

August 4, 2011

Mr. Rod McCullum, Director
Used Fuel Programs
Nuclear Energy Institute
1776 I Street N.W., Suite 400
Washington, DC 20006-3708

SUBJECT: RECEIPT OF LETTER - ACKNOWLEDGMENT LETTER

REFERENCE: Letter from R. McCullum to V. Ordaz, "Industry Position on Helium Leakage Testing of Dry Storage System Confinement Boundaries," June 13, 2011

Dear Mr. McCullum:

This letter acknowledges the receipt of your letter dated June 13, 2011, "Industry Position on Helium Leakage Testing of Dry Storage System Confinement Boundaries." The Nuclear Energy Institute (NEI) letter received from you addresses a number of issues, including:

- (a) your concern that staff review guidance in Interim Staff Guidance (ISG)-25 is used to establish new regulatory requirements;
- (b) the technical basis for leak testing confinement boundaries of dry storage systems;
- (c) industry unawareness of any conclusive scientific data that indicates a safety concern of leakage through base material; and
- (d) the applicability of ANSI N-14.5-1997, "Radioactive Materials – Leakage Tests on Packages for Shipment," leak testing standard to the confinement boundaries of dry storage systems.

With regards to item (a), the NRC does not establish regulatory requirements or regulations through interim staff guidance. Regulatory requirements are provided by Title 10 the Code of Federal Regulations (CFR). The applicable regulatory requirements for confinement and leak testing are listed in the "Regulatory Basis" section of ISG-25. Additional conditions may be imposed to ensure safe operation through licensing actions (e.g., certificate of compliance conditions), as authorized by the regulations. ISGs are documents that guide staff in applicable regulatory requirements, acceptance criteria, and key areas of review for emergent issues. As stated in its introduction, ISG-25 "provides guidance to the staff and is not a regulatory requirement. Alternative approaches may be used to demonstrate safety and compliance, as appropriately justified by an applicant."

In order to facilitate the review of the other issues addressed in your letter, and as requested in your letter, we agree to have a public meeting with NEI this August. The NRC plans to provide a response to your letter within 60 days of this meeting. The staff will inform NEI if this date will change as a result of our review. The purpose of this meeting would be to provide NEI an opportunity to present and discuss the following information referenced in your letter:

- The information and evidence that NEI has received that indicates “there has been some anecdotal evidence where leakage through base materials occurred”.
- The information pertaining to “some discussion related to these cases indicates that leakage can be resolved through methods other than helium leakage testing (e.g. cold working or annealing)”.
- The “...differences between the purposes and functions of the transportation package containment boundary and dry storage system confinement boundary” [Reference letter] and the implications of applying ANSI N14.5 to dry cask storage casks under 10 CFR Part 72.

This information is requested to fully inform our response to your letter. This information will help provide insights to the staff on existing information and NEI’s position regarding leakage testing of the confinement boundaries of dry storage systems.

We appreciate your exchange of ideas on this matter. If you have any questions or comments, you may contact me at 301-492-3297 or Luis Cruz at 301-492-3270.

Sincerely,

/RA/

Michael D. Waters, Chief
Licensing Branch
Division of Spent Fuel Storage and Transportation
Office of Nuclear Materials Safety
and Safeguards

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