



## Department of Energy

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Honorable James Curtiss  
Commissioner  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Curtiss:

During my briefing to you on the civilian radioactive waste management program on December 20, 1988, I indicated that I would provide you with further information on two topics. First, you were interested in changes to 10 CFR Part 2 that the Department believes would be beneficial for expediting and streamlining the hearing process for licensing a repository (other than changes pertaining to the Licensing Support System). Secondly, you inquired about the Department's consideration of the use of multi-purpose casks for transport, storage and disposal. Each of these topics is addressed in the following discussion.

1. 10 CFR Part 2, Rules of practice for domestic licensing proceedings

The Department believes that the following are among changes to 10 CFR Part 2 which would further expedite and streamline the hearing process and are recommended for your consideration:

- a) The admission of contentions should have a threshold that would require the proponent to supply information that would indicate the existence of a genuine and substantial dispute on an issue of fact. This would help focus and sharpen the issues in dispute and ensure that valuable resources are not expended on frivolous contentions.
- b) Contentions that are filed late should include an evidentiary showing that: (1) there is significant new information that would require a modification in facility design or construction to protect the public health and safety and (2) such modification would substantially enhance such protection by improving overall safety. Late contentions that do not meet this standard should not be accepted.
- c) Depositions should be conducted in a timeframe that serves to expedite the hearing process. Limitations should be placed on the number of depositions taken and on the time by which they must be completed.

d) Intervention should be granted to parties based upon judicial standing requirements, rather than the current Nuclear Regulatory Commission (NRC) practice of allowing intervention by parties who do not meet judicial standing requirements.

e) The party filing the contention should have the burden of making an affirmative case for the admission of a contention. Present NRC case law places the burden of proof on the applicant.

f) The licensing board or boards should be directed, by the Commission, to resolve contentions on an ongoing basis so that internal agency appeals for decisions need not await resolution of the last group of issues.

## 2. Multi-Purpose Casks

In 1984 and 1985, the Department evaluated various alternative concepts for spent fuel handling, packaging, shipping, storage, and disposal in an attempt to improve the performance of the waste management system through enhanced interface compatibility. In particular, a study was funded to investigate a universal canister with a wedge-shaped cross section. Another study was funded to investigate a number of concepts, including: (1) alternative versions of a universal self-shielded waste package (USSWP) that could be used for storage, transportation, and disposal in the repository and (2) a dual-purpose (transportable storage) cask that could be used for both storage and transportation. The Department's evaluation of these concepts is summarized below.

The universal canister would not be compatible with existing reactor storage racks, would require overweight truck casks, and would be suboptimal for repository handling and disposal. Therefore, this concept has not been pursued further.

The USSWP concepts would require a near-term, up-front commitment of utility and Department of Energy (DOE) resources in developing and fabricating these casks, in spite of current uncertainties associated with repository and waste package licensing requirements. Furthermore, as these USSWP's would have to satisfy waste package requirements, handling these containers at reactor sites would create additional procedural and quality assurance issues for utility spent fuel management personnel, whose main function is carrying out on-site storage operations, not producing repository-ready waste packages. Therefore, the USSWP concepts have not been pursued further.

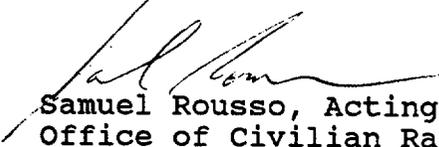
The transportable storage cask concept was selected for further study in 1987. The Department concluded that the use of limited numbers of such casks could result in net savings to the combined utility/DOE waste management system and in decreasing the needs for rehandling spent fuel. Our recent reduction of funding for DOE development and procurement of a transportable storage cask as part of a transportation cask procurement alternative occurred for two reasons. First, the commercial development and demonstration of such casks had been under way for several years as a result of prior DOE and industry initiatives and were proceeding satisfactorily. Second, the vendors and utilities have undertaken the development of dual-purpose casks on their own and plan to present their results to DOE. Thus, the primary factors were not whether these casks should be developed, but rather how, by whom, and when.

As a result of these evaluations and studies, the Department's approach has not included the consideration of a multi-purpose (universal) cask for some time.

We look forward to future opportunities to discuss with NRC the early resolution of possible licensing issues through interactions involving rulemakings, topical reports, etc. In addition, we will continue to work with NRC staff to clarify issue areas under 10 CFR Part 60 such as "substantially complete containment." It is hoped these efforts will result in a smoother and more straightforward licensing action for all interested parties.

I appreciate the opportunity to provide further information concerning our positions on 10 CFR Part 2 and multi-purpose casks. If you or your staff have any questions, please feel free to contact me on 586-6842 or Mr. Ralph Stein, Associate Director, Office of Systems Integration and Regulations, on 586-6046.

Sincerely,



Samuel Rousso, Acting Director  
Office of Civilian Radioactive  
Waste Management

cc:

R. Bernero, NRC  
Secretary to the Commission, NRC  
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