



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

August 25, 1994

The Honorable John M. McHugh  
United States House of Representatives  
Washington, D.C. 20515-3224

Dear Congressman McHugh:

I am writing to discuss low-level radioactive waste (LLW) licensing actions and to supplement information sent in a letter from Chairman Selin of July 14, 1994, regarding the possible use of the James A. FitzPatrick Nuclear Power Plant site to store LLW.

I want to assure you that, as a matter of policy, NRC is opposed to any activity at a nuclear reactor site that does not support activities authorized by the operating license and which may divert the attention of licensee management from its primary tasks of safely operating the nuclear power plant and doing other activities affecting public health and safety. Accordingly, NRC will have jurisdiction over interim storage of LLW within the exclusion area of a reactor site, whether or not the reactor is located in an Agreement State, pursuant to the regulatory policy expressed in paragraph 150.15(a)(1) of Title 10 of the *Code of Federal Regulations*. Within Agreement States, for locations outside the exclusion areas, the licensing authority rests with the Agreement State.

The NRC-issued Part 50 operating license for the James A. FitzPatrick Nuclear Power Plant authorizes the Power Authority of the State of New York (PASNY) to receive, possess, and use byproduct and special nuclear material as may be needed for the operation of the facility or as produced by the operation of the facility. Therefore, the licensee is not authorized to possess radioactive waste not generated under its license. To possess this waste for storage, the licensee must obtain a license in accordance with the requirements of 10 CFR Part 30, "Rules of General Applicability to Domestic Licensing of Byproduct Material." A Part 30 license could authorize the licensee to receive and possess byproduct material. An application for such a license must include information to describe the safety and environmental issues associated with the proposed LLW storage, and must document that safe operation or decommissioning of the reactor will not be affected. The licensee must give financial assurance for operation and ultimate decommissioning of the storage facility, including any necessary repackaging, transportation, and disposal of the waste. Additionally, the effect on financial liability, including the impact on indemnity coverage must be discussed. Written agreement is required from the jurisdiction responsible for ultimate disposal, in this instance it would be the State of New York, to ensure that provisions are sufficient to ensure ultimate disposal of the stored waste.

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If such an application is received, NRC will evaluate the application to determine whether the LLW storage activities will affect the safe operation of the reactor or other activities affecting safety. NRC will also assess the environmental impact of the LLW storage activities and will issue an Environmental Impact Statement, if appropriate. NRC will publish a notice in the *Federal Register* stating the application was received and is available. In the public notice, the staff will also state whether or not it will prepare an Environmental Assessment and offer opportunity for public hearing.

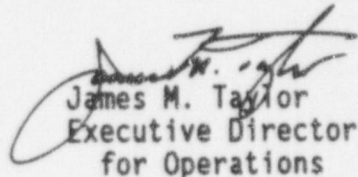
The licensee may also be required to submit a request for a 10 CFR Part 50 license amendment if the storage of the LLW in the exclusion area requires a change in the technical specifications or presents an unreviewed safety question with respect to the reactor. In such a case the application must contain an environmental evaluation of the possible effect on reactor operations. Any application must also contain an analysis that demonstrates that the storage of the waste will not affect the safety of reactor operations and will not foreclose alternatives for disposal of the waste.

If an application to amend the 10 CFR Part 50 license is received, NRC will also notice the application in the *Federal Register*, offer opportunity for public hearing, and will perform an environmental assessment to determine if the proposed activity will significantly affect the quality of the environment.

I want to emphasize that this is a complex issue and any application for a license to store LLW would involve a lengthy process that would be fully open to the public. I can assure you that the NRC staff would perform a thorough evaluation if a formal request was received from PASNY for the storage of LLW on its FitzPatrick site.

If I can be of further assistance to you in this matter, please contact me.

Sincerely,

  
James M. Taylor  
Executive Director  
for Operations