

Nuclear Regulatory Commission

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if either a funding plan or certification is used.

[53 FR 24053, June 27, 1988, as amended at 56 FR 23474, May 21, 1991; 57 FR 18393, Apr. 30, 1992; 58 FR 39634, July 26, 1993; 58 FR 67662, Dec. 22, 1993; 58 FR 68731, Dec. 29, 1993; 59 FR 1618, Jan. 12, 1994; 60 FR 38239, July 26, 1995; 61 FR 24675, May 16, 1996; 62 FR 39091, July 21, 1997; 63 FR 29544, June 1, 1998; 68 FR 57337, Oct. 3, 2003]

Subpart E—Licenses

§ 70.31 Issuance of licenses.

(a) Upon a determination that an application meets the requirements of the act and of the regulations of the Commission, the Commission will issue a license in such form and containing such conditions and limitations as it deems appropriate or necessary to effectuate the purposes of the act.

(b) [Reserved]

(c) Each license issued to a person for use of special nuclear material in activities in which special nuclear material will be produced shall (subject to the provisions of § 70.41(b)) be deemed to authorize such person to receive title to, own, acquire, receive, possess, use, and transfer the special nuclear material produced in the course of such authorized activities.

(d) No license will be issued by the Commission to any person within the United States if the Commission finds that the issuance of such license would be inimical to the common defense and security or would constitute an unreasonable risk to the health and safety of the public.

(e) No license to construct and operate a uranium enrichment facility may be issued until a hearing pursuant to 10 CFR part 2, subparts G and I, is completed and decision issued on the application.

[21 FR 764, Feb. 3, 1956, as amended at 32 FR 2563, Feb. 7, 1967; 32 FR 4056, Mar. 15, 1967; 43 FR 6925, Feb. 17, 1978; 57 FR 18393, Apr. 30, 1992]

§ 70.32 Conditions of licenses.

(a) Each license shall contain and be subject to the following conditions:

(1) [Reserved]

(2) No right to the special nuclear material shall be conferred by the license except as defined by the license;

(3) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of the Act;

(4) All special nuclear material shall be subject to the right of recapture or control reserved by section 108 and to all other provisions of the Act;

(5) No special nuclear material may be used in any utilization or production facility except in accordance with the provisions of the Act;

(6) The licensee shall not use the special nuclear material to construct an atomic weapon or any component of an atomic weapon;

(7) Except to the extent that the indemnification and limitation of liability provisions of part 140 of this chapter apply, the licensee will hold the United States and the Department harmless from any damages resulting from the use or possession of special nuclear material leased from the Department by the licensee;

(8) The license shall be subject to and the licensee shall observe, all applicable rules, regulations and orders of the Commission.

(9)(i) Each licensee shall notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any Chapter of Title 11 (Bankruptcy) of the United States Code by or against:

(A) The licensee;

(B) An entity (as that term is defined in 11 U.S.C. 101(14)) controlling the licensee or listing the license or licensee as property of the estate; or

(C) An affiliate (as that term is defined in 11 U.S.C. 101(a)) of the licensee.

(ii) This notification must indicate:

(A) The bankruptcy court in which the petition for bankruptcy was filed; and

(B) The date of the filing of the petition.

(b) The Commission may incorporate in any license such additional conditions and requirements with respect to the licensee's ownership, receipt, possession, use, and transfer of special nuclear material as it deems appropriate or necessary in order to:

(1) Promote the common defense and security;

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(2) Protect health or to minimize danger to life or property;

(3) Protect restricted data;

(4) Guard against the loss or diversion of special nuclear material;

(5) Require such reports and the keeping of such records, and to provide for such inspections, of activities under the license as may be necessary or appropriate to effectuate the purposes of the act and regulations thereunder.

(c)(1) Each license authorizing the possession and use at any one time and location of uranium source material at an uranium enrichment facility or special nuclear material in a quantity exceeding one effective kilogram, except for use as sealed sources and those uses involved in the operation of a nuclear reactor licensed pursuant to part 50 of this chapter and those involved in a waste disposal operation, shall contain and be subject to a condition requiring the licensee to maintain and follow:

(i) The program for control and accounting of uranium source material at an uranium enrichment facility and special nuclear material at all applicable facilities as implemented pursuant to § 70.22(b), or §§ 74.31(b), 74.33(b), 74.41(b), or 74.51(c) of this chapter, as appropriate;

(ii) The measurement control program for uranium source material at an uranium enrichment facility and for special nuclear material at all applicable facilities as implemented pursuant to §§ 74.31(b), 74.33(b), 74.45(c), or 74.59(e) of this chapter, as appropriate; and

(iii) Other material control procedures as the Commission determines to be essential for the safeguarding of uranium source material at an uranium enrichment facility or of special nuclear material and providing that the licensee shall make no change that would decrease the effectiveness of the material control and accounting program implemented pursuant to § 70.22(b), or §§ 74.31(b), 74.33(b), 74.41(b), or 74.51(c) of this chapter, and the measurement control program implemented pursuant to §§ 74.31(b), 74.33(b), 74.41(b), or 74.59(e) of this chapter without the prior approval of the Commission. A licensee desiring to make changes that would decrease the effectiveness of its material control and accounting program or its measurement

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control program shall submit an application for amendment to its license pursuant to § 70.34.

(2) The licensee shall maintain records of changes to the material control and accounting program made without prior Commission approval for a period of 5 years from the date of the change. Licensees located in all four Regions as indicated in appendix A of part 73 of this chapter shall furnish to the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, using an appropriate method listed in § 70.5(a), a report containing a description of each change within:

(i) Two months of the change if it pertains to uranium-233, uranium-235 contained in uranium enriched 20 percent or more in the uranium-235 isotope, or plutonium, except plutonium containing 80 percent or more by weight of the isotope Pu-238, and

(ii) Six months of the change if it pertains to uranium enriched less than 20 percent in the uranium-235 isotope, or plutonium containing 80 percent or more by weight of the isotope Pu-238.

(d) The licensee shall make no change which would decrease the effectiveness of the plan for physical protection of special nuclear material in transit prepared pursuant to § 70.22(g) or § 73.20(c) of this chapter without the prior approval of the Commission. A licensee desiring to make such changes shall submit an application for a change in the technical specifications incorporated in his or her license, if any, or for an amendment to the license pursuant to § 50.90 or § 70.34 of this chapter, as appropriate. The licensee may make changes to the plan for physical protection of special nuclear material without prior Commission approval if these changes do not decrease the effectiveness of the plan. The licensee shall retain a copy of the plan as a record for the period during which the licensee possesses a formula quantity of special nuclear material requiring this record under each license and each change to the plan for three years from the effective date of the change. Within two months after each change, a report containing a description of the change must be furnished to

the Director of the NRC's Office of Nuclear Material Safety and Safeguards, using an appropriate method listed in §70.5(a); and a copy must be sent to the appropriate NRC Regional Office shown in appendix A to part 73 of this chapter.

(e) The licensee shall make no change which would decrease the effectiveness of a security plan prepared pursuant to §§70.22(h), 70.22(k), or 73.20(c) without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to its license pursuant to §70.34. The licensee shall maintain records of changes to the plan made without prior Commission approval, for three years from the effective date of the change, and shall, within two months after the change is made, furnish a report containing a description of each change to the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response; the report may be sent using an appropriate method listed in §70.5(a), and a copy of the report must be sent to the appropriate NRC Regional Office shown in appendix A to part 73 of this chapter.

(f) [Reserved]

(g) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with appendix C to part 73 of this chapter for bringing about the actions and decisions contained in the Responsibility Matrix of its safeguards contingency plan. The licensee shall retain the current safeguards contingency plan procedures as a record for the entire period during which the licensee possesses the appropriate type and quantity of special nuclear material under each license for which the procedures were developed and, if any portion of the plan is superseded, retain that superseded portion for 3 years after the effective date of the change. The licensee shall not make a change that would decrease the safeguards effectiveness of the first four categories of information (*i.e.*, Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix) contained in any licensee safeguards contingency plan prepared pursuant to §§70.22(g), 70.22(j), 72.184, 73.20(c),

73.26(e)(1), 73.46(h)(1), or 73.50(g)(1) of this chapter without the prior approval of the NRC. A licensee desiring to make such a change shall submit an application for an amendment to its license pursuant to §70.34. The licensee may make changes to the licensee safeguards contingency plan without prior NRC approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain each change to the plan made without prior approval as a record during the period for which possession of a formula quantity of special nuclear material is authorized under a license and retain the superseded portion for 3 years after the effective date of the change, and shall, within 60 days after the change is made, furnish a report containing a description of each change to the Director of Nuclear Material Safety and Safeguards; the report may be sent using an appropriate method listed in §70.5(a), and a copy of the report must be sent to the Regional Administrator of the appropriate NRC Regional Office as specified in appendix A to part 73 of this chapter.

(h) [Reserved]

(i) Licensees required to submit emergency plans in accordance with §70.22(i) shall follow the emergency plan approved by the Commission. The licensee may change the approved plan without Commission approval if the changes do not decrease the effectiveness of the plan. Within six months after each change is made, the licensee shall, using an appropriate method listed in §70.5(a), furnish the Director, Division of Nuclear Security, Office of Nuclear Security and Incident Response, a copy of each change, with copies to the appropriate NRC Regional Office specified in appendix D to part 20 of this chapter and to affected offsite response organizations. Proposed changes that decrease the effectiveness of the approved emergency plan may not be implemented without prior application to and prior approval by the Commission.

(j) Each licensee who possesses a formula quantity of strategic special nuclear material, or who transports, or delivers to a carrier for transport, a formula quantity of strategic special nuclear material or more than 100

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grams of irradiated reactor fuel shall ensure that physical security, safeguards contingency, and guard qualification and training plans and other related Safeguards Information are protected against unauthorized disclosure in accordance with the requirements of § 73.21 of this chapter.

(k) No person may commence operation of a uranium enrichment facility until the Commission verifies through inspection that the facility has been constructed in accordance with the requirements of the license. The Commission shall publish notice of the inspection results in the FEDERAL REGISTER.

[21 FR 764, Feb. 3, 1956]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 70.32, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTE: At 73 FR 63572, Oct. 24, 2008, § 70.32 was amended by revising paragraph (j), effective Feb. 23, 2009. For the convenience of the user, the revised text is set forth as follows:

§ 70.32 Conditions of licenses.

* * * * *

(j) Each licensee who possesses special nuclear material, or who transports, or delivers to a carrier for transport, a formula quantity of strategic special nuclear material, special nuclear material of moderate strategic significance, or special nuclear material of low strategic significance, or more than 100 grams of irradiated reactor fuel shall ensure that Safeguards Information is protected against unauthorized disclosure in accordance with the requirements in § 73.21 and the requirements of § 73.22 or § 73.23 of this chapter, as applicable, and shall protect classified information in accordance with the requirements of parts 25 and 95 of this chapter, as applicable.

* * * * *

§ 70.33 Renewal of licenses.

(a) Applications for renewal of a license should be filed in accordance with §§ 70.21 and 70.22. Information contained in previous applications, statements or reports filed with the Commission under the license may be incorporated by reference: *Provided*, That such references are clear and specific.

(b) If any licensee granted the extension described in 10 CFR 70.38(a)(2) has a currently pending renewal application for that extended license, that application will be considered withdrawn by the licensee and any renewal fees paid by the licensee for that application will be refunded.

[21 FR 764, Feb. 3, 1956, as amended at 59 FR 36037, July 15, 1994; 61 FR 1115, Jan. 16, 1996]

§ 70.34 Amendment of licenses.

Applications for amendment of a license shall be filed in accordance with § 70.21(a) and shall specify the respects in which the licensee desires his license to be amended and the grounds for such amendment.

§ 70.35 Commission action on applications to renew or amend.

In considering an application by a licensee to renew or amend his license, the Commission will apply the criteria set forth in § 70.23.

§ 70.36 Inalienability of licenses.

No license granted under the regulations in this part and no right to possess or utilize special nuclear material granted by any license issued pursuant to the regulations in this part shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person unless the Commission shall after securing full information, find that the transfer is in accordance with the provisions of the Act, and shall give its consent in writing.

[21 FR 764, Feb. 3, 1956, as amended at 35 FR 11461, July 17, 1970]

§ 70.37 Disclaimer of warranties.

Neither the Government nor the Commission makes any warranty or other representation that special nuclear material (a) will not result in injury or damage when used for purposes approved by the Commission, (b) will accomplish the results for which it is requested and approved by the Commission, or (c) is safe for any other use.

§ 70.38 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(a) Each specific license expires at the end of the day on the expiration date stated in the license unless the licensee has filed an application for renewal under § 70.33 not less than 30 days before the expiration date stated in the existing license. If an application for renewal has been filed at least 30 days before the expiration date stated in the existing license, the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(b) Each specific license revoked by the Commission expires at the end of the day on the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Commission Order.

(c) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of special nuclear material until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee shall—

(1) Limit actions involving special nuclear material to those related to decommissioning; and

(2) Continue to control entry to restricted areas until they are suitable for release in accordance with NRC requirements.

(d) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in § 70.5, each licensee shall provide notification to the NRC in writing and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, so that the building or outdoor area is suitable for release in accordance with NRC requirements, or submit within 12 months of notification a decommissioning plan, if required by paragraph (g)(1) of this section, and begin decommissioning upon approval of that plan if—

(1) The license has expired pursuant to paragraph (a) or (b) of this section; or

(2) The licensee has decided to permanently cease principal activities, as defined in this part, at the entire site or in any separate building or outdoor area; or

(3) No principal activities under the license have been conducted for a period of 24 months; or

(4) No principal activities have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release in accordance with NRC requirements.

(e) Coincident with the notification required by paragraph (d) of this section, the licensee shall maintain in effect all decommissioning financial assurances established by the licensee pursuant to § 70.25 in conjunction with a license issuance or renewal or as required by this section. The amount of the financial assurance must be increased, or may be decreased, as appropriate, to cover the detailed cost estimate for decommissioning established pursuant to paragraph (g)(4)(v) of this section.

(1) Any licensee who has not provided financial assurance to cover the detailed cost estimate submitted with the decommissioning plan shall do so when this rule becomes effective November 24, 1995.

(2) Following approval of the decommissioning plan, a licensee may reduce the amount of the financial assurance as decommissioning proceeds and radiological contamination is reduced at the site with the approval of the Commission.

(f) The Commission may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that this relief is not detrimental to the public health and safety and is otherwise in the public interest. The request must be submitted no later than 30 days before notification pursuant to paragraph (d) of this section. The schedule for decommissioning set forth in paragraph (d) of this section may not commence until the Commission has made a determination on the request.

(g)(1) A decommissioning plan must be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the Commission and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(i) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(ii) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(iii) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(iv) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(2) The Commission may approve an alternate schedule for submittal of a decommissioning plan required pursuant to paragraph (d) of this section if the Commission determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(3) The procedures listed in paragraph (g)(1) of this section may not be carried out prior to approval of the decommissioning plan.

(4) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(i) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(ii) A description of planned decommissioning activities;

(iii) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(iv) A description of the planned final radiation survey; and

(v) An updated detailed cost estimate for decommissioning, comparison of

that estimate with present funds set aside for decommissioning, and a plan for assuring the availability of adequate funds for completion of decommissioning.

(vi) A description of the physical security plan and material control and accounting plan provisions in place during decommissioning.

(vii) For decommissioning plans calling for completion of decommissioning later than 24 months after plan approval, a justification for the delay based on the criteria in paragraph (i) of this section.

(5) The proposed decommissioning plan will be approved by the Commission if the information therein demonstrates that the decommissioning will be completed as soon as practical and that the health and safety of workers and the public will be adequately protected.

(h)(1) Except as provided in paragraph (i) of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 24 months following the initiation of decommissioning.

(2) Except as provided in paragraph (i) of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than 24 months following the initiation of decommissioning.

(i) The Commission may approve a request for an alternate schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Commission determines that the alternative is warranted by consideration of the following:

(1) Whether it is technically feasible to complete decommissioning within the allotted 24-month period;

(2) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 24-month period;

(3) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(4) Whether a significant reduction in radiation exposure to workers can be

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achieved by allowing short-lived radionuclides to decay; and

(5) Other site-specific factors which the Commission may consider appropriate on a case-by-case basis, such as regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(j) As the final step in decommissioning, the licensee shall—

(1) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(2) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates in some other manner that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR part 20, subpart E. The licensee shall, as appropriate—

(i) Report levels of gamma radiation in units of millisieverts (micro-roentgen) per hour at one meter from surfaces, and report levels of radioactivity, including alpha and beta, in units of megabecquerels (disintegrations per minute or microcuries) per 100 square centimeters removable and fixed for surfaces, megabecquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(k) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Commission determines that:

(1) Special nuclear material has been properly disposed;

(2) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(3)(i) A radiation survey has been performed which demonstrates that the premises are suitable for release in accordance with the criteria for decom-

missioning in 10 CFR part 20, subpart E; or

(ii) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release in accordance with the criteria for decommissioning in 10 CFR part 20, subpart E.

(4) Records required by § 70.51(b)(6) have been received.

[59 FR 36037, July 15, 1994, as amended at 60 FR 38240, July 26, 1995; 61 FR 1115, Jan. 16, 1996; 61 FR 24675, May 16, 1996; 61 FR 29637, 29638, June 12, 1996; 62 FR 39091, July 21, 1997; 66 FR 24049, May 11, 2001; 73 FR 42675, July 23, 2008]

§ 70.39 Specific licenses for the manufacture or initial transfer of calibration or reference sources.

(a) An application for a specific license to manufacture or initially transfer calibration or reference sources containing plutonium, for distribution to persons generally licensed under § 70.19, will be approved if:

(1) The applicant satisfies the general requirements of § 70.23.

(2) The applicant submits sufficient information regarding each type of calibration or reference source pertinent to evaluation of the potential radiation exposure, including:

(i) Chemical and physical form and maximum quantity of plutonium in the source;

(ii) Details of construction and design;

(iii) Details of the method of incorporation and binding of the plutonium in the source;

(iv) Procedures for and results of prototype testing of sources, which are designed to contain more than 0.005 microcurie of plutonium, to demonstrate that the plutonium contained in each source will not be released or be removed from the source under normal conditions of use;

(v) Details of quality control procedures to be followed in manufacture of the source;

(vi) Description of labeling to be affixed to the source or the storage container for the source;

(vii) Any additional information, including experimental studies and tests, required by the Commission to facilitate a determination of the safety of the source.

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(3) Each source will contain no more than 5 microcuries of plutonium.

(4) The Commission determines, with respect to any type of source containing more than 0.005 microcurie of plutonium, that:

(i) The method of incorporation and binding of the plutonium in the source is such that the plutonium will not be released or be removed from the source under normal conditions of use and handling of the source; and

(ii) The source has been subjected to and has satisfactorily passed the prototype tests prescribed by paragraph (a)(5) of this section.

(5) For any type of source which is designed to contain more than 0.005 microcurie of plutonium, the applicant has conducted prototype tests, in the order listed, on each of five prototypes of such source, which contains more than 0.005 microcurie of plutonium, as follows:

(i) *Initial measurement.* The quantity of radioactive material deposited on the source shall be measured by direct counting of the source.

(ii) *Dry wipe test.* The entire radioactive surface of the source shall be wiped with filter paper with the application of moderate finger pressure. Removal of radioactive material from the source shall be determined by measuring the radioactivity on the filter paper or by direct measurement of the radioactivity on the source following the dry wipe.

(iii) *Wet wipe test.* The entire radioactive surface of the source shall be wiped with filter paper, moistened with water, with the application of moderate finger pressure. Removal of radioactive material from the source shall be determined by measuring the radioactivity on the filter paper after it has dried or by direct measurement of the radioactivity on the source following the wet wipe.

(iv) *Water soak test.* The source shall be immersed in water at room temperature for a period of 24 consecutive hours. The source shall then be removed from the water. Removal of radioactive material from the source shall be determined by direct measurement of the radioactivity on the source after it has dried or by measuring the radioactivity in the residue obtained

by evaporation of the water in which the source was immersed.

(v) *Dry wipe test.* On completion of the preceding tests in paragraphs (a)(5)(i) through (iv) of this section, the dry wipe test described in paragraph (a)(5)(ii) of this section shall be repeated.

(vi) *Observations.* Removal of more than 0.005 microcurie of radioactivity in any test prescribed by this paragraph shall be cause for rejection of the source design. Results of prototype tests submitted to the Commission shall be given in terms of radioactivity in microcuries and percent of removal from the total amount of radioactive material deposited on the source.

(b) Each person licensed under this section shall affix to each source, or storage container for the source, a label which shall contain sufficient information relative to safe use and storage of the source and shall include the following statement or a substantially similar statement which contains the information called for in the following statement.¹

The receipt, possession, use and transfer of this source, Model _____, Serial No. _____, are subject to a general license and the regulations of the United States Nuclear Regulatory Commission or of a State with which the Commission has entered into an agreement for the exercise of regulatory authority. Do not remove this label.

CAUTION—RADIOACTIVE MATERIAL—THIS SOURCE CONTAINS PLUTONIUM. DO NOT TOUCH RADIOACTIVE PORTION OF THIS SOURCE.

(Name of Manufacturer or Initial Transferor)

(c) Each person licensed under this section shall perform a dry wipe test upon each source containing more than 0.1 microcurie of plutonium prior to transferring the source to a general licensee under § 70.19. This test shall be performed by wiping the entire radioactive surface of the source with a filter paper with the application of moderate finger pressure. The radioactivity on the paper shall be measured by using radiation detection instrumentation capable of detecting 0.005

¹ Sources generally licensed under this section prior to January 19, 1975 may bear labels authorized by the regulations in effect on January 1, 1975.

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microcurie of plutonium. If any such test discloses more than 0.005 microcurie of radioactive material, the source shall be deemed to be leaking or losing plutonium and shall not be transferred to a general licensee under § 70.19.

[29 FR 5884, May 5, 1964, as amended at 32 FR 2563, Feb. 7, 1967; 38 FR 1272, Jan. 11, 1973; 40 FR 8792, Mar. 3, 1975; 42 FR 43966, Sept. 1, 1977; 43 FR 6925, Feb. 17, 1978]

§ 70.40 Ineligibility of certain applicants.

A license may not be issued to the Corporation if the Commission determines that:

(a) The Corporation is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government; or

(b) The issuance of such a license would be inimical to—

(1) The common defense and security of the United States; or

(2) The maintenance of a reliable and economical domestic source of enrichment services.

[62 FR 6669, Feb. 12, 1997]

Subpart F—Acquisition, Use and Transfer of Special Nuclear Material, Creditors' Rights

§ 70.41 Authorized use of special nuclear material.

(a) Each licensee shall confine his possession and use of special nuclear material to the locations and purposes authorized in his license. Except as otherwise provided in the license, each license issued pursuant to the regulations in this part shall carry with it the right to receive title to, own, acquire, receive, possess and use special nuclear material. Preparation for shipment and transport of special nuclear material shall be in accordance with the provisions of part 71 of this chapter.

(b) The possession, use and transfer of any special nuclear material produced by a licensee, in connection with or as a result of use of special nuclear material received under his license,

shall be subject to the provisions of the license and the regulations in this part.

[21 FR 764, Feb. 3, 1956, as amended at 38 FR 33970, Dec. 10, 1973; 43 FR 6925, Feb. 17, 1978]

§ 70.42 Transfer of special nuclear material.

(a) No licensee shall transfer special nuclear material except as authorized pursuant to this section.

(b) Except as otherwise provided in his license and subject to the provisions of paragraphs (c) and (d) of this section, any licensee may transfer special nuclear material:

(1) To the Department;

(2) To the agency in any Agreement State which regulates radioactive materials pursuant to an agreement with the Commission or the Atomic Energy Commission under section 274 of the Act, if the quantity transferred is not sufficient to form a critical mass;

(3) To any person exempt from the licensing requirements of the Act and regulations in this part, to the extent permitted under such exemption;

(4) To any person in an Agreement State, subject to the jurisdiction of that State, who has been exempted from the licensing requirements and regulations of that State, to the extent permitted under such exemption;

(5) To any person authorized to receive such special nuclear material under terms of a specific license or a general license or their equivalents issued by the Commission or an Agreement State;

(6) To any person abroad pursuant to an export license issued under part 110 of this chapter; or

(7) As otherwise authorized by the Commission in writing.

(c) Before transferring special nuclear material to a specific licensee of the Commission or an Agreement State or to a general licensee who is required to register with the Commission or with an Agreement State prior to receipt of the special nuclear material, the licensee transferring the material shall verify that the transferee's license authorizes receipt of the type, form, and quantity of special nuclear material to be transferred.

(d) The following methods for the verification required by paragraph (c) of this section are acceptable: