



OFFICE OF THE
SECRETARY

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

IN RESPONSE REFER
TO S81-549

October 27, 1981

MEMORANDUM FOR: William J. Dircks, Executive Director
for Operations

FROM: Samuel J. Chilk, Secretary

SUBJECT: SECY-81-549 - INDEMNIFICATION OF LICENSEES
STORING SPENT FUEL AT SITES OTHER THAN
THE SITES WHERE THE FUEL WAS IRRADIATED

This is to advise you that the Commission (with all Commissioners approving) has approved publication of a Federal Register Notice (FRN) (Appendix "B") that would announce the Commission's intent to modify Duke's indemnity agreement at McGuire to extend indemnity coverage to Ocone irradiated fuel stored at the McGuire reactor. A majority of the Commission (Chairman Palladino and Commissioners Ahearne and Roberts) has also agreed to a policy authorizing the EDO to handle similar requests on a case-by-case basis, with the Commission being informed of any action taken.

In connection with his approval, Commissioner Ahearne provided the following statement: "I assume a request involving transfer of irradiated fuel from one utility to another would not be a 'similar' request and would be referred to the Commission."

Although approving the McGuire Amendment, Commissioners Gilinsky and Bradford have disapproved the proposed policy which delegates authority to the EDO. Their statement on this matter is as follows: "We should modify the standard indemnity provision to extend coverage to spent fuel irradiated elsewhere, if the transfer has been approved by NRC. It seems obvious that the key decision is whether to authorize a transfer. Once a transfer has been authorized, the extension of the Price-Anderson coverage should be automatic."

On a related matter, Chairman Palladino and Commissioner Roberts agree with the following statement of Commissioner Ahearne: "As far as I can tell, the only reason we are offering an opportunity for a hearing on the indemnity agreement language is because \$140.9 of our regulation commits us to do so. I do not see the point of having a hearing on the language of an indemnity agreement and suggest we change the regulations to avoid similar future situations."

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ARMSTRO81-413 PDR

The Office of State Programs was informed of this action on October 26, 1981.

The staff is requested to accomplish the following:

1. Forward a copy of the FRN to the Office of the Secretary after signature and dispatch by the EDO.
(SECY SUSPENSE: 11/10/81)
2. Forward a paper which proposes to amend 10 CFR § 140.9 "Modifications of Indemnity Agreements," by deletion of the second sentence which reads: "Such notices will provide at least a fifteen day period following the date of publication in the Federal Register in which interested persons may file petitions for leave to intervene with respect to the proposed agreement."
(SECY SUSPENSE: 12/30/81)

cc: Chairman Palladino
Commissioner Gilinsky
Commissioner Bradford
Commissioner Ahearne
Commissioner Roberts
Commission Staff Offices
Director, State Programs
Exec. Legal Director
Director, NMSS
Director, NRR