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1525 Patricia Ave.
Ann Arbor, MI 48103-2645
October 7, 1999

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Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

DOCKET NUMBER
PROPOSED RULE **PR** 30,31,32 170+171
(64FR40295)

Attention: Rulemakings and Adjudications Staff

Dear Sirs:

I wish to comment on your proposed rulemaking, "Requirements for Certain Generally Licensed Industrial Devices Containing Byproduct Material," published in the Federal Register on July 26, 1999.

The proposed rulemaking imposes a registration fee and administrative requirements on those who possess these devices under a general license. It is unclear, however, whether these requirements apply to the holder of an operating license. While appropriate for a person who is not subject to the strict controls of an operating license, these requirements would be an unnecessary burden to a power reactor licensee. For example:

- A power reactor operating license generally requires the leak testing of sources exceeding a specified threshold, with a contamination limit of 0.005 microcurie. Sources found to have contamination exceeding this limit must be reported to the Commission on an annual basis. Power reactor licensees should not have to also meet the 30-day reporting requirements of 10 CFR 31.5. In addition, the proposed rulemaking would require that the report include, "a plan for ensuring that the premises and environs are acceptable for unrestricted use..." This has the potential to impose an unnecessary burden on a power reactor licensee who is using this device within its restricted area.
- The proposed rulemaking will not allow a licensee to hold a device that is not in use for more than 2 years. Although this is a reasonable requirement for a licensee without a radiation protection program, it is an unnecessary burden on a power reactor licensee who has adequate storage facilities.
- The requirement for annual registration, with payment of a fee, would impose an unnecessary burden on a person who already maintains an operating license.

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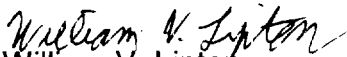
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Although the requirements of 10 CFR 31.5 do not seem designed for persons who would be allowed to possess these devices under their operating licenses, the applicability of 10 CFR 31 is not clear. This should be corrected through an explicit statement in the regulations that these requirements are limited to those who cannot possess this device under the provisions of a specific or operating license.

Sincerely,


William V. Lipton