

January 24, 1997

MEMORANDUM TO: Stuart A. Treby, Associate General Counsel
Rulemaking and Fuel Cycle, OGC

FROM: Steven L. Baggett, Section Leader
Commercial Section
Medical, Academic, and Commercial
Use Safety Branch
Division of Industrial and
Medical Nuclear Safety, NMSS

SUBJECT: ISSUING OF EXEMPT DISTRIBUTION LICENSES PRIOR
TO ISSUING OF POSSESSION AND USE LICENSES

I am seeking a finding of no legal objection to the following proposal. Exempt distribution (E) licenses authorize the products(s) to be distributed to persons exempt from licensing and generally do not authorize possession or use of byproduct material by the distributor. Persons who manufacture, process, produce or initially transfer for sale products containing byproduct material must meet the general requirements of 10 CFR 30.33 for possession and use of licensed material on Federal property, in an Agreement State or in any State subject to NRC jurisdiction; and be authorized under a specific license for the possession and use of byproduct material. This separate license authorizing possession and use is issued by the appropriate Region or Agreement State.

To date, NRC staff practice has required that E licenses not be issued until it has been confirmed (by obtaining a copy) that the applicant has obtained a valid possession and use license. This practice often adds months, to the time required to issue a license authorizing the distribution of certain products to members of the general public. Furthermore, in some instances, Agreement States have had to issue a possession license for activities that they would not normally issue a specific license for.

In keeping with the current management goal to reduce the time required to process a licensing request, staff has considered the limited value added from delaying the issuance of an E license until a possession and use license has been obtained. Since it is the licensee's responsibility to obtain the possession license and because the initial inspection requirement for new E licenses would determine whether or not the licensee had obtained an appropriate possession license that proposes to issue E licenses without confirming that the licensee has obtained a possession and use license with the following provisions.

* The licensee will be informed by letter that the E license does not authorize possession or use of byproduct material and that a valid possession license must be obtained from the appropriate Region or Agreement State, if required, before the byproduct material is possessed.

* A copy of the final E license will be sent to the appropriate Region or Agreement State with a copy of the cover letter to the licensee indicating that a possession and use license must be obtained.

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If you have any questions or need additional information, please contact me at 415-7273.

G:TREBY.SLG DISTRIBUTION: IMAB R/F MSchwartz,OGC RIDS *1102, HHS 7 all Subject May 97*

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