

Ms. Rita Aldrich, Principal Radiophysicist  
 New York State Department of Labor  
 Radiological Health Unit  
 Building 12, Room 457  
 State Office Campus  
 Albany, NY 12240

MAY 26 1994

Dear Ms. Aldrich:

This is in response to your January 10, 1994 letter to Lloyd Bolling requesting assistance in making arrangements for storage of a plutonium-238 source.

The contractual arrangements between the two companies involved should provide a basis for determining conditions on storage of the source. Thus, we are unable to assist in any specific suggestions on continued storage of the source. The contractual arrangements between the two firms will need to be resolved by them.

It is our understanding that this source is currently under safe radiological control at the Ohmart facility in Ohio, in NRC regulatory jurisdiction. Under the terms of Ohmart's NRC license and NRC's regulatory requirements they are responsible for ensuring safety in storage and may only transfer the source to an authorized recipient. Until Ohmart transfers the source to another authorized recipient or for disposal in accordance with NRC regulations, we will continue to hold Ohmart responsible for the safe control of the source.

Regarding your request for information on disposal options for transuranic waste, we have been provided with the following DOE contact:

Ms. Sherry Jones  
 Los Alamos National Laboratories  
 505-665-2712

Ms. Jones may be able to provide you information on plutonium storage, recycle or disposal options. Additionally, enclosed is a copy of a draft guidance document being prepared in conjunction with DOE to advise the NRC staff regarding response to licensees in possession of sealed sources and seeking license termination. We plan to send the final version of this document with other similar guidance to All Agreement States as soon as they are completed. This guidance may be of assistance to you.

I hope that we have addressed your concerns on this matter.

Sincerely,

*PS*  
 Paul H. Lohaus, Deputy Director  
 Office of State Programs

Enclosure:  
 as stated

see previous concurrence  
 Distribution: DIR RF S-13 RBangart DGD (SP01) PDR (YES  NO   
 Lohaus LBolling RBaer FCameron NYDOL File

SP:SA	NMSS	OGC	OSP:DO		
LBolling:dr	RBaer	FCameron	PLohaus		
05/17/94*	05/20/94*	04/24/94*	05/26/94		

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licensee is necessary, either by phone or site visit, to verify "control" during the storage period, and what additional inventory controls may be needed.

2. In other cases, it may be determined that there is a near-term need to relieve a licensee of sealed source(s) and/or device(s) in its possession. The reviewer's determination should reflect the following factors:
  - a. The licensee is financially unable to dispose of or divest itself of the sealed source(s) and/or device(s) in its possession.
  - b. The licensee has made a good-faith, yet unsuccessful, effort to transfer the sealed source(s) and/or device(s) in its possession to another licensee authorized to possess the source(s) and/or device(s). Table 1 contains a partial listing of vendors/brokers that the licensee may contact for assistance with its effort to transfer the source(s) and/or device(s).
  - c. The licensee is judged to be incapable, even with extended regulatory oversight, of storing the sealed source(s) and/or device(s) for an extended period of time without a significant risk of loss-of-control of the source(s) and/or device(s).

A licensee may be determined to be financially unable to dispose or divest itself of sealed source(s) and/or device(s) if the licensee can demonstrate financial hardship; for example, (1) an inability to pay for disposal or transfer charges or (2) for GTCC source(s) and/or device(s), an inability to pay licensing fees or not having sufficient resources to safely control and store the source(s) and/or device(s) over an extended period of time (e.g., 5-year license renewal period). However, if a licensee is financially able to dispose of the material, but is prevented from disposing of the material due to being "locked" out of a disposal site, the licensee may consider requesting temporary access to a disposal site under the provisions of 10 CFR Part 62, for emergency situations.

In situations under (B) above, the DOE may be called upon to provide assistance.

Arrangements for the DOE to take possession of radioactive material will be determined on a case-by-case basis through IMNS/SCDB as follows:

Contact should be made with the Chief of SCDB, IMNS, by phone. This contact should be followed by a memorandum which includes a chronology of events and the following information, as applicable:

- (1) Documentation supporting the licensee's claim of financial inability to dispose of, or provide extended-period storage for, the radioactive material in its possession.

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- (2) Documentation supporting the licensee's claim that a good-faith effort has been made to transfer the licensee's sealed source(s) and/or device(s) to another licensee authorized to possess the material.
- (3) A submission of Enclosure A with as much information as possible.

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(Enclosure A)

## INFORMATION TO BE PROVIDED TO SCDB

### General:

Licensee Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone Number: ( ) - \_\_\_\_\_ Telefax Number: ( ) - \_\_\_\_\_

Request DOE to pick up \_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, provide exact location of source/device \_\_\_\_\_

Describe the current security of the source or device (e.g., in a locked room, file cabinet, etc.): \_\_\_\_\_

Description: Must be completed for each source or device, attach additional sheets as necessary.

1) Nuclide: \_\_\_\_\_ Activity Level \_\_\_\_\_ (mCi or Ci)

Assay Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

2) Nuclide: \_\_\_\_\_ Activity Level \_\_\_\_\_ (mCi or Ci)

Assay Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

NRC Certification that classification of source/device is in accordance with Concentration Averaging Guidance: REVIEWER: \_\_\_\_\_ DATE: \_\_\_\_\_

Provide the weight in pounds of any depleted uranium used as shielding \_\_\_\_\_

For Neutron Sources provide Target Element [e.g., Beryllium (Be)]: \_\_\_\_\_

**IMPORTANT: YOU MUST ATTACH A COPY OF THE LICENSE**

DO NOT WRITE IN THESE SPACES

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(Enclosure A)

LICENSING REVIEWER

Licensee Name \_\_\_\_\_

Complete section A. or B. and C., as appropriate:

- A. Sealed Source(s) Only: Information must be provided for each source. Attach engineering drawings, specifications, descriptions, etc., as available. Attach additional sheets as necessary.

Sealed Source Manufacturer: \_\_\_\_\_

Sealed Source Model Number: \_\_\_\_\_

Sealed Source Serial Number: \_\_\_\_\_

Physical Dimensions of source/source holder: \_\_\_\_\_

Date of manufacture or age of source (if known): \_\_\_\_\_

Source condition: Leaking: \_\_\_\_\_ Damaged: \_\_\_\_\_ Intact: \_\_\_\_\_

Most recent leak test results (within last 6 months) required. Attach copy.

- B. Device Containing a Sealed Source: Information must be provided for each device. Attach engineering drawings, specifications, descriptions, etc., as available, for both the sealed source and device. Attach additional sheets as necessary.

Device Model Number: \_\_\_\_\_

Device Serial Number: \_\_\_\_\_

Date of manufacture or age of device (if known): \_\_\_\_\_

Weight of device (including any DU shielding): \_\_\_\_\_

Physical dimensions of device: \_\_\_\_\_

Device condition: Damaged: \_\_\_\_\_ Intact: \_\_\_\_\_ Contaminated: \_\_\_\_\_

Most recent leak test results (within past 6 months) required. Attach copy.

Sealed Source Manufacturer: \_\_\_\_\_

Sealed Source Model Number: \_\_\_\_\_

Sealed Source Serial Number: \_\_\_\_\_

Physical dimensions of source (if known): \_\_\_\_\_

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(Enclosure A)

LICENSING REVIEWER

Licensee Name \_\_\_\_\_

- C. If licensee will transport the source or device to DOE, provide a description of the approved transportation package and any special handling tools necessary to remove the source or device from the transport package.
- \_\_\_\_\_
- \_\_\_\_\_

The licensee must present the information in a letter and make the following certification:

I, the undersigned, certify the transfer of ownership to the U.S. Department of Energy (DOE) of the sealed source [and device] described herein, and assert that the source [and device] described herein has not been acquired solely to make it eligible for acceptance by the DOE.

The applicant, or official executing this certification on behalf of the applicant, certifies that this application is prepared in conformity with Title 10, Code of Federal Regulations, Parts 30, 32, 33, 34, 35, 36, 39, and 40 and that all information, contained herein, is true and correct to the best of my knowledge and belief.

<u>SIGNATURE/CERTIFYING OFFICER</u>	<u>NAME TYPED/PRINT</u>	<u>TITLE</u>	<u>DATE</u>
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WARNING: 18 U.S.C. Section 1001 Act of June 25, 1948, 62 STAT.749 makes it a criminal offense to make a willfully false statement or representation to any Department or Agency of the United States as to any matter within its jurisdiction.

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