

July 30, 2004

Mr. E. William Brach, Director  
Spent Fuel Project Office  
Office of Nuclear Material Safety and Safeguards  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555

Subject: A Utility Cask User's Letter to the U.S. Nuclear Regulatory Commission (NRC) dated June 15, 2004, "Application for Spent Fuel Storage Cask Reapproval and Transport Cask Approval"

NRC Certificate of Compliance No. 9270; NAC-UMS

Dear Mr. Brach:

Further to my letter of July 15, 2004, which focused on the 10 CFR 72 aspects of the subject utility cask user's request to the NRC, I wanted to briefly comment on the 10 CFR 71 aspect of that request. Specifically, on page 2 of the June 15, 2004 letter, the cask user requested that the NRC issue it a Certificate of Compliance for the existing term due to expire on October 31, 2007, under Certificate of Compliance (CoC) No. 9270.

In my last letter, NAC International Inc. ("NAC") did not specifically address the cask user's request to be a Part 71 C of C holder for the transport cask because the idea was even more unfounded in our view than their request for cask re-approval of the Part 72 C of C.

Specifically, 10 CFR 71 does not have any provision for a licensee-user of the transport cask to step into the shoes of and become the C of C holder - unlike the provision of 10 CFR 2.212(a)(3) for storage cask design re-approval (which, again, is only in the event the certificate holder does not seek re-approval). In other words, under Part 71, a licensee may use an approved cask for transport in accordance with a C of C issued by the NRC (see 10 CFR 71.12), but it does not have the right to become a certificate holder by simply referencing (as the cask user does) a previously issued C of C. The cask user would have to develop its own cask design and submit an application for approval in accordance with the process of Part 71, Subpart D and the standards of Subparts E and F of Part 71. Basically, the cask user's Part 71-related request is simply not cognizable under Part 71.

UMSSD/



If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Walier', with a small superscript '3' at the end of the signature.

Peter Walier  
President and CEO  
NAC International, Inc.

Cc: Mr. John Monninger  
Neil Jensen, Esq.