

August 18, 2000

Ms. Fawn Shillinglaw
1952 Palisades Dr.
Appleton, WI 58915

Dear Ms. Shillinglaw:

I am responding to your July 26, 2000, letter to Chairman Meserve concerning the rulemaking process for cask designs and the status of an NEI petition for rulemaking. Specifically, you have questioned when the Certificate of Compliance (CoC) is finalized and state that it should be finalized before publication of the rule in the Federal Register.

As to your first concern, the CoC's are always final when the rule is signed. The CoC should be publically available when either the proposed rule or direct final rule is published in the Federal Register. You have expressed concern that the CoC and safety evaluation report (SER) for the VSC-24 Amendment 2 was not finalized prior to publication in the Federal Register on June 22, 2000, because the memorandum forwarding the CoC/SER was dated June 28. However, the memorandum forwarding the CoC/SER that you mentioned was actually dated June 28, 1999. Thus, the CoC/SER was finalized and available prior to June 22, 2000. Amendment 2 was held until Amendment 1 had been published in the Federal Register.

You are correct that vendors receive draft copies of the CoC before rulemaking is initiated. Vendors are generally given about a week to comment on the draft CoC and draft safety evaluation report; the draft documents are placed in the Public Document Room. Vendors are provided this opportunity so that any technically incorrect information may be identified and corrected before the documents are finalized.

As to your second concern, NEI has filed a petition for rulemaking that would result in the elimination of CoC rulemakings. The NEI petition was noticed in the Federal Register on June 9, 2000 (65 FR 36647). The public comment period on this petition ends on August 23, 2000. The resolution of this petition will be published in the Federal Register as either a denial or as a proposed rule.

I trust this addresses your concerns.

Sincerely,

/RA/

Donald A. Cool, Director
Division of Industrial and Medical
Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

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Sincerely,
orig. signed by
Donald A. Cool, Director
Division of Industrial and Medical
Nuclear Safety
Office of Nuclear Material Safety
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