

December 9, 2008

MEMORANDUM TO: David B. Matthews, Director
Division of New Reactor Licensing
Office of New Reactors

FROM: William D. Reckley, Chief */RA/*
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SUBJECT: RECEIPT, POSSESSION, AND USE OF SOURCE, BYPRODUCT AND
SPECIAL NUCLEAR MATERIAL AUTHORIZED BY 10 CFR PART 52
COMBINED LICENSES

Holders of a combined construction permit and operating license (COL) under Title 10 of the *Code of Federal Regulations*, Part 52 (10 CFR Part 52) will also be authorized to receive, possess, and use source, byproduct, and special nuclear material in accordance with the Commission's regulations in 10 CFR Parts, 30, 40, and 70, including 10 CFR Sections 30.33, 40.32, 70.23, and 70.31 under their 10 CFR Part 52 COL. This does not include industrial radiography, which can only be performed under a state license for industrial radiography in Agreement States or a license for industrial radiography pursuant to 10 CFR Part 34 in Non-Agreement States.

As part of a standard license condition, the privileges outlined in 10 CFR Parts 30, 40 and 70 (as detailed below) will be granted in the COL (10 CFR Part 52 license). Licensees will be required to comply with all applicable regulations of 10 CFR Parts 30, 40, and 70, as well as the regulations in 10 CFR Parts 20, 50, and 52.

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The standard license conditions and requirements incorporated in the COL will be as follows:

- (1)
 - (i) Pursuant to the Act and 10 CFR Part 70, to receive and possess at any time, special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, described in the final safety analysis report (FSAR), as supplemented and amended;
 - (ii) Pursuant to the Act and 10 CFR Part 70, to use special nuclear material as reactor fuel, after the finding in Section 2.D(1) of this license has been made, in accordance with the limitations for storage and amounts required for reactor operation, and described in the FSAR, as supplemented and amended;
- (2) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use, at any time, any byproduct, source, and special nuclear material as sealed neutron sources for reactor startup, sealed sources for reactor instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;
- (3) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use in amounts as required, any byproduct, source, or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and
- (4) Pursuant to the Act and 10 CFR Parts 30 and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

This will mean that, if applicable, licensees will be required to supplement their combined license application with the request to receive, possess, and use source, byproduct, and special nuclear material for the above outlined uses and provide sufficient information to support compliance with the applicable portions of 10 CFR Parts 30, 40, and 70.

The staff in the Office of New Reactors (NRO) has met and discussed the regulations and guidance documents with the Office of Nuclear Material Safety and Safeguards (NMSS) and the Office of Federal and State Materials and Environmental Management Programs (FSME) and has determined that the reviews conducted to support issuance of the COL encompass those that would be reviewed by NMSS and FSME as part of a review of licenses under the parts of 10 CFR Parts 30, 40, and 70 applicable to Parts 52 and 50 licensees. This determination is supported by the fact that 10 CFR Part 50 operating licenses allow for the receipt, possession, and use of source, byproduct and special nuclear material under the 10 CFR Part 50 license. The reason the additional licenses were required in the past is that the construction permit phase of the Part 50 licensing process did not permit the receipt, possession, or use of source, byproduct, or special nuclear material. Therefore, NRO may include the standard license conditions in the COL and issue the COL without further involvement of NMSS or FSME.

The standard license conditions and requirements incorporated in the COL will be as follows:

- (1) (i) Pursuant to the Act and 10 CFR Part 70, to receive and possess at any time, special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, described in the final safety analysis report (FSAR), as supplemented and amended;
- (ii) Pursuant to the Act and 10 CFR Part 70, to use special nuclear material as reactor fuel, after the finding in Section 2.D(1) of this license has been made, in accordance with the limitations for storage and amounts required for reactor operation, and described in the FSAR, as supplemented and amended;
- (2) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use, at any time, any byproduct, source, and special nuclear material as sealed neutron sources for reactor startup, sealed sources for reactor instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;
- (3) Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to receive, possess, and use in amounts as required, any byproduct, source, or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated with radioactive apparatus or components; and
- (4) Pursuant to the Act and 10 CFR Parts 30 and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

This will mean that, if applicable, licensees will be required to supplement their combined license application with the request to receive, possess, and use source, byproduct, and special nuclear material for the above outlined uses and provide sufficient information to support compliance with the applicable portions of 10 CFR Parts 30, 40, and 70.

The staff in the Office of New Reactors (NRO) has met and discussed the regulations and guidance documents with the Office of Nuclear Material Safety and Safeguards (NMSS) and the Office of Federal and State Materials and Environmental Management Programs (FSME) and has determined that the reviews conducted to support issuance of the COL encompass those that would be reviewed by NMSS and FSME as part of a review of licenses under the parts of 10 CFR Parts 30, 40, and 70 applicable to Parts 52 and 50 licensees. This determination is supported by the fact that 10 CFR Part 50 operating licenses allow for the receipt, possession, and use of source, byproduct and special nuclear material under the 10 CFR Part 50 license. The reason the additional licenses were required in the past is that the construction permit phase of the Part 50 licensing process did not permit the receipt, possession, or use of source, byproduct, or special nuclear material. Therefore, NRO may include the standard license conditions in the COL and issue the COL without further involvement of NMSS or FSME.

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