Approved For Publication

The Commission delegated to the EDO (10 CFR 1.32(c)) the authority to develop and promulgate rules as defined in the APA (5 U.S.C. 551(4)) subject to the limitations in NRC Management Directive 9.17, Organization and Functions, Office of the Executive Director for Operations, paragraphs 0213, 038, 039, and 0310.

The enclosed direct final rule, entitled "Criticality Control of Fuel Within Dry Storage Casks or Transportation Packages in a Spent Fuel Pool," amends 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.

This direct final rule does not constitute a significant question of policy, nor does it amend regulations contained in 10 CFR Parts 7, 8, or 9, Subpart C, concerning matters of policy. I, therefore, find that this rule is within the scope of my rulemaking authority and am proceeding to issue it.

10/31/06 ***/RA/***

Date

William F. Kane,
Acting Executive Director for Operations.