

Subpart B—Exemptions

§ 70.11 Persons using special nuclear material under certain Department of Energy and Nuclear Regulatory Commission contracts.

Except to the extent that Department facilities or activities of the types subject to licensing pursuant to section 202 of the Energy Reorganization Act of 1974 are involved, any prime contractor of the Department is exempt from the requirements for a license set forth in section 53 of the Act and from the regulations in this part to the extent that such contractor, under his prime contract with the Department receives title to, owns, acquires, delivers, receives, possesses, uses, or transfers special nuclear material for:

(a) The performance of work for the Department at a United States Government-owned or controlled site, including the transportation of special nuclear material to or from such site and the performance of contract services during temporary interruptions of such transportation; (b) research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components thereof; or (c) the use or operation of nuclear reactors or other nuclear devices in a United States Government-owned vehicle or vessel. In addition to the foregoing exemptions, and subject to the requirement for licensing of Department facilities and activities pursuant to section 202 of the Energy Reorganization Act of 1974, any prime contractor or subcontractor of the Department or the Commission is exempt from the requirements for a license set forth in section 53 of the Act and from the regulations in this part to the extent that such prime contractor or subcontractor receives title to, owns, acquires, delivers, receives, possesses, uses, or transfers special nuclear material under his prime contract or subcontract when the Commission determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract there is adequate assurance that the work thereunder can be

accomplished without undue risk to the public health and safety.

[40 FR 14085, Mar. 28, 1975; 40 FR 16047, Apr. 9, 1975; as amended at 43 FR 6924, Feb. 17, 1978; 65 FR 54950, Sept. 12, 2000]

§ 70.12 Carriers.

Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this part to the extent that they transport special nuclear material in the regular course of carriage for another or storage incident thereto. This exemption does not apply to the storage in transit or transport of material by persons covered by the general license issued under § 70.20a and § 70.20b.

[46 FR 12696, Feb. 18, 1981]

§ 70.13 Department of Defense.

The regulations in this part do not apply to the Department of Defense to the extent that the Department receives, possesses and uses special nuclear material in accordance with the direction of the President pursuant to section 91 of the Act.

§ 70.14 Foreign military aircraft.

The regulations in this part do not apply to persons who carry special nuclear material (other than plutonium) in aircraft of the armed forces of foreign nations subject to 49 U.S.C. 1508(a).

[46 FR 12194, Feb. 13, 1981. Redesignated at 65 FR 56225, Sept. 18, 2000]

§ 70.17 Specific exemptions.

(a) The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.

(b) [Reserved]

(c) The DOE is exempt from the requirements of the regulations in this part to the extent that its activities are subject to the requirements of part 60 or part 63 of this chapter.

(d) Except as specifically provided in part 61 of this chapter, any licensee is

exempt from the requirements of the regulations in this part to the extent that its activities are subject to the requirements of part 61 of this chapter.

[37 FR 5749, Mar. 21, 1972, as amended at 45 FR 65536, Oct. 3, 1980; 46 FR 13987, Feb. 25, 1981; 47 FR 57481, Dec. 27, 1982; Redesignated at 65 FR 56225, Sept. 18, 2000, as amended at 66 FR 55815, Nov. 2, 2001]

Subpart C—General Licenses

§ 70.18 Types of licenses.

Licenses for special nuclear material are of two types: general and specific. Any general license provided in this part is effective without the filing of applications with the Commission or the issuance of licensing documents to particular persons. Specific licenses are issued to named persons upon applications filed pursuant to the regulations in this part.

[29 FR 5884, May 5, 1964]

§ 70.19 General license for calibration or reference sources.

(a) A general license is hereby issued to those persons listed below to receive title to, own, acquire, deliver, receive, possess, use and transfer in accordance with the provisions of paragraphs (b) and (c) of this section, plutonium in the form of calibration or reference sources:

(1) Any person in a non-agreement State who holds a specific license issued by the Commission or the Atomic Energy Commission which authorizes him to receive, possess, use and transfer byproduct material, source material, or special nuclear material;

(2) Any Government agency as defined in § 70.4 that holds a specific license issued by the Commission that authorizes it to receive, possess, use, or transfer byproduct material, source material, or special nuclear material; and

(3) Any person in an agreement State who holds a specific license issued by the Commission or the Atomic Energy Commission which authorizes him to receive, possess, use and transfer special nuclear material.

(b) The general license in paragraph (a) of this section applies only to calibration or reference sources which

have been manufactured or initially transferred in accordance with the specifications contained in a specific license issued pursuant to § 70.39 or in accordance with the specifications contained in a specific license issued by an agreement State which authorizes manufacture of the sources for distribution to persons generally licensed by the agreement State.

(c) The general license in paragraph (a) of this section is subject to the provisions of §§ 70.32, 70.50, 70.55, 70.56, 70.61, 70.62, and 70.71; the provisions of §§ 74.11, and 74.19 of this chapter; and to the provisions of parts 19, 20, and 21 of this chapter. In addition, persons who receive title to, own, acquire, deliver, receive, possess, use or transfer one or more calibration or reference sources pursuant to this general license:

(1) Shall not possess at any one time, at any one location of storage or use, more than 5 microcuries of plutonium in such sources;

(2) Shall not receive, possess, use or transfer such source unless the source, or the storage container, bears a label which includes 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)

(3) Shall not transfer, abandon, or dispose of such source except by transfer to a person authorized by a license from the Commission or the Atomic Energy Commission or an Agreement State to receive the source.

(4) Shall store such source, except when the source is being used, in a closed container adequately designed

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