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selling of assets, including the transfer of licensed material or change of control of NRC licensed activities. Often, NRC first becomes aware of a licensee's financial difficulties when a licensee has not paid their fees to NRC. In other cases, NRC inspectors become aware of the situation when attempting to perform an inspection but instead find an abandoned or permanently shut down licensee facility. Occasionally during an NRC inspection, it is revealed that the entity has undergone a change of control of licensed activities without prior NRC approval. Licensees might not be familiar with NRC regulations that require licensees to take specific actions with respect to bankruptcy proceedings as well as change of control of NRC licensed activities. These regulations have been promulgated, in part, to ensure adequate protection of public health and safety and the security of radioactive material. The discussion that follows presents a brief overview of byproduct material licensee responsibilities regarding bankruptcy or change of control of NRC licensed activities.

The purpose of the bankruptcy notification requirement is to allow NRC to verify the safe disposition of radioactive material possessed by the bankrupt licensee. Often, when seizing assets, trustees or creditors unknowingly take possession of radioactive material. Licensed material handled without proper radiation safety precautions can create a significant public health and safety hazard. NRC regulations require that licensees inform NRC of bankruptcy proceedings. Specifically,

LICENSEE BANKRUPTCY AND/OR CHANGE OF CONTROL

Financial difficulties have unfortunately become a reality for many American businesses, including those engaged in NRC licensed activities. Commonly, financial relief is sought through bankruptcy proceedings or the

10 CFR 30.34(h) requires, in part, that licensees notify the appropriate NRC Regional Administrator, in writing, immediately following the filing of a voluntary or involuntary petition for bankruptcy under any chapter of Title 11 of the United States Code. This applies to petitions for bankruptcy filed by or against: (1) the licensee, (2) an entity controlling the licensee or listing the licensee/license as property of an estate, or (3) an affiliate of the licensee. Following NRC notification of bankruptcy proceedings, an onsite NRC inspection is sometimes necessary to verify safety and security and/or proper disposal or transfer of licensed materials.

Control of licensed activities can be described as the authority to make decisions regarding the possession, storage, or use of licensed materials. NRC does not seek to become involved in business decisions made by licensees. However, NRC needs to be informed when authority of NRC licensed activities has changed. Furthermore, control of licensed activities cannot be transferred without written consent from NRC. Specifically, 10 CFR 30.34(b) requires, in part, that no license issued or granted pursuant to the regulations in 10 CFR Part 30 and parts 31 through 36, and 39 nor any right under a license shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any person, unless the NRC shall, after securing full information, find that the transfer is in accordance with

the provisions of the Atomic Energy Act of 1954 (including any amendments thereto) and shall give its consent in writing. Timely notification is expected so that NRC can perform an appropriate review of the change of control. Through this review, NRC can determine whether radiation safety and security over licensed materials will be maintained during and after the change of control. In addition to NRC's review of licensee-submitted information, an onsite visit of licensee facilities may be required prior to NRC approval of change of control of licensed activities.

When not appropriately managed, bankruptcies and change of control of licensed activities can lead to a potential loss of control of radioactive material and resultant threat to public health and safety. Regardless of financial or organizational issues, licensees remain responsible for the safety, security and control of licensed materials. Failure to notify NRC and/or maintain control of licensed material could lead to enforcement actions. Early notice made to NRC regarding bankruptcy or change of control will enable NRC staff to provide additional guidance regarding the type of information required to complete the review in a timely manner. Under certain circumstances, NRC may be able to assist licensees regarding appropriate transfer or available means for disposal of licensed material.

Further information and guidance regarding these subjects can be found in NUREG-1556, Vol. 15, Guidance About Changes of Control and About Bankruptcy

Involving Byproduct, Source, or Special Nuclear Materials Licenses. This document can be located on NRC's public web page at: <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1556/v15/>. Additionally, licensees who have questions regarding this subject are encouraged to contact the licensing staff of their appropriate NRC Regional office.

(Contact: Janine F. Katanic, PhD, CHP, Office of Federal and State Materials and Environmental Management Programs, 817-860-8151; e-mail: Janine.Katanic@nrc.gov)
