

DUKE POWER COMPANY

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March 19, 1985

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Mr. Samuel J. Chilk, Secretary
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Attention: Docketing and Service Branch

Subject: Duke Power Company
Comments on 10 CFR Part 71,
Docket No. PRM-71-10
State of Wisconsin;
Filing of Petition for Rulemaking

DOCKET NUMBER
PETITION RULE PRM 71-10 (7)
(50 FR 4866)

Dear Sir:

The NRC requested in a Federal Register Notice dated February 4, 1985 (Volume 50, Number 23, FR 4866 and 4867) comments on the subject proposed petition for rulemaking. In response, Duke Power Company offers the following for consideration.

General Comments:

Duke Power Company is of the opinion that the Rules and Requirements currently contained in Promulgated Regulations are responsible and adequate for all known conditions and provide a high degree of assurance for the protection of public health and safety and the Safeguards/Safety of spent fuel shipments. Recognizing that absolute assurance is neither required nor possible and reasonable assurance has been achieved by industry initiatives, self-regulation and current Promulgated Regulations (10 CFR Parts 71 and 73), Duke Power Company strongly opposes (emphasis added) any further Promulgated Regulations and the State of Wisconsin Filing of Petition for Rulemaking. Based on NRC Safeguards/Safety Studies, Nuclear Power Industry initiatives and the Nuclear Power Industry historical safeguards/safety transportation of spent fuel by rail and road track record, the NRC regulatory framework, for the protection of public health and safety should take the initiative and reduce in a responsible manner the current requirements and promulgated regulations. A reasonable reduction of current requirements and promulgated regulations, based on industry experience, would be strongly endorsed (emphasis added) by Duke Power Company.

Specific Comments:

- (1) 10 CFR Part 71, Section (b)(1) requires a statement that the licensee will obey regulations. In so much as the licensee is required by law to comply with promulgated regulations, this statement is redundant and the result of this statement is not evident.

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- (2) As indicated in the general comments above, 10 CFR Parts 71 and 73 contain stringent regulations for the transportation of spent fuel. Responsible industry management and the economics of spent fuel transportation will prevent unnecessary spent fuel shipments. Therefore, 10 CFR Part 71, Sections (b)(2) and (b)(5) are not needed.
- (3) Existing regulations require the NRC approval of travel routes. Therefore, 10 CFR Part 71, Sections (b)(3) and (b)(4) are redundant.
- (4) 10 CFR Part 71, Section (b)(6) refers to the design of the spent fuel shipping cask. Since the NRC currently certifies cask design, Section (b)(6) is unnecessary.
- (5) The NRC current Hearing Process is time consuming, costly to licensees, redundant in rulings and issues previously resolved and places a negative impact on the licensee. If the NRC were to receive comments and hold Public Hearings on each shipping campaign as indicated in 10 CFR Part 71, Section (c), it is doubtful if spent fuel could realistically be moved within the United States. Additionally, if these Public Hearings included an Environmental Impact Statement as indicated in 10 CFR Part 71(d) for each shipping campaign it would be redundant for most licensees and would impact others as indicated above in cost and time.
- (6) The petition states, fuel storage pools at nuclear facilities are reaching maximum capacity. For some facilities it will be necessary to ship spent fuel from these pools in the near future. Regulations should not be overly restrictive so that relief can be achieved. The NRC's criteria for determining the adequacy of available spent fuel storage capacity were published in the FR 5548, Vol. 50, No. 28 dated February 11, 1985. Utilization of transshipment from one site to another within the same utility system is a principle endorsed in the criteria. The imposition of regulations which would severely impede shipment would be in conflict with the guidance published in FR 5548.

We appreciate this opportunity to provide you with our comments. We trust that our comments will be considered and that the Commission will move promptly to resolve this Petition for Rulemaking by the State of Wisconsin and other issues relevant to the transportation of spent nuclear fuel.

If there are any questions or problems concerning this subject, please advise.

Very truly yours,

Hal B. Tucker

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JWD:slb