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RECORD #218

TITLE: Regulatory Responsibilities for Byproduct Materials in Non-Power Reactors

FICHE: 44914-180



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Memorandum Hall

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

March 8, 1988

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MEMORANDUM FOR:

Frank J. Congel, Director
Division of Radiation Safety and
Safeguards, RI

Douglas M. Collins, Director
Division of Radiation Safety and
Safeguards, RII

John A. Hind, Director
Division of Radiation Safety and
Safeguards, RIII

Richard L. Bangart, Director
Division of Radiation Safety and
Safeguards, RIV

Ross A. Scarano, Director
Division of Radiation Safety and
Safeguards, RV

FROM:

Dennis M. Crutchfield, Director
Division of Reactor Projects - III,
IV, V and Special Projects
Office of Nuclear Reactor Regulation

SUBJECT:

REGULATORY RESPONSIBILITIES FOR BYPRODUCT MATERIALS
IN NON-POWER REACTORS

*Copies to Handell, Fisher,
Manning, Dick, Sumbria
please*

In a memorandum dated June 8, 1987, Region IV requested guidance for determining cases where licensed material in a non-power reactor facility may be covered by a NRC material license or an Agreement State license, rather than the reactor license. This issue becomes important in determining compliance and issuing notices of violation involving licensed material in a reactor facility. All regions were asked to comment on this issue. After consideration of your comments, we are providing the following guidance. The guidance has been coordinated with NMSS, GPA, and OGC.

1. Generic guidance related to this issue is contained in Inspection Manual Chapter 2882, Appendices 1 and 2. Normally, material within a non-power reactor facility will generally be assumed to be possessed by the reactor licensee, unless there is prior documentation approved by NRC, or some other clear demonstration that the licensed material is covered under another license.

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2. Consistent with #1 above, NMSS does not normally issue separate licenses which authorize possession of licensed material within an operating reactor facility. If a reactor facility license is silent with regard to possession of byproduct material, it should be amended. NRC normally exercises exclusive federal jurisdiction within operating reactor facilities.
3. All byproduct material which is to be inserted into a reactor, or which is removed from the reactor, must be covered by the reactor license while the material is within the facility.
4. The facility boundaries for a non-power reactor are normally defined by the Safety Evaluation Report or Technical Specifications. In the absence of identifiable facility boundaries, the Regions should establish a facility boundary with the licensee for compliance purposes, and the boundary should be specified in TS or FSAR.
5. As indicated in Manual Chapter 2882, Appendix 2, there are exceptions to the above guidelines, and specific cases can be complex. Questionable cases should be referred to Headquarters for resolution along with a proposed course of action.

Questions concerning this guidance or specific cases should be referred to this Division for resolution. We will coordinate with NMSS, GPA, and OGC as appropriate.


Dennis M. Crutchfield, Director
Division of Reactor Projects - III, IV,
V and Special Projects
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MEMORANDUM FOR: Dennis M. Crutchfield, Director
Division of Reactor Projects - III, IV, V
and Special Projects, NRR

FROM: Thomas T. Martin, Director
Division of Radiation Safety and Safeguards, RI

SUBJECT: REGULATORY RESPONSIBILITIES FOR BYPRODUCT MATERIAL
IN NON-POWER REACTORS

As requested in your memorandum dated November 18, 1987, we have reviewed the draft policy you provided. We do not believe that it addresses the issue originally raised by Region IV. Our view on this matter is identical to that expressed in the third through fifth paragraphs of the memorandum dated December 11, 1987 to you from Ross Scarano, RV. For convenience, I have repeated those paragraphs below:

The key phrase is "produced by operation of the reactor".

The real issue is whether irradiated samples removed from the reactor are licensed by the reactor license or a separate specific license. The phrase "produced by operation of the reactor" would imply irradiated samples are under the reactor license. However, the phrase "but not to separate" implies the mentioned byproduct material is that produced in the reactor fuel.

It is our understanding that the reactor license does not authorize the possession of byproduct material in the form of irradiated samples once it is removed from the reactor or a reactor system (e.g., pneumatic transfer system). A separate specific license issued by NRC or an agreement state would be necessary to then possess and manipulate the irradiated sample.

We continue to believe that generic guidance to cover this problem is appropriate and, in particular, believe that statements 2 and 3 of the Draft Policy should be retained in the final policy, since the tenets contained therein are not as well known among the NRC staff involved with regulation of power and non-power reactors as among the NRC staff involved with materials licensees. Statement 2 contains a minor typographical error. The second sentence should say, "...which hold an NRC or Agreement State license...."

for Thomas T. Martin
Thomas T. Martin, Director
Division of Radiation Safety
and Safeguards