

Month	Days used	Location	Cumulative days in 1997	
June	30	Buffalo, WV	121
July	31	Buffalo, WV	152
August	31	Buffalo, WV 31; Ft. Knox 3	183
September	30	Buffalo, WV 30; Ft. Knox 7	213
October	28	Buffalo, WV 28; Ft. Knox 9; Clarksville/Jeffersonville IN.	7	241
November	30	Buffalo, WV 30	271
December	19	Buffalo, WV 19; Ft. Knox 1	290

This is a Severity Level III violation (Supplement VI).

Civil Penalty—\$5,500.

Summary of Licensee's Request for Mitigation

The Licensee admitted that the violation occurred as stated in the Notice, but denied that the violation was the result of careless disregard for NRC requirements and protested the civil penalty of \$5,500. In support of its assertion that the violation was not the result of careless disregard, the Licensee explained that the Louisville office, where the violation was identified, had been informed by the corporate office that licensing for non-Agreement States would be obtained prior to initiation of work. However, the corporate office person responsible for obtaining such licenses did not obtain the licenses. The Licensee asserted that this situation resulted from the fact that the corporate office was undergoing a troubled period, but that there had been no willful disregard for NRC requirements. Furthermore, the Licensee noted that any actions required by an NRC license had been completed, and that no effort was made to conceal the use of radioactive equipment at sites requiring an NRC license, and that its compliance in other ways refutes the claim of "careless disregard."

The Licensee also asserted that, contrary to the claim in the Notice that there had been delay in halting use of nuclear gauges, immediately upon determining that an NRC license had not been obtained, it halted all testing with portable nuclear gauges at sites under NRC jurisdiction. According to the Licensee, this constituted appropriate, prompt corrective action warranting credit.

NRC Evaluation of Licensee's Request for Mitigation

The Licensee has provided no new information which would refute a finding of careless disregard. Ground Engineering was aware of the requirement of filing for reciprocity, as evidenced by its having done so in 1995. Moreover, the Licensee was notified by the Commonwealth of Kentucky on September 23, 1997, during a Kentucky inspection, of the need to file for reciprocity or obtain an NRC license prior to conducting operations in areas of NRC jurisdiction. Notwithstanding this notification, Ground Engineering continued to use licensed materials in areas under NRC jurisdiction without an NRC license until December 1997. The finding of careless disregard was based on the fact that Ground Engineering had been given this notice, but did not take sufficient steps to assure that a proper license was

obtained. In addition, the Kentucky license was amended in September 1997 to clearly state that it did not authorize operations in areas under exclusive federal jurisdiction. This should have served as an additional reminder of the need to obtain reciprocity or a specific NRC license prior to conducting licensed activities in these areas.

The Licensee's contention that its failure to file for reciprocity resulted from its misplaced reliance upon the corporate office, which was undergoing a troubled period, does not excuse the Licensee from compliance with NRC requirements. If fact, its knowledge that the corporate office was undergoing a period of upheaval should have alerted it to the fact that it needed to confirm that the proper license for conducting licensed activities had been obtained.

With regard to the Licensee's claim that its corrective action warranted credit, the NRC's conclusion that the Licensee's corrective action was not prompt was based on the belief that the licensed material continued to be used until December 18, 1997. However, in its responses, the Licensee provided new information to the NRC which indicates that on December 12, 1997, after the Licensee was informed by the NRC of the violation, all operations at the Buffalo, West Virginia site were suspended and the gauge was placed in locked storage. Based upon this new information, the NRC has determined that the Notice should be revised to reflect that you used licensed material between January 1 and December 12, 1997, rather than the previously cited period of time, January 1 through December 18, 1997. In addition, we have also determined that credit is warranted for your prompt corrective action.

NRC Conclusion

The NRC has concluded that an adequate basis for retracting a finding of careless disregard was not provided. However, the NRC has determined that the Licensee provided an adequate basis for mitigating the civil penalty in light of its prompt corrective action. Consequently, the proposed civil penalty in the amount of \$5,500 should be mitigated to \$2,750 and should be imposed.

[FR Doc. 98-16646 Filed 6-22-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 55-22234-SP ASLBP No. 98-745-01-SP]

Randall L. Herring; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.1207 of the Commission's Regulations, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the Presiding Officer to conduct an informal adjudicatory hearing in the following proceeding.

Randall L. Herring

(Denial of Reactor Operator's License Application)

The hearing, if granted, will be conducted pursuant to 10 CFR Part 2 Subpart L of the Commission's Regulations, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings." This proceeding concerns a denial by NRC Staff of Mr. Herring's reactor operator's license application and Mr. Herring's request for a hearing pursuant to 10 CFR Section 2.103.

The Presiding Officer in this proceeding is Administrative Judge Charles Bechhoefer. Pursuant to the provisions of 10 CFR § 2.722, the Presiding Officer has appointed Administrative Judge Richard F. Cole to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Bechhoefer and Judge Cole in accordance with § 2.701. Their addresses are:

Administrative Judge Charles Bechhoefer, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Richard F. Cole, Special Assistant,
Atomic Safety and Licensing Board
Panel, U.S. Nuclear Regulatory
Commission, Washington, D.C. 20555

Issued at Rockville, Maryland, this 16th
day of June 1998.

B. Paul Cotter, Jr.,

*Chief Administrative Judge, Atomic Safety
and Licensing Board Panel.*

[FR Doc. 98-16639 Filed 6-22-98; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-315]

Indiana Michigan Power Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory
Commission (the Commission) has
granted the request of Indiana Michigan
Power Company (the licensee) to
withdraw its August 4, 1995,
application for proposed amendment to
Facility Operating License No. DPR-58,
for the Donald C. Cook Nuclear Plant,
Unit Nos. 1, located in Berrien County,
Michigan.

The proposed amendment would
have revised the technical specifications
to allow for repair of hybrid expansion
joint sleeved steam generator tubes.

The Commission had previously
issued a Notice of Consideration of
Issuance of Amendment published in
the **Federal Register** on January 29,
1997 (62 FR 4351). However, by letter
dated January 6, 1998, the licensee
withdrew the proposed change.

For further details with respect to this
action, see the application for
amendment dated August 4, 1995, and
the licensee's letter dated January 6,
1998, which withdrew the application
for license amendment. The above
documents are available for public
inspection at the Commission's Public
Document Room, the Gelman Building,
2120 L Street, NW., Washington, DC,
and at the local public document room
located at the Maud Preston Palenske
Memorial Library, 500 Market Street, St.
Joseph, MI 49085.

Dated at Rockville, Maryland, this 15th day
of June 1998.

For the Nuclear Regulatory Commission.

John F. Stang,

*Senior Project Manager, Project Directorate
III-3, Division of Reactor Projects—III/IV,
Office of Nuclear Reactor Regulation.*

[FR Doc. 98-16650 Filed 6-22-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-315 and 50-316]

Indiana Michigan Power Company; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory
Commission (the Commission) has
granted the request of Indiana Michigan
Power Company (the licensee) to
withdraw its November 16, 1994
application for proposed amendment to
Facility Operating License Nos. DPR-58
and DPR-74, for the Donald C. Cook
Nuclear Plant, Unit Nos. 1 and 2,
located in Berrien County, Michigan.

The proposed amendment would
have revised the technical specifications
to reduce the decay time required before
refueling operations could begin.

The Commission had previously
issued a Notice of Consideration of
Issuance of Amendment published in
the **Federal Register** on December 21,
1994 (59 FR 65816). However, by letter
dated January 27, 1998, the licensee
withdrew the proposed change.

For further details with respect to this
action, see the application for
amendment dated November 16, 1994,
and the licensee's letter dated January
27, 1998, which withdrew the
application for license amendment. The
above documents are available for
public inspection at the Commission's
Public Document Room, the Gelman
Building, 2120 L Street, NW.,
Washington, DC, and at the local public
document room located at the Maud
Preston Palenske Memorial Library, 500
Market Street, St. Joseph, MI 49085.

Dated at Rockville, Maryland, this 15th day
of June 1998.

For the Nuclear Regulatory Commission.

John F. Stang,

*Senior Project Manager, Project Directorate
III-3, Division of Reactor Projects—III/IV,
Office of Nuclear Reactor Regulation.*

[FR Doc. 98-16651 Filed 6-22-98; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-31174, License No. 07-
28386-01, EA NO. 98-061]

Koch Engineering Company, Inc., Newark, Delaware; Order Imposing a Civil Monetary Penalty

I

Koch Engineering Company, Inc.
(Licensee) is the holder of Byproduct
Materials License No. 07-28386-01

(License) issued by the Nuclear
Regulatory Commission (NRC or
Commission) on July 24, 1989, and most
recently renewed by the NRC on August
28, 1995. The License authorizes the
Licensee to possess and use certain
byproduct materials in accordance with
the conditions specified therein at its
facilities in Newark, Delaware, Canton,
Michigan, and temporary job sites
anywhere in the United States where
the U.S. Nuclear Regulatory
Commission maintains jurisdiction.

II

A special inspection of the Licensee's
activities was conducted on September
15, 1997, to review the circumstances
associated with an event involving the
shipment of a package of radioactive
material (3 cesium-137 sources) via
Federal Express from the Licensee's
facility in Newark, Delaware to
Wilmington, North Carolina. The
package was empty upon arrival in
North Carolina, and the sources were
later found at a Federal Express facility
in Memphis, Tennessee. The NRC
inspection was continued in the Region
I office on January 20, 1998, to review
evaluations of doses received by Federal
Express workers as a result of the event.
The results of this inspection indicated
that the Licensee had not conducted its
activities in full compliance with NRC
requirements. A written Notice of
Violation and Proposed Imposition of
Civil Penalty (Notice) was served upon
the Licensee by letter dated March 13,
1998. The Notice states the nature of the
violations, the provisions of the NRC
requirements that the Licensee violated,
and the amount of the civil penalty
proposed for the violation.

The Licensee responded to the Notice
in letters, dated April 8 and 9, 1998. In
its responses, the Licensee admits the
violations, but disputes the Severity
Level of the violation that resulted in
the issuance of the civil penalty and
requests that the proposed penalty of
\$4,400 be reconsidered.

III

After consideration of the Licensee's
response and the statements of fact,
explanation, and argument contained
therein, the NRC staff has determined,
as set forth in the Appendix to this
Order, that the Licensee has not
provided an adequate basis for reducing
the Severity Level of the violation or for
withdrawal of the civil penalty
associated with this violation.
Therefore, a civil penalty in the amount
of \$4,400 should be imposed.