



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

August 25, 1998

MEMORANDUM FOR: Frederick C. Combs, Acting Director  
Division of Industrial and Medical Nuclear Safety  
Office of Nuclear Materials Safety  
and Safeguards

FROM: William F. Kane, Director  
Spent Fuel Project Office  
Office of Nuclear Materials Safety  
and Safeguards

SUBJECT: COMMENTS ON PROPOSED 10 CFR PART 63

The Spent Fuel Project Office (SFPO) has reviewed the rulemaking package dated August 13, 1998, regarding the proposed rulemaking establishing 10 CFR Part 63, "Disposal of High-Level Radioactive Waste at Yucca Mountain, Nevada." While recognizing the different review philosophies regarding interim storage of spent fuel and long-term geologic disposal, SFPO would like to provide the following comments to ensure consistency in agency actions:

- 10 CFR Part 63 Subparts E and F - Currently, SFPO is using Standard Review Plans (SRPs) for the review of transportation and storage packages for spent fuel. It is possible that the dual-purpose cask system designs that are in review for 10 CFR Parts 71 and 72 approval will be the waste packagings used at Yucca Mountain. Given that the technical design information exists (since packages have been proposed) and the criteria for accepting the packages exist (through staff SRPs), it may be possible to develop some specific technical acceptance criteria for the waste packages. This may be important to ensure the retrievability of the waste packages and to ensure package safety (e.g., criticality and shielding) prior to closure. Also, this would ensure consistency between the regulations and their application and would eliminate regulatory uncertainty to the industry since the industry would know what criteria and standards needed to be met. We recommend that consideration be given to this.
- 10 CFR §63.44 - There has been significant work associated with modifying 10 CFR §50.59 and 10 CFR §72.48 regarding changes, tests, and experiments and the attendant concern of an "unreviewed safety question." This section does not reflect any of the current thinking regarding this. This section should be revised to reflect the guidance of the Commission and subsequent staff actions. As an alternative, a comment in the proposed rule or statements of consideration could be added reflecting that new Commission guidance in this area will be provided once it is finalized.
- 10 CFR Part 63 Subpart H - In essence, the requirements for the training and certification of personnel resemble 10 CFR Part 72. However, this does not take into account initiatives in NRR in the training area (and it has been identified for modification in 10 CFR Part 72 as well). Specifically, 10 CFR §50.120 requires that a systems

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approach to training (SAT) be used. The SAT process is an accepted industry standard to ensure appropriate criterion-referenced instruction and job performance standards are achieved and maintained. A more descriptive SAT process regulation may be found at 10 CFR §76.95. This should be indicated as a 10 CFR Part 63 training requirement.

- 10 CFR Part 63 Subpart G - SFPO is in the process of licensing/reviewing several U.S. Department of Energy (DOE) activities under the auspices of 10 CFR Part 72; e.g., Fort St. Vrain license transfer, TMI-2 fuel debris storage facility, Central Interim Storage Facility Topical Safety Analysis Report, Dry Transfer System Topical Safety Analysis Report. In these instances, DOE has applied its approved quality assurance program (DOE/RW-0333P, Revision 5) to these activities and submitted them for review under 10 CFR Part 72. It is anticipated that in the next eight months, DOE will be a licensed entity at two locations. In the process, the NRC will have made a finding that the DOE quality assurance program met the requirements of 10 CFR Part 72, Subpart G. Since DOE will have actual licensing experience with this section, and since 10 CFR Part 72, Subpart G, has slightly different attributes from 10 CFR Part 50, Appendix B, consideration should be given to the referencing 10 CFR Part 72, Subpart G, rather than Appendix B of 10 CFR Part 50. (In addition, certain transportation package certifications under 10 CFR Part 71 are regulated, which has its own, but similar quality assurance program requirements in 10 CFR Part 71, Subpart H. The DOE/RW-0333P, Revision 5, quality assurance program was approved for use in this area on February 29, 1996.)
- 10 CFR Part 63 Subpart I - The reference to 10 CFR §72.32(b) is the appropriate section to reference for emergency planning criteria. However, the added clause "as applicable" could be interpreted as a limiting the scope of the regulation by the applicant. It should be removed since the requirements of the referenced section should be met in its entirety for a facility that could potentially repackage spent fuel at a surface facility.

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