

UNITED STATES
NUCLEAR REGULATORY COMMISSION
OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS
WASHINGTON, D.C. 20555

May 3, 1999

NRC GENERIC LETTER 99-01: RECENT NUCLEAR MATERIAL SAFETY AND
SAFEGUARDS DECISION ON BUNDLING EXEMPT
QUANTITIES

Addressees: All materials licensees.

Purpose:

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to notify addressees about a recent Office of Nuclear Material Safety and Safeguards decision concerning bundling exempt quantities. NRC does not authorize: (a) the bundling of exempt quantities of byproduct material; (b) any program advising persons to combine exempt quantity sources; and (c) the possession and use of bundled exempt sources, in unregistered devices, by persons exempt from licensing. It is expected that recipients will review this information for applicability to their facilities and consider actions, as appropriate. However, no specific action nor written response is required.

Discussion:

The NRC regulations that exempt any person from the requirements for a license for byproduct material are found in 10 CFR 30.18. A person is exempt from licensing requirements to the extent that such a person possesses, uses, transfers, owns, or acquires byproduct material in individual quantities, each of which does not exceed the applicable quantity in 10 CFR 30.71, Schedule B (i.e., an "exempt quantity"). A person wishing to commercially distribute or initially transfer products containing byproduct material, such as exempt quantity check sources, to persons exempt from licensing, must obtain an exempt distribution license from NRC.

To obtain an exempt distribution license from NRC, product information must be submitted as outlined in 10 CFR Part 32 and, specifically, for exempt quantities, as outlined in 10 CFR 32.18, 32.19, and 32.20. In addition, pursuant to 10 CFR 32.18(c), NRC will not approve a license to manufacture, process, produce, package, repackage, or transfer quantities of byproduct material to persons exempt, pursuant to 10 CFR 30.18, if the exempt quantities are incorporated into any manufactured or assembled commodity, product, or device intended for commercial distribution.

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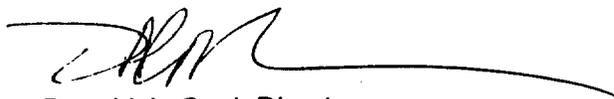
Several years ago staff became aware of the bundling of a limited number of exempt quantity sources in gauging devices. On June 3, 1994, NRC determined that, under certain limited circumstances, bundling of exempt sources did not present a health and safety hazard. However, recently NRC has received requests for permission to distribute an increased number of bundled sources in similar devices. As a result, NRC became concerned that the individual numbers of exempt sources bundled in such devices would reach some point where a general or specific license would normally be required. In the case where the bundled exempt sources remained exempt, NRC would have no mechanism to ensure their safe possession, use, and disposal.

Based upon a thorough reexamination, including discussions with Agreement States to ascertain their perspectives, NRC now has determined that combining any exempt sources is inconsistent with the regulations, pursuant to 10 CFR 30.18, 32.18, 32.19, and 32.20. Instructing persons exempt from licensing to combine exempt quantities, and providing devices for them to do so, is in direct conflict with NRC's requirements for labeling of exempt sources. Section 32.19 specifically instructs persons not to combine exempt quantities, since the exemption provided in 10 CFR 30.18 is applicable only as long as no individual nor discreet quantity of the byproduct materials exceeds the quantity limits specified in 10 CFR 30.71, Schedule B, and as long as the quantities set out in that schedule are originally received and remain separate and distinct from other quantities of exempt byproduct materials. The labeling requirements in 10 CFR 32.19, which address shipments to exempt persons, instruct 10 CFR 32.18 licensees to label the "immediate container" with information identifying the radioisotope and the quantity of radioactivity, and in addition to that information, the container ". . . shall also bear the words . . . 'Exempt Quantities Should Not Be Combined.'" Therefore, although the exemption in 10 CFR 30.18 provides for persons without a license to possess and use a wide variety of byproduct materials, and to possess and use specific byproduct materials without restriction as to the total quantity that may be possessed and used at any one time, the regulations do not authorize, but rather discourage, grouping exempt quantities of byproduct material.

At this time, devices already in use, having multiple exempt quantities of byproduct material, may continue to be used. NRC does not plan to take any action regarding these devices or users unless a radiological safety hazard is identified. However, persons possessing such devices should maintain control and account for these devices and the exempt sources contained within them. To this end, it is good practice to clearly label the devices with radioactive materials warning labels bearing the standard radiation warning symbol and standard magenta (or purple) and yellow colors. Additionally, it is preferable to not dispose of devices containing multiple exempt sources through ordinary commercial waste disposal or metal recycling channels because of the presence of bundled radioactive material. If devices containing sources are no longer needed, the supplier should be consulted for advice regarding proper disposal options.

NRC plans to further evaluate the risks associated with these devices. After this evaluation, NRC will consider appropriate steps, including rulemaking, to clarify the regulatory status of these devices and assure the protection of the public health and safety and with consideration of property protection. It is anticipated that the evaluation and rulemaking process, if undertaken, will take 2 to 3 years.

If you have any questions about this matter, please call the technical contact listed below or the appropriate regional office.



Donald A. Cool, Director
Division of Industrial and
Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

Contact: Anthony S. Kirkwood, NMSS
(301) 415-6140
E-mail: ask@nrc.gov

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LIST OF RECENTLY ISSUED GENERIC LETTERS

GENERIC LETTER	SUBJECT	DATE OF ISSUANCE	ISSUED TO
98-01, Supp. 1	Year 2000 Readiness of Computer Systems at Nuclear Power Plants	1/11/99	All holders of operating licenses for nuclear power Plants, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.
98-05	Boiling Water Reactor Licensees Use of the BWRVIP-05 Report To Request Relief From Augmented Examination Requirements on Reactor Pressure Vessel Circumferential Shell Welds	11/10/98	All holders of operating licenses (or construction permits) for BWRs, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.
98-04	Potential for Degradation of the Emergency Core Cooling System And the Containment Spray System After a Loss-of-Coolant Accident Because of Construction and Protective Coating Deficiencies and Foreign Material in Containment	07/14/98	All holders of operating licenses for nuclear power reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.
98-03	NMSS Licensees' and Certificate Holders' Year 2000 Readiness Programs	06/22/98	All licensees or certificate holders for uranium hexafluoride production plants, uranium enrichment plants, and uranium fuel fabrication plants, except those that have permanently ceased operations

OP = Operating License
 CP = Construction Permit
 NPR = Nuclear Power Reactors

NRC plans to further evaluate the risks associated with these devices. After this evaluation, NRC will consider appropriate steps, including rulemaking, to clarify the regulatory status of these devices and assure the protection of the public health and safety and with consideration of property protection. It is anticipated that the evaluation and rulemaking process, if undertaken, will take 2 to 3 years.

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(orig. signed by)
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