

JAN 31 1978

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Niagra Mohawk Power Corporation
ATTN: Mr. Donald P. Dise
Vice President-Engineering
300 Erie Boulevard West
Syracuse, New York 13202

Gentlemen:

This refers to your letter of January 6, 1978, requesting an exemption from the Type B packaging requirements of 10 CFR Part 71 for shipments of low specific activity (LSA) shipments from Nine Mile Point Unit 1. From the information in your letter, we must conclude that such an exemption is not appropriate.

Your letter states that each of your LSA shipments is packaged to insure that there will be no leakage of radioactive material under conditions normally incident to transportation. This is what 10 CFR Part 71 requires when LSA shipments are transported on a vehicle assigned for the sole use of the licensee. You are referred to the last paragraph in §71.36(a) of that regulation for special considerations relative to LSA shipments, and to §71.35(a) for the requirement to provide protection against normal conditions of transport.

Designs of packaging for use in shipping Type B quantities of radioactive material must be reviewed and approved by this office prior to their use. As you note in your letter, Chem-Nuclear Systems, Inc. has submitted package design information which is under review.

You note that the Energy Research and Development Administration has petitioned for a rule change to clarify the regulatory standards for shipments of LSA material. The American National Standards Institute Committee N14 and Chem-Nuclear Systems, Inc. have filed similar petitions. Such clarification is being included in rulemaking action undertaken jointly by NRC and the Department of Transportation. The enclosed letter dated September 29, 1977, was written in response to a recent inquiry as to the status of the Chem-Nuclear Systems, Inc. petition.

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| OFFICE | | | | | | |
| SURNAME | | | | | | |
| DATE | | | | | | |

8101 1 2 HAL

The first of the following is a list of the names of the persons who have been appointed to the various positions in the Department of the Interior, and the second is a list of the names of the persons who have been appointed to the various positions in the Department of the Army.

The following is a list of the names of the persons who have been appointed to the various positions in the Department of the Navy, and the second is a list of the names of the persons who have been appointed to the various positions in the Department of the Air Force.

The following is a list of the names of the persons who have been appointed to the various positions in the Department of the State, and the second is a list of the names of the persons who have been appointed to the various positions in the Department of the Justice.

The following is a list of the names of the persons who have been appointed to the various positions in the Department of the Education, and the second is a list of the names of the persons who have been appointed to the various positions in the Department of the Health, Education and Welfare.

Niagara Mohawk Power Corporation
Mr. Donald P. Dise

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As noted above, an exemption from the requirements of 10 CFR Part 71 for low specific activity material shipments does not appear appropriate in view of the information submitted. Should you require further consideration in this matter, an application should be submitted which includes the pertinent information described in §71.21 of 10 CFR Part 71, identifies the specific requirement which the proposed design does not meet and specifies the controls or other means to be employed to assure the safety of the shipment.

Sincerely,

Original Signed by
CHARLES E. MACDONALD

Charles E. MacDonald, Chief
Transportation Branch
Division of Fuel Cycle and
Material Safety

Enclosure: As stated

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| OFFICE > | <i>CM</i> DECTR | <i>RHO for</i> ELD | <i>telephone</i> consequence | <i>RHO for</i> SD | <i>telephone</i> consequence | | |
| SURNAME > | CEMacDonald | ms JMapes | | RBarker | | | |
| DATE > | 1/27/78 | 1/30/78 | | 1/30/78 | | | |

STATE 13 MAIL

POST OFFICE BOX 1000
ST. LOUIS, MO. 63103

THE STATE OF MISSOURI, County of St. Louis, do hereby certify that the within and foregoing is a true and correct copy of the original as the same appears on the records of the Secretary of State of this State.

Witness my hand and seal of office this 1st day of January, 1964.

JOHN W. MOHR, Secretary of State

STATE OF MISSOURI
COUNTY OF ST. LOUIS
I hereby certify that the within and foregoing is a true and correct copy of the original as the same appears on the records of the Secretary of State of this State.

Notary Public in and for the State of Missouri

ST. LOUIS, MO.
JAN 1 1964

NOTARY PUBLIC

ST. LOUIS, MO.

SEP 29 1977

Mr. John L. West
Jones, Grey & Bayley
Attorneys at Law
14th Floor Norton Building
Seattle, Washington 98104

Dear Mr. West:

This is in response to your letter dated September 7, 1977 inquiring as to the status of a petition (PRM 71-4) filed by your client Chem-Nuclear Systems, Inc. and a similar petition filed by the Energy Research and Development Administration relative to the shipment of low specific activity (LSA) materials. Both petitions request amendment of Nuclear Regulatory Commission transportation regulations in Title 10, Code of Federal Regulations, Part 71 to exempt LSA materials from NRC requirements.

Responsibility for the safe transportation of radioactive material has been assigned by law to both the Nuclear Regulatory Commission (NRC) and the Department of Transportation (DOT). The regulatory practice in this area since 1968 has been for DOT to prescribe regulations applicable to all shipments of radioactive material, and for NRC to prescribe additional regulations applicable to fissile materials and Type B quantities of other radioactive materials. The requirements of LSA materials follow this practice. DOT prescribes minimal requirements applicable to all shipments of LSA materials; NRC prescribes additional requirements for Type B quantities of LSA materials. Thus, in addressing your client's petition, consideration must be given to amending both DOT and NRC regulations. In addition, a joint NRC-DOT rule change is currently being prepared to reflect the 1973 Revision of the Transportation Safety Regulations of the International Atomic Energy Agency, including transportation of LSA materials. Our schedule calls for publication of this joint rule change early next year, with completion of the revised rule following the public comment period.

We are addressing your petition in conjunction with the above. We expect to give you an answer early next year.

Sincerely,

Original signed by R. B. Minogue

Robert B. Minogue, Director
Office of Standards Development

