

Withdrawn

NRC Regulatory Issue Summary 2014-08, “Regulatory Requirements for Transfer of Control (Change of Ownership) of Specific Materials Licenses,” dated May 27, 2014 (ADAMS Accession No. ML13260A342), has been withdrawn and superseded by RIS 2014-08, Rev. 1 (ADAMS Accession No. ML15181A223).

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF FEDERAL AND STATE MATERIALS
AND ENVIRONMENTAL MANAGEMENT PROGRAMS
WASHINGTON, DC 20555-0001

May 27, 2014

**NRC REGULATORY ISSUE SUMMARY 2014-08
REGULATORY REQUIREMENTS FOR TRANSFER OF CONTROL
(CHANGE OF OWNERSHIP) OF SPECIFIC MATERIALS LICENSES**

ADDRESSEES

All holders of, and applicants for, a specific materials license in accordance with the provisions of Title 10, "Energy," of the *Code of Federal Regulations* (10 CFR) Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material," or 10 CFR Part 40, "Domestic Licensing of Source Material." All Agreement State Radiation-Control Program Directors and State Liaison Officers.

INTENT

The U.S. Nuclear Regulatory Commission (NRC) is issuing this regulatory issue summary (RIS) to clarify which information is required to be submitted to the NRC, prior to a change of ownership or control for specific materials licenses issued under 10 CFR Part 30 or 10 CFR Part 40. This RIS also provides clarification on reporting requirements under 10 CFR 2.1301, "Public Notice of Receipt of a License Transfer Application," and 10 CFR 2.1305, "Written Comments." This RIS does not transmit any new requirements or new staff positions. No specific action or written response is required. The NRC is providing this RIS to the Agreement States for their information and for distribution to their licensees, as appropriate.

BACKGROUND INFORMATION

Regulations 10 CFR Part 30.34(b)(1) and 10 CFR Part 40.46(a) provide that no license granted under 10 CFR Parts 30 through 36, Part 39, or Part 40 can be "transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control (TOC) of any license to any person, unless the Commission . . . [gives] its consent in writing." Information Notice (IN) 89-25, Revision 1, "Unauthorized Transfer of Ownership Control of Licensed Activities," further outlines the need for licensees to obtain prior written permission from the Commission before transferring control of licenses to other parties. Furthermore, Revision 1 of IN 89-25 clarified that transferring control of an NRC license without proper notification is considered to be an act of noncompliance with the NRC regulations and, more specifically, is typically considered to be a Severity Level III violation and may warrant escalated enforcement action, to include civil penalties and orders against one or both of the parties involved, if indicated by the circumstances.

ML13260A342

Under Section 189.a(1)(A) of the Atomic Energy Act of 1954, as amended (AEA), an application for TOC of a license shall be subject to an opportunity for hearing. In 1998, the NRC issued a final rule, "Streamlined Hearing Process for NRC Approval of License Transfers" (1998 Rule), (*Federal Register*, 63 FR 66721; December 3, 1998). This rule amended 10 CFR Part 2, "Agency Rules of Practice and Procedure," to provide "uniform" procedures and "rules of practice" that would be applicable to all license transfers requiring prior NRC approval. Under the 1998 Rule along with the 1999 final rule, "Electronic Availability of NRC Public Records and Ending of NRC Local Public Document Room Program" (1999 Rule) (64 FR 48942; September 9, 1999), the following documents must be placed in the Agencywide Documents Access and Management System (ADAMS): the license transfer application and any associated requests; the NRC correspondence with the applicant or licensee related to the application; the NRC staff Safety Evaluation Report; any NRC staff order which acts on the license transfer application; and, if a hearing is held, the hearing record and decision.

Under 10 CFR 2.1301 and 10 CFR 2.1305, as amended by the 1998 Rule and 1999 Rule, members of the public may submit written comments as an alternative to a request for a hearing or petition to intervene, and "[the NRC] will notice receipt of each application for direct or indirect transfer of a specific NRC license by placing a copy of the application at the NRC Web site, <http://www.nrc.gov>." Furthermore, "if appropriate, [the NRC will] respond to submitted comments, but these comments do not otherwise constitute part of the decisional record." Written comments are required to be submitted to the NRC within 30 days after public notice of the receipt of the application, and the NRC will provide the licensee with a copy of any received comments. While the licensee is not required to respond to the written comments, if it chooses to do so, any response must be submitted to the NRC within 10 days of the licensee's receipt of the comments.

SUMMARY OF ISSUE

Holders of material licenses issued under 10 CFR Parts 30 or 40 should review NUREG-1556, Vol. 15, "Guidance about Changes of Control and about Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses," for guidance on submitting requests to the NRC prior to transferring control of a license. Additionally, while written specifically for licensees holding Part 70 material licenses, all material licensees should also review RIS 08-19, "Lessons-Learned from Recent 10 CFR Part 70 License-Transfer Application Reviews" for further insight regarding the required information to be submitted to NRC with respect to materials TOC applications.

Full information on a proposed TOC should be submitted to the appropriate NRC regional or Headquarters office no less than 90 days prior to the proposed transfer. The purpose of such notification is to allow the NRC to review information pertaining to the transfer so that the agency can ensure that: (1) radioactive materials are possessed, used, owned, or controlled only by persons who have valid NRC licenses; (2) materials are properly handled and secured; (3) persons using such materials are capable, competent, and committed to implementing appropriate radiological controls; (4) licensees provide adequate financial assurance for compliance with the applicable NRC requirements; and (5) public health and safety are not compromised by the use of such materials. Although the burden of notification is on the existing licensee, it may still be necessary for the transferee to provide supporting information or to independently coordinate the TOC with the appropriate NRC office.

The NRC requires, in accordance with 10 CFR 2.1301 and 10 CFR 2.1305, that a notification of an application for a TOC be posted for a 30-day public comment period. Consent for a TOC will not be granted by the NRC until this 30-day posting period has elapsed and the NRC has found that the transfer is in accordance with the AEA. In order to allow the NRC sufficient time to post a notice of an application for TOC and to provide the required opportunity for the submission of written comments, any licensee that intends to transfer control of a specific materials license should notify the NRC as soon as possible. Any application for a TOC must include the information outlined in 10 CFR 30.34(b)(2) or 10 CFR 40.46(b) for Part 30 and Part 40 licenses, respectively. A notice of each TOC application for a materials license will be posted on the NRC's "Hearing Opportunities and License Applications" webpage located at <http://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing-license-applications.html>.

BACKFIT DISCUSSION

This RIS requires no action or written response beyond that already required by the NRC regulations. Any action on the part of addressees in accordance with the guidance contained in this RIS is strictly voluntary and, therefore, is not a backfit under any requirement. Consequently, the staff did not perform a backfit analysis.

FEDERAL REGISTER NOTIFICATION

A notice of opportunity for public comment on this RIS was not published in the *Federal Register* because this RIS is informational and does not represent a departure from current regulatory requirements.

CONGRESSIONAL REVIEW ACT

This RIS is not a rule as designated by the Congressional Review Act (5 U.S.C. §§ 801–886) and, therefore, is not subject to the Act.

RELATED GENERIC COMMUNICATIONS

Information Notice 1989-25, Revision 1, "Unauthorized Transfer of Ownership Control of Licensed Activities," ADAMS Accession No. ML082320739.

Regulatory Issue Summary 2008-19, "Lessons Learned from Recent 10 CFR 70 License-Transfer Application Reviews," ADAMS Accession No. ML081760011.

PAPERWORK REDUCTION ACT STATEMENT

This RIS does not contain information-collection requirements and, therefore, is not subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

PUBLIC PROTECTION NOTIFICATION

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

CONTACT

This RIS requires no specific action or written response. If you have any questions about this summary, please contact the technical contact listed below or the appropriate regional office.

/RA/

Laura A. Dudes, Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Technical Contacts: Tomas Herrera, FSME/MSSA
(301) 415-7138
E-mail: Tomas.Herrera@nrc.gov

Justin A. Vazquez, FSME/MSSA
(301) 415-6684
E-mail: Justin.Vazquez@nrc.gov

Legal Contact: Tracey Stokes, OGC
(301) 415-1064
E-mail: Tracey.Stokes@nrc.gov

Enclosure:
List of Recently Issued FSME
Generic Communications

PUBLIC PROTECTION NOTIFICATION

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid Office of Management and Budget control number.

CONTACT

This RIS requires no specific action or written response. If you have any questions about this summary, please contact the technical contact listed below or the appropriate regional office.

/RA/

Laura A. Dudes, Director
Division of Materials Safety and State Agreements
Office of Federal and State Materials
and Environmental Management Programs

Technical Contacts: Tomas Herrera, FSME/MSSA
(301) 415-7138
E-mail: Tomas.Herrera@nrc.gov

Justin A. Vazquez, FSME/MSSA
(301) 415-6684
E-mail: Justin.Vazquez@nrc.gov

Legal Contact: Tracey Stokes, OGC
(301) 415-1064
E-mail: Tracey.Stokes@nrc.gov

Enclosure:
List of Recently Issued FSME
Generic Communications

ML13260A342

*via email

OFC	FSME/MSSA/LB	FSME/MSSA/LB	FSME/MSSA/LB	FSME/MSSA/RMSB
NAME	JVazquez	HRodriguez-Luccioni	THerrera	AMcIntosh
DATE	9/30/2013	9/30/2013	9/30/2013	9/27/2013
OFC	FSME/MSSA/LB	FSME/DWMEP/SPB*	OE*	OIS*
NAME	MKotzalas	LChang	K Day for NHilton	TDonnell
DATE	01/22/2014	10/7/2013	11/25/2013	11/29/2013
OFC	OGC-CRA	OGC-NLO	FSME/MSSA	QTE
NAME	JAdler	BJones	LDudes	JDougherty
DATE	04/07/2014	04/07/2014	05/12/2014	05/15/2014
OFC	FSME/MSSA			
NAME	LDudes			
DATE	05/27/2014			

OFFICIAL RECORD COPY

List of Recently Issued Office of Federal and State Materials and Environmental Management Programs Generic Communications			
Date	GC No.	Subject	Addressees
05/12/2014	RIS-2014-04	National Source Tracking System Long-Term Storage Indicator	All licensees possessing Category 1 or Category 2 quantities of sealed sources reportable to the National Source Tracking System (NSTS); all Agreement State Radiation Control Program Directors; all holders of an operating license or construction permit for a nuclear power reactor under Title 10 of the <i>Code of Federal Regulations</i> (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel; all holders of an operating license for a non-power reactor (research reactor, test reactor, or critical assembly) under Title 10 of the <i>Code of Federal Regulations</i> (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities," except for those who have permanently ceased operations.
05/12/2014	IN-2014-05	Verifying Appropriate Dosimetry Evaluation	All licensees and Radiation Control Program Directors and State Liaison Officers

List of Recently Issued Office of Federal and State Materials and Environmental Management Programs Generic Communications			
Date	GC No.	Subject	Addressees
04/28/2014	IN-2014-06	Damage of Industrial Radiographic Equipment due to Falling Equipment and Improper Mounting	All U.S. Nuclear Regulatory Commission material licensees possessing industrial radiographic equipment, regulated under 10 CFR Part 34; all Agreement States Radiation Control Program Directors; all holders of and users of a transportation package certificate of compliance under Title 10 of the Code of Federal Regulations (10 CFR) Part 71, "Packaging and Transportation of Radioactive Material," that possess industrial radiographic equipment regulated under 10 CFR Part 34, and all holders of or applicants for an early site permit, standard design certification, standard design approval, manufacturing license, or combined license under 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants."
04/16/2014	RIS-2014-02	Withdrawal of NRC Generic Letter 95-08, "10 CFR 50.54(p) Process for Changes to Security Plans Without Prior NRC Approval"	All holders of and applicants for construction permits or operating licenses for nuclear power reactors under the provisions of Title 10, "Energy," of the <i>Code of Federal Regulations</i> (10 CFR) Part 50, "Domestic Licensing of Production and Utilization Facilities." All holders of and applicants for a combined license, standard design approval, or manufacturing license under 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Reactors." All applicants for a standard design certification, including such applicants after initial issuance of a design certification rule.

List of Recently Issued Office of Federal and State Materials and Environmental Management Programs Generic Communications			
Date	GC No.	Subject	Addressees
03/04/2014	IN-99-03, Rev. 1	Exothermic Reactions Involving Dried Uranium Oxide Powder (Yellowcake)	All operating uranium recovery facilities that produce uranium oxide powder (yellowcake). All Agreement States with the authority to regulate uranium mills (i.e., Utah, Colorado, Texas, Ohio, Illinois, and Washington).
03/13/2014	RIS-2014-03	Notice of 10 CFR Part 37 Implementation Deadline for NRC Licensees	All holders of and applicants for U.S. Nuclear Regulatory Commission (NRC) licenses that possess Category 1 and Category 2 quantities of radioactive material, NRC Master Material Licensees, Agreement State Radiation Control Program Directors, and State Liaison Officers
<p>Note: This list contains the six most recently issued generic communications, issued by the Office of Federal and State Materials and Environmental Management Programs. A full listing of all generic communications may be viewed at the NRC public Web site at the following address: http://www.nrc.gov/reading-rm/doc-collections/gen-comm/index.html</p>			