

**MARK A. RICHTER, PH.D.**

Senior Project Manager,  
Fuel and Decommissioning

1201 F Street, NW, Suite 1100  
Washington, DC 20004  
P: 202.739.8106  
mar@nei.org  
nei.org



May 24, 2018

Ms. Torre Taylor  
Spent Fuel Licensing Branch  
Division of Spent Fuel Management  
Office of Nuclear Material Safety and Safeguards  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

**Subject:** Industry Comments on NRC Efforts to Address "Audit of NRC's Oversight for Issuing Certificates of Compliance for Radioactive Material Packages"; OIG-17-A-21

**Project Number:** 689

Dear Ms. Taylor:

On August 16, 2017, the U.S. Nuclear Regulatory Commission (NRC) Office of the Inspector General (OIG) issued the "Audit of NRC's Oversight for Issuing Certificates of Compliance for Radioactive Material Packages" (OIG-17-A-21). The audit was performed to determine if NRC's processes for issuing certificates of compliance under 10 CFR Part 71 & 72, and review of 10 CFR Part 72.48 changes provide adequate protection of public health, safety and environment. The Nuclear Energy Institute (NEI)<sup>1</sup> appreciates the opportunity to provide its perspectives and comments on behalf of its members as NRC develops the regulatory and technical basis for the term length of the transportation package certificates of compliance.

The OIG audit report states that NRC should determine and provide the basis for an appropriate term for Part 71 transportation certificates of compliance and further that "NRC does not have regulatory or technical bases to support the 5 year term." Consistent with NRC's *Principles of Good Regulation*, the agency must assess its regulatory requirement considering both safety implications and burden imposed on certificate holders or agency staff. Therefore, NEI supports NRC plans to establish a transportation certificate of compliance (CoC) term length based on risk-informed insights as well as input from comments received at the April 26, 2018 public meeting.

---

<sup>1</sup> The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

Ms. Torre Taylor

May 24, 2018

Page 2

NEI advocates that maintaining safety remains the first priority when considering establishment of a certificate of compliance term length. In achieving this, disproportionate resources should not be expended in areas where there is no substantial safety benefit. Industry operating experience with storing and transporting all categories of radioactive waste and nuclear fuel reflects a track record of strong safety performance over the past several decades. The industry has already benefited from the development of risk-informed, risk-appropriate requirements by NRC in the extension of the maximum license term for by-product materials from 10 to 15 years, uranium recovery facilities from 10 to 20 years and storage casks CoCs and ISFSI specific licenses from 20 to 40 years. Further, it appears from a brief review of recent CoC renewals that many five-year Part 71 CoC renewals are simply perfunctory requests by the CoC holder to extend the term another five years with no changes to the CoC requested or NRC safety review required.

Consistent with industry experience to date, NEI recommends that the term length of the Part 71 Certificate of Compliance for all transportation packages and casks be defined at a minimum of 10 years or longer. Absent an initiating event (change in authorized contents, change in fabrication, significant OE, etc.) there is little time dependence currently associated with a certificate renewal.

Industry believes that a 10-year minimum term is reasonable in light of anticipated transportation needs and alignment with international certificate of compliance term lengths. It is also recognized that NRC needs to coordinate with the Department of Transportation and the International Atomic Energy Agency on these matters to make an informed decision.

NEI is pleased that NRC is undertaking the effort to establish a technical and regulatory basis for a transportation certificate of compliance defined term length. NEI looks forward to working with NRC staff in the development and review of technical and regulatory information that supports a defined term length of at least 10 years that continues to assure protection of public health and safety and reflects risk-informed principles and the expectations established in the NRC's Principles of Good Regulation. In that regard, we request that NRC provide an update prior to issuance of any new regulatory or technical basis document on this topic as indicated by staff during the April 26<sup>th</sup> public meeting.

If you have questions, or need additional information, please contact myself or Ben Holtzman (202-739-8031; [bah@nei.org](mailto:bah@nei.org)).

Sincerely,

A handwritten signature in black ink that reads "Mark A. Richter". The signature is written in a cursive, slightly slanted style.

Mark A. Richter

c: John McKirgan, NMSS/DSFM/SFLB