

Office Memorandum • UNITED STATES GOVERNMENT

TO : Marvin M. Marm, Assistant Director, Compliance, DATE: March 19, 1959
Division of Inspection, Headquarters

FROM : E. W. Smith, Director, Inspection Division,
San Francisco Operations Office

SUBJECT: NUCLEAR ENGINEERING COMPANY, INC., WALNUT CREEK, CALIFORNIA
COMPLAINT OF ILLEGAL AND UNFAIR PRACTICES IN DISPOSAL OF
RADIOACTIVE LIQUID WASTE

SYMBOL: I:RWS

Enclosed are two reports, dated February 6 and March 11, 1959 concerning a verbal complaint filed with this office by Nuclear Engineering Company against certain practices now exercised by Isotopes Specialties Company under the latter's license (No. 4-580-7) which purportedly places the former (under No. 4-3766-1) in an unfavorable bidding position due to alleged differences in licensing requirements. It is requested that these reports be referred to DASH for consideration in line with the following comments.

Although these reports are self-explanatory, they will require careful consideration to appreciate and evaluate the validity of the complaint, as well as to arrive at any determination whether the Isotopes Specialties Company is operating in noncompliance with its license. It should be noted that two distinct waste disposal operations are mentioned herein; namely, the past receipt by Isotopes Specialties of some 8,100 gallons of liquid waste of approximately 1×10^{-6} microcuries/cubic centimeters concentration, and the current bidding by both waste disposal licensees for the acquisition and disposal of 6,000 gallons of liquid waste with an average concentration of 3×10^{-1} microcuries/cubic centimeters. It was in fact the occasion of bidding on the latter that led Nuclear Engineering Company to file its verbal complaint with respect to Isotopes Specialties' past or present handling of the former waste.

The allegation by Nuclear Engineering Company to the effect that Isotopes Specialties Company has been "illegally" hauling the previous waste and disposing of it down the sewer appears to us to be dependant upon an interpretation of Isotopes Specialties' license. The report of March 11, 1959 points out the various aspects of Isotopes Specialties' application (incorporated within the license) which not only raise questions of intent but indeed appear to provide

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a considerable degree of latitude to the discretion of the licensee with respect to the type of containers that shall be used in the transporting of customer waste and the manner in which it will be disposed. This report points up what appears to be some honest confusion on the part of Isotopes Specialties (and ourselves) as to the regulations and/or license conditions governing disposal of liquid waste to the sewer. We feel that Isotopes Specialties raises a reasonable question concerning the application of 10 CFR 20.303, as compared with 10 CFR 20.103 (note page 4 of the March 11 report).

The basic problem presented is of course the one of applicability of ICC regulations to a licensee, whose license requires him to package "...according to ICC regulations, if possible...." in a case where the transportation is wholly within the State (and not otherwise subject to ICC jurisdiction) and the transportation is of a nature which either, (1) would require the granting of an exception to ICC regulations by the Bureau of Explosives, or (2) is permissible under ICC regulations. The Bureau of Explosives would probably not exercise authority in the case of No. (1); and in the case of No. (2) while it may be possible to comply with ICC technical requirements, from a jurisdictional standpoint such requirements would not apply.

In reviewing the findings of this investigation with a view to determining whether Isotopes Specialties has in fact been operating in noncompliance, we find that we are unable to arrive at any reasonable conclusion since, as mentioned above, any determination is dependent upon the intent of the application and licensing action, both with respect to transportation and to disposal by sewer. Accordingly, we are requesting that this matter be referred to DL&R for resolution.

We wish to add, however, that the vagueness and complexities of the Isotopes Specialties' license as it now stands leads us to conclude that the Nuclear Engineering Company has a valid complaint with respect to apparent inconsistencies in the licensing of the two waste disposal companies. In this connection we would recommend, as a uniform solution to the transportation question, that the Isotopes Specialties license be amended to incorporate the same conditions regarding transportation that have been included within the licenses issued or being issued to the Walker Trucking Company, Coastwise Marine Disposal Service and, of late, the Nuclear Engineering Company. These conditions with respect to the latter companies represent in our opinion a commendably clear application of Federal Regulations in this area and accordingly should be applied to all existing and future waste disposal licenses.