DESCRIPTION OF REQUIREMENTS UNDER 10 CFR PART 81

The Nuclear Regulatory Commission (NRC) may grant non-exclusive licenses or limited exclusive licenses to its patented inventions to responsible applicants. 10 CFR Part 81 specifies the information that applicants and licensees must submit to the NRC related to these patent licenses.

Section 81.20(a)(5) Non-exclusive license holders are required to submit periodic reports, at least annually, on efforts to bring the invention to a point of practical application and the extent to which license holders continue to make the benefits of the invention reasonably accessible to the public.

Section 81.20(a)(10) Before revoking or restricting any license granted pursuant to this subpart, the Commission shall mail to the licensee and any sublicensee of record, at the last address filed with the Commission, a written notice of the Commission's intention to revoke or restrict the license, and the licensee and any sublicensee shall be allowed thirty (30) days after the mailing of such notice, or within such period as may be granted by the Commission, to remedy any breach of any covenant or agreement as referred to in paragraph(a)(8)(iii) of this section, or to show cause why the license should not be revoked or restricted.

Section 81.32(a)(2) NRC inventions may be available for the grant of limited exclusive licenses to responsible applicants who will make its benefits practically applicable and, publicly accessible. The length of the license will be negotiated (but will not exceed 5 years) and include a period of exclusivity specified in it, which relates to the period necessary to provide a reasonable incentive for the licensee to invest the necessary risk capital to make the invention practically applicable. The license cannot be extended unless the Commission determines based on a written submission supported by a factual showing that a longer period is necessary to permit the licensee to enter the market and recoup the investment in making the invention publicly accessible and reasonably available for the granting of non-exclusive licenses under §81.20. Under that provision, the licensee may have a nonexclusive license if the licensee continues to make the invention publicly accessible.

Section 81.32(a)(8) The license can be extended to wholly owned subsidiaries of the licensee but cannot be assigned or transferred without Commission approval, unless assignments are made upon Commission notice to successors of the licensee's business.

Section 81.32(a)(9) Exclusive licensees can issue sublicenses only upon Commission approval. Such a sublicense or assignment is subject to the terms and conditions of the exclusive license, including all rights retained by the Government, and a copy of each sublicense or assignment must be provided to the Commission.

Section 81.32(a)(10) A holder of an exclusive license to NRC inventions must submit periodic reports on efforts to achieve practical application of the invention and the extent to which a holder continues to make the benefits of the invention reasonably accessible to the public.

Section 81.32(a)(12) Before modifying or revoking any license under this subpart, the-Commission will mail to the licensee and any sublicensee at the last address filed with the Commission a written notice of the Commission's intention to modify or revoke the license. The licensee and any sublicensee is then given 30 days after the notice is mailed, or within any period granted by the Commission, to remedy any breach of covenant or agreement in paragraph (a)(11)(iv) of this section or to show cause why the license should not be modified or revoked.

Section 81.32(a)(13) An exclusive licensee has the right to sue at its own expense any party who infringes the rights included in the license and the licensed patent. Upon consent of the Attorney General, the licensee may join the Government as a complainant in such suit, but without expense to the Government so that the licensee shall pay costs and any final judgment or decree that may be rendered against the Government in such a suit. The Government has an absolute right to intervene in any such suit at its own expense. Upon request, the licensee is obligated to promptly supply to the Government copies of all pleadings and other papers filed in any such suit, as well as evidence from proceedings relating to the licensed patent. If, as a result of any such litigation, the patent is declared invalid, the licensee has the right to surrender the license and be relieved from any further obligation thereunder.

Section 81.32(a)(14) A licensee can surrender the license any time before termination of the license upon notice to the Commission and approval of the Commission, but the licensee will not be relieved of the obligations thereunder without Commission approval.

Section 81.40 Applicants for exclusive and non-exclusive licenses to NRC inventions are required to provide information which may provide the basis for granting the requested license.