

October 17, 2006

MEMORANDUM TO: Luis A. Reyes
Executive Director for Operations

FROM: J. E. Dyer, Director */RA/*
Office of Nuclear Reactor Regulation

SUBJECT: DIRECT FINAL RULE TO AMEND 10 CFR 50.68, CRITICALITY
ACCIDENT REQUIREMENTS

Enclosed for your signature is a direct final rule, along with the companion proposed rule (Enclosures 1 and 2), amending U.S. Nuclear Regulatory Commission (NRC) regulation 10 CFR 50.68 so that the requirements governing criticality control for spent fuel pool storage racks do not apply to the fuel within a spent fuel transportation package or storage cask when a package or cask is in a spent fuel pool. These packages and casks are subject to the criticality control requirements in 10 CFR Parts 71 and 72, respectively. This action is necessary to avoid applying two different sets of criticality control requirements to fuel within a package or cask in a spent fuel pool. Adequate protection of public health and safety will continue to be maintained under the proposed rule.

This amendment is considered to be noncontroversial because spent fuel pools, transportation packages and dry storage casks each have requirements for detecting, controlling or preventing criticality accidents in their regulations, and any additional criticality accident requirements are unnecessary. We are using the direct final rule approach because the staff does not anticipate significant adverse comments, to simplify the process and to shorten the time before the rule becomes effective.

The EDO is delegated authority to issue this direct final rule since it involves a minor change in policy in accordance with Management Directive 6.3, "The Rulemaking Process."

The Office of Public Affairs has determined that a press release is not needed.

Notices: Enclosure 3 ("EDO Daily Note") documents that the Executive Director for Operations (EDO) intends to sign the two *Federal Register* notices. Enclosure 4 ("Notice of Final Rule Signed by the EDO") and Enclosure 5 ("Weekly Report to the Commission") document that the EDO has signed the two *Federal Register* notices. The "Approved for Publication" form can be found in Enclosure 6. The Congressional Review Act forms can be found in Enclosures 7. The appropriate Congressional committees will be notified.

CONTACTS: George M. Tartal, NRR/DPR/PRAB
(301) 415-0016

James Clifford, NRR/DPR/PRAB
(301) 415-1995

Resources: No additional resources will be needed to implement this rule, unless we receive significant adverse comments on the proposed rule.

Coordination: The Office of Administration concurs with this amendment. The Office of the General Counsel has no legal objection to this amendment. The Committee to Review Generic Requirements has waived review of this amendment (reference ADAMS accession number ML062020732). The Advisory Committee on Reactor Safeguards has reviewed this amendment and recommended publishing the rulemaking for public comment (reference ADAMS accession number ML062650172).

Enclosures: As stated

Resources: No additional resources will be needed to implement this rule, unless we receive significant adverse comments on the proposed rule.

Coordination: The Office of Administration concurs with this amendment. The Office of the General Counsel has no legal objection to this amendment. The Committee to Review Generic Requirements has waived review of this amendment (reference ADAMS accession number ML062020732). The Advisory Committee on Reactor Safeguards has reviewed this amendment and recommended publishing the rulemaking for public comment (reference ADAMS accession number ML062650172).

Enclosures: As stated

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