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May 27, 2003

2/21/03
68 FR 8530
(69)

Mr. Michael Lesar
Chief, Rules Review and Directives Branch
U.S. Nuclear Regulatory Commission
Mail Stop T-6-D-59
Washington DC 20555-0001

RE: Comments on NUREG-1768 NRC Package Performance Study Test Protocols

Dear Mr. Lesar:

Eureka County is an "affected unit of local government" (AULG) under Section 116 of the Nuclear Waste Policy Act as amended.

Eureka County is under consideration as a route for a rail spur to transport spent nuclear fuel and high level radioactive waste to the proposed repository at Yucca Mountain. Interstate 80 also transverses the county. Thus the county has a direct interest in the performance of casks transporting nuclear waste.

Our nuclear waste transportation advisor, Abigail Johnson, represented the county and served on the panel at the NRC's public meeting in Rockville MD on March 6, 2003.

Eureka County has some general comments regarding the package performance study (PPS) proposal, and some comments specific to the text of the document.

Public confidence

Public confidence is one of the three stated objectives for doing full scale cask testing. We believe that the NRC should be clear as to what it means by public confidence. In addition, the NRC should be clear about how it will measure public confidence. How will the agency know when it is achieved?

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The experience of the Sandia cask tests performed in the 1970's is relevant. The industry used edited films of those tests as a public relations tool to convince the public that the casks could withstand crashes and fires. In fact, this was not the purpose of the tests. When this misrepresentation was exposed, confidence in the safety of the casks diminished accordingly.

For many years, the Sandia tests of the 1970's have been used by the industry to prove cask safety, and by citizen action groups to question cask safety. Embarking on the next generation of full-scale cask testing, the NRC should be aware that full-scale cask testing may not produce the public confidence that is desired and assumed.

Regulatory changes

In the executive summary (ix) and on page 1, NRC states that the PPS is not intended to involve the development of new standards for transportation casks, but rather to assess the current regulations.

We question whether public confidence can be built when the regulatory agency's page 1 statement is that they do not want to consider the effectiveness of the regulations, only how a cask stands up to them.

The proposal to test only one rail and one truck cask is surprising. We understand that the costs are high, but the costs of a nuclear accident are even higher. Most scientific experiments are done using more than one test subject. Often the tests are repeated to confirm the results. Shouldn't these tests be subject to customary scientific procedures, for the sake of information gathering and to build public confidence in the results.

Testing the regulation

On page 70, regarding full-scale rail transport fire tests: "The full-scale rail cask test will provide information on the accuracy of predictions of cask thermal performance, as well as to demonstrate the behavior of casks under extreme fire conditions. *Because these test will exceed the regulatory limits, containment is not going to be verified after the fire tests.* (emphasis added)

It is troubling that NRC does not intend find out if the cask leaked under extreme fire conditions. The reason given is that the regulations will be exceeded, and a release of radiation is likely. This is just the sort of information that the public is interested in. Knowing if and when the cask leaked, in the long run, will build public confidence if the agency is willing to disclose the results of a test that indicates when the cask is likely to fail.

Testing to failure

The proposed protocols do not call for testing to failure but they should. The common sense purpose of full scale cask testing is to understand what the limits of the *cask* are – not the regulation. Testing to failure will provide valuable information for emergency management. Knowing how much longer a cask can withstand adverse conditions is key information for a local government coping with a severe nuclear waste transportation accident.

Testing based in reality

We support using real life accident scenarios gleaned from the data that is collected on accidents. We also believe that accident data may not be as complete or informative as it could be, based on who collected the data and how it was reported by the parties involved.

The public is sometimes accused of being alarmist when it comes to the perils of nuclear waste transportation. It is important that these full-scale tests recognize the real-life perils of train and truck transportation, with special attention to the unlikely occurrences that in fact occur.

Timing

In our oversight of the Yucca Mountain program, we have observed a lack of coordination and communication to the detriment of the public and the local governments which serve them. We are concerned that the NRC's full scale cask testing will not be coordinated with DOE's cask procurement. Without proper coordination and budgeting, DOE could begin to procure casks without the benefit of the results of the cask testing results. This is of extreme concern to us.

Addressing PPS comments

During the March 6, 2003 meeting, several participants requested that NRC acknowledge and respond to the comments received through this process. Eureka County supports that approach. In the interest of explaining final decisions to the public, consideration of and response to comments received is helpful and productive.

Specific document-related comments

■A Glossary of terms would be helpful to the non-technical reader.

■The four tasks listed in the executive summary (page x) are listed in different order than the list on page 3 of the document identified as "Issues Report" recommendations. It would be clearer to the reader if those items were numbered in the same order, if the priorities are different for the executive summary than for the text, an explanation would be helpful..

■Please clarify that the term "MPC" does not relate to the much-studied "multi-purpose canister" concept considered by the Navy.

Summary

Eureka County is in favor of full scale cask testing which demonstrates the limits of the cask, or testing to failure. More than two casks should be tested; all casks should be ones that would actually be used for transportation to Yucca Mountain. While acknowledging concerns about costs, it is also essential to make sure that the tests are viewed as valid if NRC wants public confidence to be an outcome the cask tests

We appreciate the opportunity to comment on the proposed cask testing protocols, for the chance to participate in the March 6 roundtable discussion on the topic, and for the promises made by NRC staff to consider all comments.

Sincerely,

Leonard J Fiorenzi

Leonard J. Fiorenzi
Nuclear Waste Program Director

cc: Abby Johnson, Nuclear Waste Advisor
AULGs
State of Nevada Nuclear Waste Project Office