



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

December 4, 1991

AE04-01

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MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

FROM: Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

SUBJECT: PROPOSED MINOR RULE TO AMEND 10 CFR 50.54 TO ALLOW RECEIPT
BY A NUCLEAR REACTOR LICENSEE OF LOW-LEVEL RADIOACTIVE WASTE
PRODUCED BY THAT REACTOR LICENSEE FOLLOWING OFF-SITE PROCESSING
OF THAT WASTE

Enclosed for your signature is a proposed rule that will allow a nuclear reactor licensee to receive the low-level radioactive waste (LLW) the licensee generates after that waste has been sent offsite for processing to reduce the volume by compaction or incineration. Licenses for power reactors normally contain a set of authorizations for byproduct, source and special nuclear material. Enclosure 1 is an example of these conditions. One of these conditions (number 5 in Enclosure 1) allows the licensee to "possess, but not separate, such byproduct and special nuclear materials as may be produced by the operations of the facility." The Office of the General Counsel (OGC) has informed the staff that the license authorization does not include authority for a nuclear power station to receive LLW, generated onsite, after that waste has been shipped to another licensee to be processed (generally by compaction or incineration) to reduce the volume of the waste (Enclosure 2).

Most U.S. nuclear power plants are located in States that will not have new LLW disposal facilities available by 1993 when their wastes will be excluded from existing LLW disposal facilities. These licensees will need interim onsite storage until permanent disposal becomes available. The staff anticipates that many of these licensees will need to reduce the volume of their LLW, typically by offsite processing, before storing the waste on an interim basis.

The problem created by the absence of authority for a reactor licensee to receive radioactive material produced in the reactor has been raised by some licensees as it relates to LLW, however, it could also impact the receipt of radioactive material in forms other than waste.

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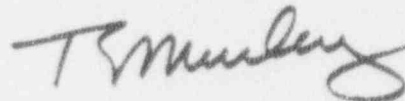
Non-power reactor licenses have provisions similar to the subject provisions in power-reactor licenses. However, most non-power reactor facilities are owned by universities, which usually have a radioactive materials license separate from the reactor's license. LLW that is generated under the reactor facility license is normally transferred to the university materials license to be disposed of with the university LLW. This separate materials license usually authorizes the receipt of licensed material (including LLW). Thus, most non-power reactor facilities do not have the problem as outlined above for power reactors.

The staff has considered, and discussed with OGC, possible solutions to this problem. One possible solution would be to amend every reactor license. However, this would be a very inefficient process that would require both the licensee and the NRC to expend significant resources. These considerations have prompted the staff to propose a minor rulemaking to amend 10 CFR 50.54, "Conditions of Licenses," to allow each reactor licensee to receive radioactive materials transferred to it by another licensee that were initially produced by the operation of the reactor licensee's nuclear reactor. The proposed rule would apply to both power and non-power nuclear reactor licensees. Enclosure 3 is a copy of the proposed rule.

Backfit Analysis: The staff has determined that a backfit analysis is not required for this proposed rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

Notices: A notice to the Commission that the EDO has signed this proposed rule is provided for inclusion in the Weekly Report to the Commission (Enclosure 5). The appropriate Congressional Committees will be notified (Enclosure 4). A copy of the proposed rule will be sent to all affected licensees. A public announcement (Enclosure 6) will be issued for this proposed rule when the Federal Register notice is published.

Coordination: The Offices of Administration, Information Resources Management, and Nuclear Material Safety and Safeguards concur in these proposed amendments. The Office of the General Counsel has no legal objection.



Thomas E. Murley, Director
Office of Nuclear Reactor Regulation

Enclosures:

1. Example of a Power Reactor License
2. Memo from R.L. Fonner, OGC,
to R. Bangart, NMSS
3. Proposed Rule
4. Congressional Letters
5. Weekly Report to the Commission
6. Public Announcement

B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses Indiana and Michigan Electric Company and Indiana and Michigan Power Company:

- (1) Pursuant to Section 104b of the Act and 10 CFR Part 50, "Licensing of Production and Utilization Facilities," to possess and use, and Indiana and Michigan Power Company to operate, the facility at the designated location in Berrien County, Michigan, in accordance with the procedures and limitations set forth in this license;
- (2) Pursuant to the Act and 10 CFR Part 70, to receive, possess and use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, as described in the Final Safety Analysis Report, as supplemented and amended;
- (3) 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;
- (4) 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
- (5) 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.