

MAR 28 1985

MEMORANDUM FOR: William J. Dircks
Executive Director for Operations

FROM: John G. Davis, Director
Office of Nuclear Material Safety and Safeguards

SUBJECT: FEDERAL REGISTER NOTICE AND DELEGATION OF AUTHORITY
FOR CERTAIN FEDERAL FACILITY NUCLEAR MATERIALS
LICENSEES

Enclosed for your signature are the final rule amendment (to be published in the Federal Register) and the Delegation of Authority pertaining to those licensing actions scheduled for decentralization on April 1, 1985.

Also included are the Daily Staff Notes and the Delegation of Authority for EDO Publication Approval.

Signature signed by

John G. Davis, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures: As stated

cc: Rules and Records
DEDROGR
Chief Counsel, Regional
Operations and Enforcement
Division, ELD
Division Directors, NMSS

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MAR 28 1985

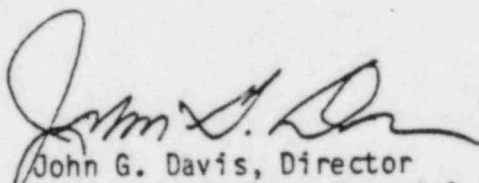
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NUCLEAR REGULATORY
COMMISSION

10 CFR Parts 30, 40 and 70

Regional Nuclear Materials Licensing for Certain Federal Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The NRC is amending its regulations concerning the domestic licensing of source, byproduct, and special nuclear material (collectively referred to as nuclear materials) to provide for further decentralization of the NRC licensing process. This amendment extends to the five Regional Offices the same licensing authority for certain Federal activities as they now possess for non-Federal activities.

EFFECTIVE DATE: April 1, 1985.

FOR FURTHER INFORMATION CONTACT: Donald R. Chapell, Deputy Director, Division of Fuel Cycle and Material Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 427-4152.

SUPPLEMENTARY INFORMATION: On May 27, 1982 (47 FR 23138), April 14, 1983 (48 FR 16030) (effective April 1, 1983), and May 9, 1984 (49 FR 19630) the Nuclear Regulatory Commission (NRC) published rules decentralizing most domestic licensing of nuclear materials. The NRC is amending its regulations to include certain Federal licensees in its decentralization program. Revisions to 10 CFR 30.6, 40.5, and 70.5 require certain Federal facilities with licenses issued pursuant to 10 CFR Parts 30 through 35, 40, and 70 to contact the appropriate Regional office, rather than NRC Headquarters offices, for license applications, renewals, and revisions. This action now incorporates into the Regional materials licensing programs these Federal facility licensees.

The only Federal licensees not affected by this action are the United States Air Force and United States Navy. Their submittals under Parts 30 through 35, 40, and 70 will be sent to the Office of Nuclear Material Safety and Safeguards (NMSS). These licensees have not been included because they are currently in the process of submitting proposals for "broad" materials licenses with the NRC, which would, if approved, consolidate over one hundred individual licenses into one license each. Following these consolidations, it is intended that the licensing authority for the Air Force and the Navy also will be extended to the appropriate Regions.

This action also adds another item to the list of exceptions to the authority delegated to the Regions under the decentralization program. This exception, included as paragraph (b)(1)(v) in 30.6, 40.5, and 70.5, codifies current practice requiring NMSS to review new uses or techniques for use of nuclear material.

These amendments apply to NRC licensees and applicants in non-Agreement States, Guam, Puerto Rico, the Virgin Islands, and the District of Columbia, and to NRC Federal licensees and applicants wherever they are located within

the NRC's jurisdiction except for the United States Air Force and Navy. Delegations of authority to the Regional Administrators are contained in NRC Manual Chapter 0128. The changes to §§30.6, 40.5, and 70.5 are nonsubstantive amendments. The revised sections indicate the type of licensing authority delegated to Regional Administrators.

Since these are minor, procedural amendments relating to agency organization and management, notice, opportunity for comment and a delay of effective date are not required by the Administrative Procedure Act under 5 U.S.C. 553.

ENVIRONMENTAL IMPACT - CATEGORICAL EXCLUSION

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3)(i). Accordingly, pursuant to 10 CFR 51.22(b), neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

PAPERWORK REDUCTION ACT STATEMENT

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval numbers 3150-0017 for Part 30, 3150-0016 for Part 31, 3150-0001 for Part 32, 3150-0015 for Part 33, 3150-0007 for Part 34, 3150-0010 for Part 35, 3150-0020 for Part 40, and 3150-0009 for Part 70.

LIST OF SUBJECTS IN 10 CFR PARTS 30, 40, AND 70

Part 30 - Byproduct material, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Penalty, Radiation protection, Reporting and recordkeeping requirements.

Part 40 - Government contracts, Hazardous materials-transportation, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Source material, and Uranium.

Part 70 - Hazardous materials-transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

Under the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552, the following amendments to 10 CFR Parts 30, 40, and 70 are published as a document subject to codification.

The authority citation for this document is:

Authority: Sec. 161b., i., o., and p., Pub. L. 83-703, 68 Stat. 948, 949, 950, as amended (42 U.S.C. 2201(b), (i), (o), and (p)); Sec. 201, Pub. L. 93-438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

PART 30 - RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. In §30.6, paragraphs (b)(2)(i), (ii), (iii), (iv), and (v) are amended by changing the phrase, "With the exception of Federal facilities, the regional licensing program involves" to read "With the exception of the United States Air Force and Navy, the regional licensing program involves all Federal facilities in the region and non-Federal licensees in...." Also, the introductory text of paragraph (b) and paragraph (b)(1) are revised to read as follows:

§30.6 Communications.

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(b) The Commission has delegated to the five Regional Administrators licensing authority for selected parts of its decentralized licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes authority to issue, renew, amend, cancel, modify, suspend, or revoke licenses for nuclear materials issued pursuant to 10 CFR Parts 30 through 35, 40, and 70 to all persons except the United States Air Force and Navy for academic, medical, and industrial uses, with the following exceptions:

- (i) Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from NRC's Headquarters to the Regional Administrators.
- (ii) Health and safety design review of sealed sources and devices, and approval, for licensing purposes, of sealed sources and devices.
- (iii) Processing of source material for extraction of metallic compounds (including Zirconium, Hafnium, Tantalum, Titanium, Niobium, etc.).

- (iv) Distribution of products containing radioactive material to persons exempt pursuant to 10 CFR 32.11 through 32.26.
- (v) New uses or techniques for use of byproduct, source, or special nuclear material.

* * * * *

PART 40 - DOMESTIC LICENSING OF SOURCE MATERIAL

2. In §40.5, paragraphs (b)(2)(i), (ii), (iii), (iv), and (v) are amended by changing the phrase, "With the exception of Federal facilities, the regional licensing program involves" to read "With the exception of the United States Air Force and Navy, the regional licensing program involves all Federal facilities in the region and non-Federal licensees in...." Also, the introductory text of paragraph (b) and paragraph (b)(1) are revised to read as follows:

§40.5 Communications.

* * * * *

- (b) The Commission has delegated to the five Regional Administrators licensing authority for selected parts of its decentralized licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes authority to issue, renew, amend, cancel, modify, suspend, or revoke licenses for nuclear materials issued pursuant to 10 CFR Parts 30 through 35, 40, and 70 to all persons except the United States Air Force and Navy for academic, medical, and industrial uses, with the following exceptions:

- (i) Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from NRC's Headquarters to the Regional Administrators.
- (ii) Health and safety design review of sealed sources and devices, and approval, for licensing purposes, of sealed sources and devices.
- (iii) Processing of source material for extraction of metallic compounds (including Zirconium, Hafnium, Tantalum, Titanium, Niobium, etc.).
- (iv) Distribution of products containing radioactive material to persons exempt pursuant to 10 CFR 32.11 through 32.26.
- (v) New uses or techniques for use of byproduct, source, or special nuclear material.

PART 70 - DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. In §70.5, paragraphs (b)(2)(i), (ii), (iii), (iv), and (v) are amended by changing the phrase, "With the exception of Federal facilities, the regional licensing program involves" to read "With the exception of the United States Air Force and Navy, the regional licensing program involves all Federal facilities in the region and non-Federal licensees in...." Also, the introductory text of paragraph (b) and paragraph (b)(1) are revised to read as follows:

§70.5 Communications.

* * * * *

(b) The Commission has delegated to the five Regional Administrators licensing authority for selected parts of its regional licensing program for nuclear materials as described in paragraph (b)(1) of this section. Any communication, report, or application covered under this licensing program must be submitted as specified in paragraph (b)(2) of this section.

(1) The delegated licensing program includes authority to issue, renew, amend, cancel, modify, suspend, or revoke licenses for nuclear materials issued pursuant to 10 CFR Parts 30 through 35, 40 and 70 to all persons except the United States Air Force and Navy for academic, medical, and industrial uses, with the following exceptions:

- (i) Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from NRC's Headquarters to the Regional Administrators.
- (ii) Health and safety design review of sealed sources and devices, and approval, for licensing purposes, of sealed sources and devices.
- (iii) Processing of source material for extraction of metallic compounds (including Zirconium, Hafnium, Tantalum, Titanium, Niobium, etc.).
- (iv) Distribution of products containing radioactive material to persons exempt pursuant to 10 CFR 32.11 through 32.26.
- (v) New uses or techniques for use of byproduct, source or special nuclear material.

* * * * *

Dated at Bethesda, MD, this _____ day of _____, 1985.

FOR THE NUCLEAR REGULATORY COMMISSION.

William J. Dircks
Executive Director for Operations

DELEGATION OF AUTHORITY FOR EDO PUBLICATION APPROVAL

Approved for Publication

In a final rule published March 19, 1983 (47 FR 11816), the Commission delegated to the EDO (10 CFR 1.40(c) and (d)) the authority to develop and promulgate rules as defined in the APA (5 U.S.C. 551(4)) subject to the limitations in NRC Manual Chapter 0.103, Organization and Functions, Office of the Executive Director for Operations, paragraphs 0213, 038, and 0310. The enclosed final rule entitled, "Regional Nuclear Materials Licensing for Certain Federal Facilities," amends 10 CFR Parts 30, 40, and 70 to include certain Federal facility licensees in the decentralized materials licensing program.

This final rule does not constitute a significant question of policy, nor does it amend regulations contained in 10 CFR Parts 0, 2, 7, 8, 9 Subpart C, or 110. I, therefore, find that this final rule is within the scope of my rulemaking authority and am proceeding to issue it.

Date

William J. Dircks
Executive Director for Operations

DAILY STAFF NOTES

DIVISION OF FUEL CYCLE AND MATERIAL SAFETY

OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS

Final Rule to be Signed by EDO

On , 1985, the Executive Director for Operations approved a final rule which revised 10 CFR Parts 30, 40, and 70. This revision informs the public of an action that broadens the scope of the nuclear materials licensing program in all Regions to include licensees at all Federal facilities, other than the United States Air Force and Navy. This action extends to the five Regional Offices the same licensing authority for certain Federal activities as they now possess for non-Federal activities. The only Federal licensees not now included in this action are the United States Air Force and the United States Navy which are in the process of major license modifications which may require some time to complete. Following these modifications, it is intended that the licensing authority for the Air Force and the Navy will be extended to the appropriate Regions.

This constitutes notice to the Commission that, in accordance with the rulemaking authority delegated to the EDO, the EDO has received the final rule and proposes to forward it on , 1985 to the Office of the Secretary for FR publication, unless otherwise directed by the Commission.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

MEMORANDUM FOR: Regional Administrators

FROM: William J. Dircks
Executive Director for Operations

John G. Davis, Director
Office of Nuclear Material Safety and Safeguards

SUBJECT: DELEGATION AND ASSIGNMENT TO ALL REGIONS
OF CERTAIN MATERIALS LICENSING ACTIONS

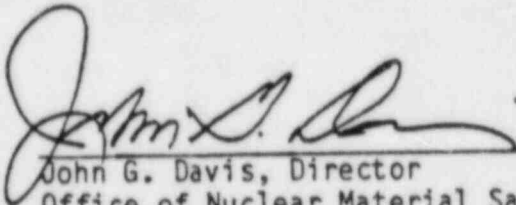
1. Pursuant to NRC Manual Chapter 0128, "Organization and Functions - Regional Offices," the Regional Administrators of all Regions are hereby assigned and authorized (hereafter referred to as authorized) to perform certain licensing actions as described herein, effective April 1, 1985. This authorization supersedes the ones issued to Regions I and III effective May 27, 1982 and to all Regions on April 1, 1983 (published April 14, 1983) and April 2, 1984.
2. Under the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the Office of Nuclear Material Safety and Safeguards (NMSS) is responsible for the principal licensing, regulation, and safeguarding of facilities and materials specified in the Atomic Energy Act of 1954 associated with the processing, transport, and handling of source, byproduct, and special nuclear materials (hereafter referred to as nuclear materials). Consequently, NMSS will remain responsible for determining overall licensing and regulatory policy for actions which the Regions have been authorized to perform pursuant to this memorandum. To enable NMSS to execute this responsibility properly, NMSS will maintain oversight of these licensing actions. This oversight shall include, but not be limited to, ongoing review of documentation, periodic assessments of activities being conducted by the Regions, and ongoing coordination and consultation between NMSS and the Regions regarding authorized licensing actions. The NMSS Director retains the authority to take actions determined necessary in all matters hereby authorized to be performed by the regions.
3. All Regional Administrators are authorized to issue, renew, amend, cancel, modify, suspend, or revoke, under the provisions set out by this delegation, licenses for nuclear materials issued pursuant to 10 CFR Parts 30 through 35, 40, and 70 to all Federal facilities throughout the United States under NRC jurisdiction except the United States Air Force and Navy and to all persons in non-Agreement States, Guam, Puerto Rico, the Virgin Islands and the District of Columbia for academic, medical, and industrial uses, with the following exceptions:

- A. Activities in the fuel cycle and special nuclear material in quantities sufficient to constitute a critical mass in any room or area. This exception does not apply to license modifications relating to termination of special nuclear material licenses that authorize possession of larger quantities when the case is referred for action from the Nuclear Regulatory Commission's Headquarters to the Regional Administrators.
 - B. Health and safety design review of sealed sources and devices, and approval, for licensing purposes, of sealed sources and devices.
 - C. Processing of source material for extraction of metallic compounds (including Zirconium, Hafnium, Tantalum, Titanium, Niobium, etc.).
 - D. Distribution of products containing radioactive material to persons exempt pursuant to 10 CFR Parts 32.11 through 32.26.
 - E. New uses or techniques for use of byproduct, source, or special nuclear material.
4. All Regional Administrators are authorized to issue, with the concurrence of the NMSS Director, notices of the denial or the proposed denial of applications for materials licenses and amendments or renewals thereof, pursuant to 10 CFR Part 2, within the parameters delineated in paragraph 3 above.
 5. Actions initiated by Regional Administrators to suspend, modify, or revoke licenses must have the concurrence of the NMSS Director.
 6. All Regional Administrators are authorized to respond to all Freedom of Information Act inquiries as well as inquiries from Congress, the media and others about licensing actions the Regions have the authority to perform.
 7. Actions pertaining to the disposal of nuclear material by burial must have the concurrence of the NMSS Director.
 8. All matters which arise that reasonably could be expected to have policy implications relating to delegated licensing actions shall be referred to the NMSS Director for resolution. If a licensing and/or regulation matter arises which has not been specifically authorized pursuant to this memorandum, it remains the responsibility of NMSS until a specific authorization is made to the Regions.
 9. Disagreements which arise between NMSS and Regional staffs on whether or not an issue constitutes an item which remains the responsibility

of NMSS, or on the way in which a delegated item(s) has been handled will be referred to the NMSS Director who will consult with the Regional Administrator prior to issuing a final resolution.

10. Disagreements between potential or existing licensees relative to decisions made by the Regional Administrators pertaining to license actions should be made known immediately to the NMSS Director. If resolution cannot be achieved at the Regional level, the applicant/ licensee shall be informed in writing by the Regional Administrator, with a copy to the NMSS Director, that it may seek resolution of the matter with the NMSS Director.
11. Delegated licensing actions are to be performed in accordance with policy guidance and standard review plans issued by the NMSS Director.
12. NMSS will provide a copy of this delegation, related revisions, and other related documents to the Deputy Executive Director for Regional Operations and Generic Requirements and the Director and Chief Counsel, Regional Operations Enforcement Division, Office of the Executive Legal Director. All documents submitted under this paragraph will be marked with Delegation and Assignment number [7590-01].

William J. Dircks
Executive Director for Operations



John G. Davis, Director
Office of Nuclear Material Safety
and Safeguards