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RECORD #200

TITLE: Authorizations Under 10 CFR 40.22, General License

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SEP 03 1986

MEMORANDUM FOR: Files

FROM: John Hickey, Section Leader
Industrial, Medical, and Academic Section
Material Licensing Branch
Division of Fuel Cycle and Material Safety

SUBJECT: AUTHORIZATIONS UNDER 10 CFR SECTION 40.22, GENERAL LICENSE

On August 26, 1986, I discussed with Thomas Dorian (Office of the General Counsel) the provisions of 10 CFR Section 40.22, "Small quantities of source material", and how it would apply to a manufacturer operating multiple facilities. Section 40.22 allows organizations (but not individuals) to possess up to 15 pounds of source material (thorium or natural uranium) under general license, subject to restrictions. A summary of the issues discussed is provided below:

1. Issue: If a company operates several facilities in several locations, can each facility possess up to 15 pounds of source material under general license?

Comment: Yes. We have normally considered separate facilities to be separate general licensees, even if both facilities are in different parts of the same city. By the same token, a separate facility can be a general licensee and be covered by the exemption in 40.22(b), even if the same company holds a specific Part 40 license at another facility.

2. Issue: Does Section 40.22 allow manufacturing of products containing source material?

Comment: Section 40.22 does not appear to have originally intended to authorize manufacturing. However, the regulation is so broad, allowing "commercial or operational" use, that we have interpreted it to allow manufacturing.

3. Issue: Do persons who receive products from a general licensee have to be licensed?

Comment: It depends on the product. A customer can receive an exempt product (such as a gas mantle or a lamp) without a license, or may qualify for the general license to possess a non-exempt product.

4. Issue: Do general licensees distributing exempt products have to have an exempt distribution ("E") license?

Comment: No. Section 40.13 allows transfer of exempt products and does not prohibit commercial distribution (as opposed to 30.18(c), which prohibits unlicensed commercial distribution of exempt quantities of byproduct material). Although 40.13 does not appear to have been intended to allow exempt commercial distribution, its wording allows it. Section 40.13 does prohibit manufacturing, which must be covered by a general (40.22) license or specific license.

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John Hickey, Section Leader
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