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Secretary
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555-0001
ATTN: Rulemaking and Adjudications Staff

Subject: Response to Request for Comments on Proposed Rule, 10 CFR Part 71,
Compatibility with IAEA Transportation Safety Standards (TS-R-1) and
Other Transportation Safety Amendments (67 FR 21390)

The Holtec Users Group (HUG)* appreciates the opportunity to comment on the NRC-proposed changes to make the requirements contained in 10 CFR Part 71 for packaging and transporting radioactive material compatible with the International Atomic Energy Agency (IAEA) standard ST-1 (TS-R-1). This letter provides the HUG comments on the subject proposed changes to 10 CFR Part 71.

If you have any question or require additional information, please contact Terry Sides at (205) 992-5705.

Respectfully submitted,

David L. Larkin
Chairman – Holtec Users Group

DLL/TWS

Attachment

* The Holtec Users Group consists of member utilities using or committed to use of the Holtec International HI-STAR 100 and HI-STORM 100 spent fuel storage systems.

Attachment

Response to Request for Comments on Proposed Rule, 10CFR Part 71, Compatibility With IAEA Transportation Safety Standards (TS-R-1) and Other Transportation Safety Amendments

The proposed changes to 10 CFR Part 71 (63 FR 21390) include changes to the requirements for packaging and transporting radioactive material to make them compatible with International Atomic Energy Agency (IAEA) standard ST-1 (TS-R-1) and to incorporate NRC-initiated changes. The proposed changes associated with compatibility with TS-R-1 are summarized in the corresponding statement of consideration as Issues 1 through 11 and the NRC-initiated changes are summarized as Issues 12 through 19.

The Holtec Users Group provides the following comment on the proposed changes to Part 71:

1. Issue 3, Revision of A₁ and A₂

The NRC is proposing to make a conforming change to Part 71 to adopt the new A₁ and A₂ values from TS-R-1 in Part 71. Revising the A₁ and A₂ values may have adverse impact on the currently certified casks. The proposed regulation does not appear to ensure that transport casks certified under previous revisions are grandfathered and will still be usable without modification or analysis in the future. This change should ensure that any transport casks certified under earlier revisions of the regulation would still be usable regardless of the revision of the regulation in effect at the time of shipment.

2. Issue 15, Change Authority for Dual Purpose Package Certificate Holders

- a. The proposed change will provide Part 71 certificate holders the authority to make certain changes to a spent fuel cask's design or procedures used with the cask without prior NRC approval for casks that are dual certified for transportation and storage under the provisions of both Part 71 and Part 72, respectively. The proposed rule does not however extend the same authority to licensees using dual certified casks under the provisions of both Part 71 and Part 72.

Currently under the provisions of §72.48, Part 72 licensees are provided the same authority given to certificate holders to make changes to a spent fuel storage cask's design or procedures used with the storage cask and to conduct tests or experiments without prior NRC review and approval. NRC failure to extend the change provisions of Part 71 to licensees using spent fuel storage casks that are dual certified for transportation and storage creates a situation where a Part 72 licensee using a spent fuel storage cask certified to both Part 71 and Part 72 would be allowed under Part 72 to make certain changes to the design of a dual purpose cask, e.g., changes that affected a component or design feature that has a storage function, without obtaining prior NRC approval. However, the Part 72 licensee would not be allowed under Part 71 to make changes to the design of this same dual-purpose cask (package), e.g., changes

that affect the same component or design feature, if that component or feature also has a transportation function, without obtaining prior NRC approval, even when the same physical component and change is involved (i.e., the change involves a component that has both storage and transportation functions). Failure of the NRC to provide Part 72 licensees the change authority proposed for the CoC holders creates exactly the same situation stated in the proposed rule that the NRC wishes to avoid for CoC holders (i.e., a Part 72 licensee cannot make the same physical change allowed under the provisions of § 72.48 to a component that has both a storage and transportation function without prior NRC review and approval of the change in accordance with the provisions of Part 71).

The discussion of Issue 15 provided with the proposed rule states that a licensee is not required to understand the technical bases of the Part 71 regulations on normal conditions of transport, hypothetical accident conditions, and criticality control before the licensee can use the package to transport radioactive material. The discussion of Issue 15 goes on to state, "Therefore, the NRC staff believes that a significant increase in burden would be imposed on licensees to understand these technical bases, if they were permitted to make changes under a "change authority" regulation." The proposed rule should recognize that Part 72 licensees have change authority provided by §72.48 for spent fuel casks that are dual certified for storage and transportation. In order to preclude a situation where a Part 72 licensee makes a change in accordance with the provisions of § 72.48 that potentially renders the spent fuel cask useless for transport under the provisions of Part 71, it is imperative that licensees making changes to a dual certified spent fuel cask in accordance with the provisions of § 72.48 consider the implications of the change on the Part 71 certification for transportation. If the licensee does not possess the necessary understanding of the technical bases for the cask associated with transportation under Part 71, the licensee would be expected to consult with the CoC holder and obtain the necessary understanding prior to implementing the change, up to and including having the CoC holder perform the evaluation of the proposed change if deemed necessary.

The discussion of Issue 15 also cites as the basis for not providing the licensee the authority to make changes under the provisions of Part 71, the possibility of a situation in which one licensee could make an authorized change to a package, without prior NRC approval, transfer that package to another registered user, without forwarding all change summaries to the next user, who would then be unable to verify or recognize that the package is in conformance with the CoC. In order to preclude this possibility, it is recommended that the NRC include provisions in Part 71 similar to those provided by § 72.212(b)(8) which requires records associated with spent fuel casks to be maintained and transferred to another register user in the event that a cask is sold, leased, loaned, or otherwise transferred to another registered user.

In summary, the change authority proposed in § 71.175 is limited to the certificate holder only. This limitation hinders ability of Part 72 general and specific licensees to effectively manage and control their Dry Cask Storage Program and ensure that changes made in accordance with Part 72 do not

impact the Part 71 certification of spent fuel casks. The lessons learned from earlier limitations experienced in Part 72 associated with § 72.48, Changes, tests and experiments, should be implemented in the proposed change to Part 71 by expanding the change authority to include general or specific licensees.

- b. The 2-year submittal date for application of renewal for CoC or Quality Assurance Program Approval discussed in, Subpart I-Type B (DP) Package Approval, § 71.165, Conditions for package reapproval, is excessive. A more appropriate submittal time period would be the timely renewal provision similar to the thirty day requirement contained in § 72.240, Conditions for spent fuel storage cask reapproval.