



Department of Comprehensive Planning Nuclear Waste Division

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John L. Schlegel, Director • Dennis Bechtel, Planning Manager

September 25, 2000

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PROPOSED RULE 71
(65 FR 44360)

Dr. Susan F. Shankman
US Nuclear Regulatory Commission
Mailstop: 0-13-D-13
Washington, D.C. 20555-0001

Topic: Clark County Comments on Revision to 10 CFR Part 71

Dear Dr. Shankman:

This letter provides Clark County's interim comments on the proposed revisions to 10 CFR Part 71. At the outset, it is important to express Clark County's appreciation for our inclusion in the process. Clark County, Nevada is one of the primary corridor communities through which high-level nuclear waste will pass en route to the proposed repository at Yucca Mountain. Under the "Mostly Truck" shipping scenario defined by the Department of Energy (DOE) all shipments to Yucca Mountain will pass through Clark County. Approximately seven percent of the national shipment-miles will also pass through Clark County en route to the proposed Yucca Mountain repository. We believe our community is uniquely impacted by regulations effecting the transportation of radioactive materials. Over the last two years, the Nuclear Regulatory Commission (NRC) has made substantial and meaningful efforts to solicit the opinion of affected parties, including Clark County. The Commission's work in this area is recognized as an important and worthwhile effort by County policymakers and staff. We encourage the Commission to continue to work in this cooperative spirit.

At this time, our concerns about the proposed revisions fall into two categories. First, Clark County believes the NRC's process is flawed. All of the supporting documents should have been made readily accessible to the public. Regulatory harmonization engages difficult technical issues that are not easily understood even by long time practitioners in the field. Comprehension of the implications of regulatory harmonization is a project that requires ample time and thoughtful analysis. In order to address these concerns, the NRC should purchase a license to distribute the IAEA documents via the web. It seems likely that the IAEA regulations do not generate substantial revenue for the IAEA and a license should not be too expensive.

The period to study and comment on the proposed harmonization should also be extended. This regulatory activity is taking place in a context that strains the resources of organizations that are interested in the issue. This regulatory activity is taking place at a particularly busy time for organizations interested in nuclear materials transportation. The DOE's Record of Decision (ROD) for Waste Management Programmatic EIS, the DOE's Environmental Impact Statement (EIS) process for the proposed high-level waste repository at Yucca Mountain and the Package Performance Study (PPS) being performed by the NRC all require just as much attention as the 10 CFR Part 71 amendments. After reviewing the transcripts of the Washington meeting and the background materials for the 10 CFR Part 71 changes, Clark County is not persuaded that adequate mechanisms for public involvement exist in modifications to internationally significant policies. Without such mechanisms, the modifications may lack necessary legitimacy.

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Template = SECY-067

SECY-02

September 25, 2000

Page 2

Second, the transcript of the Washington D.C. meeting and the background materials refer to desire to make unimportant design changes without NRC inspection. Clark County appreciates the cumbersomeness of NRC licensing procedures, but does not believe streamlining regulations necessarily serves the interests of public health and safety. Clark County has unique experience with this issue. In 1996 and 1997, a DOE contractor made a series of slight design changes to a type "A" package being used to transport Low Level Radioactive Waste (LLW) to the Nevada Test Site (NTS) for disposal. The cumulative effect of the design changes (combined with lax DOE oversight) led to the shipment of leaking waste container. The DOE shipped these defective containers for at least six months before a leaking container was noticed in a public area in December 1997. Clark County has a unique distinction as a community through which leaking radioactive waste containers were knowingly shipped. These containers leaked because minute design changes that, individually, had no effect on safety. Clark County believes the procedures for streamlining regulations proposed by these changes should be examined in greater detail.

I want to conclude by thanking you for the opportunity to participate in these hearings. Clark County seeks to make a positive contribution to the NRC's ongoing efforts.

Sincerely,



Fred Dilger
Principal Planner