



Texas Department of State Health Services Radiation Safety Licensing Branch

REGULATORY GUIDE 8.1

GUIDELINES FOR ISSUING RADIOACTIVE MATERIAL LICENSES DUE TO A CHANGE IN LICENSED LEGAL ENTITY

I. Introduction

This guide describes the general conditions that may require either (1) issuance of a new license or (2) amendment of an existing license due to a change in the licensed legal entity (e.g., sale, merger, reorganization or transfer of certain operations or assets of a corporation, partnership, or sole proprietorship). Each situation will be evaluated on a case-by-case basis by the Department of State Health Services, Radiation Safety Licensing Branch (Agency), with the principle factor bearing on the Agency's decision being the likelihood that the new licensed legal entity will be able to adequately maintain public health and safety if allowed to continue operating under the license approved for use by the previous licensed legal entity.

Please note that Title 25 Texas Administrative Code (TAC) §289.252(x)(2) [Specific Terms and Conditions of Licenses] prohibits the transfer of licenses to other persons unless the Agency provides its consent in writing. The Agency should be contacted at least 30 days prior to a change in the licensed legal entity. If an application for a new license is required, regulatory guides for specific types of licenses are available from the Agency.

II. Guidance

A. New Application:

1. An application for a new license should be submitted in accordance with 25 TAC §289.252(e) if both a. and b. (below) occur:
 - a. the licensed legal entity changes, and
 - b. all of these key operational factors also change:
 - 1) the Radiation Safety Officer (RSO),
 - 2) all persons authorized to use radioactive material, and
 - 3) the operating, safety and emergency procedures.
2. The licensed legal entity can change through 1) sale, 2) merger, 3) reorganization or transfer of certain operations or assets of a a) corporation, b) partnership, or c) sole proprietorship. The Agency will confirm with the Texas Secretary of State's office if there has been a change in the licensed legal entity (www.sos.texas.state.us).

Regulatory Guides are issued to assist applicants and licensees/registrants in developing operational procedures acceptable to the Department of State Health Services, Radiation Safety Licensing Branch (Agency), that are compliant with specific sections of Title 25 Texas Administrative Code Chapter 289. Regulatory Guides are NOT substitutes for regulations and compliance with them is not required. Methods for compliance with regulations different from those set out in guides will be acceptable if they are considered by Agency staff to provide for public health and safety and demonstrate compliance.

Comments and suggestions for improvements in Regulatory Guides are encouraged. Letters containing comments and suggestions should be sent to the Policy/Standards/Quality Assurance Branch, Radiation Group Manager, Department of State Health Services, 1100 W. 49th Street, Austin, Texas 78756-3189. Regulatory guides may be reproduced or may be obtained by contacting the Agency at (512) 834-6688 or accessing the Agency web page at www.tdh.state.tx.us/radiation

B. Amendment

1. The existing license should be amended in these cases:
 - a. When there is a name change (but no change in legal entity):
 - (1) and key operational factors change (e.g., uses of radioactive material; radiation safety officer, authorized user(s), operating safety and emergency procedures, facility, equipment); and/or
 - (2) the Doing Business As-name changes; or
 - b. When there is a change in the licensed legal entity and operational factors change, but only one or two of the three key operational factors listed in II.A.1.b. change.
2. When requesting an amendment to the license, this information should be submitted:
 - A request from the licensee regarding the transfer of the facility(ies), all licensed radioactive material, and the license to the new company;
 - An explanation of the change in legal entity (e.g., sale, stock transfer, merger);
 - A completed BRC Form 252-1 from the new company;
 - A statement from the new owner or management that the new company will adhere to commitments, operating safety and emergency procedures, and conditions of the current license and that the 3 key factors listed in II.A.1.b. have not changed and will not change as a result of the change licensed legal entity;
 - Documentation of the organizational structure of the new company. This should include the reporting system between executive management and the RSO; and
 - A statement specifying who has the authority to appoint the RSO and that the RSO will have all necessary authority to enforce radiation safety requirements.

III. NOTES

- A. Sole Proprietors.** If the licensee is a one-person owner/operator (sole proprietor), changes in key operational factors will be evaluated on a case-by-case basis to determine if an amendment or new license will be issued to the new licensed legal entity.
- B. Signatures.** All statements and commitments should be signed by an authorized representative for license management (i.e., Owner, CEO, President, etc.) of the appropriate legal entity (i.e. corporation, partnership, or sole proprietorship).
- C. Supporting Documentation.** If the licensee is requesting a change to the licensed legal entity, the request should be accompanied by the correspondence submitted by the licensee to the chartering Agency (e.g., Texas Secretary of State's office). If a change to the licensed legal entity has not yet occurred but is expected, the proposed effective date should be given and the chartering Agency's recognition provided as soon as possible.