment was revised to add the statement to the description for the standby codes. In discussions with OCFO staff, we were informed that they review licenses and assign fee categories according to the activities authorized, not the program codes listed in LTS.

Region II:

The two-year term for possession-only licenses is appropriate. No other comments.

Region III:

1. Region III agrees that the expiration date for possession-only licenses should be every 2 years. We believe that the two year expiration date would adequately require licensees to demonstrate that their stored material was secured, as well as, providing the NRC with evidence of their continual efforts to dispose of the licensed material.
2. RIII would like to recommend that the referenced documents identified in the draft PG Directive 1-27 be attached as Appendices (similar to the NMSS Decommissioning Handbook.) Attaching the referenced documents as Appendices, would make the directive a more "user friendly" guide for materials reviewers and inspectors and licensees.
Response - The only documents referenced are IN 93-50 and several other policy and guidance directives. The directive repeats most of the information previously published in IN 93-50 and we do not believe that attaching a copy of the IN would add very much information. In addition, all information notices are available on the NRC web site. With regard to attaching other directives, we believe that it would be redundant and cumbersome to attach copies of other directives into this directive. No change was made.

Region IV:

1. We agree with NMSS' assessment that there is a need for new program codes addressing this type of license. Additionally, the establishment of a 24-month renewal frequency for this type of licensee will allow closer monitoring. The instructions are clear in the draft PG that an assessment is required by the Regions of all licenses authorizing possession and/or storage only. However, it is not clear in the draft PG 1-27 when the Regions should modify the license expiration date, issue a new license, and change the program code in the Licensing Tracking System for an affected licensee. Region IV believes that there are two possible solutions. The Regions could implement the guidance when licenses are renewed without impacting current licensing activities. However, if the Regions must amend all licenses immediately for consistency using PG 1-27, this

could result in a significant impact. Region IV suggests implementing the PG 1-27 guidance concurrent with renewal of the license.

Response - See the response to comment 1 from Region I.

2. Region IV suggests that NMSS consider modifying the draft PG to include instructions for using program codes 03810, 11810, and 23310 as secondary codes for tracking individually licensed materials specifically listed on a license authorized for "storage or possession only." We believe that this modification would provide a cost-effective method of tracking these unique types of materials on active licenses. If PG 1-27 is modified as suggested, this instruction would allow NRC to closely track and oversee these types of materials. Optionally, NMSS may wish to create unique program codes for this tracking purpose.

Response - Neither the existing possession-only program codes, nor the new standby program codes, were programmed such that they could be used as secondary codes. We intend to initiate a work request to change the programming in LTS. A statement was added to Section 1 recommending that these codes be used as secondary codes if only some materials are being placed in storage while other operations continue.

3. Item 4.0, Regulatory Consideration, instructs the licensing and inspection staff to coordinate information and decide if a licensee requires a special inspection before the licensing staff approves possession or storage only activities. Special inspections should assess a licensee's ability to control and store materials safely for an extended period. Optionally, these inspections are exempted if the inspection staff has inspected the licensee *recently*. When NMSS proposed the above requirement, the term "recently" was not defined. The word recently as stated could cover a time frame of a few days, weeks, months, years, or an inspection cycle. We suggest for consistency, replacing the word "recently" with "a period of less than one year," or another specific interval approved by NMSS.

Response - The change was made.

4. Region IV currently has a mixture of licenses authorizing storage or possession only for single devices or individually licensed materials. We suggest NMSS consider the following authorized use condition as a licensing technique to aid in tracking this category of licensed materials:

Possession and storage only of [sealed source in device, sealed source in shielded pig or transport container].

Possession and storage only of [specific type of uncontained materials and mode of storage].

Response - See response to global concern from Region I. We do not object to the suggestion, but changes that address only some activities will need to be reviewed on a case-by-case basis.