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USNRC**TRANSNUCLEAR, INC.**

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October 6, 1998 OFFICE OF SPECIAL
RULES AND ADJUDICATION
ADJUDICATION STAFF

Mr. John C. Hoyle
Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

DOCKET NUMBER
PROPOSED RULE 72 -
(63FR39526)

Subject: 10CFR Part 72, Proposal Rule to Expand Applicability of Regulations to
Holders of, and Applicants for, Certificates of Compliance and Their
Contractors and Subcontractors (Federal Register, Volume 63, November 141,
July 23, 1998)

Dear Mr. Hoyle:

Transnuclear, Inc. is both a current certificate holder and an applicant for a cask certificate of compliance (CoC) under 10CFR Part 72. Therefore, Transnuclear will be affected by changes to Part 72 promulgated by the NRC.

Transnuclear commends the NRC for its effort to bring more clarity to Subpart L of Part 72. Those portions of the proposed rule which define "certificate holder" and then make clearer the responsibility of the certificate holder to comply with applicable regulations are welcome and needed. In the proposed definition of certificate holder in Sec. 72.3, Transnuclear recommends that the word "person" be replaced by "company" or "organization" since a Certificate of Compliance is not issued to a specific person.

While generally supportive of the proposed changes, Transnuclear has some concerns regarding those proposed changes with respect to enforcement actions. It is true that, in the past, problems in the areas of quality assurance, quality control, fabrication control and design control for spent fuel storage systems have been identified by the NRC. The NRC has taken aggressive administrative actions to correct these problems. NRC actions have been both draconian and effective. There is no doubt that certificate holders, applicants, and users of general licenses have taken notice of deficiencies identified by the NRC and have moved to correct those deficiencies. As a result of this, the level of performance by participants in the dry fuel storage industry, both suppliers and users, appears to be improving. Therefore, Transnuclear does not necessarily agree with the NRC that if no action is taken to change the enforcement provisions of Part 72, "the difficulties the NRC has experienced in the past will continue".

If the NRC decides that it must extend the use of enforcement actions under Part 72, then Transnuclear believes that this should apply to holders of, and applicants for, Certificates of Compliance but not to their contractors and subcontractors. The reasons for this are twofold. First, it does not seem fair to extend enforcement actions to

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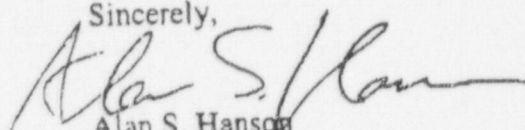
organizations which do not have a direct regulatory link to the NRC. It is the responsibility of certificate holders to assure that their contractors and subcontractors comply with quality assurance requirements imposed on them by the certificate holders in accordance with NRC requirements. Second, subjecting contractors and subcontractors to enforcement actions by an agency with which they have no formal regulatory connection exposes them to business risks which have a real cost. It is possible that this provision would lead some organizations to refuse to serve as a subcontractor to certificate holders, and others organizations would likely demand higher prices to compensate for the risk of civil penalties. Either action would be detrimental to what is a rather small and highly specialized group of fabricators.

Transnuclear also has a specific concern with the proposed extension of enforcement actions to cover Sec. 72.236. Several subparagraphs in this section such as (a), (i) and (m) contain wording like "but not limited to" and "to the extent practicable" which are highly subjective. Transnuclear does not believe that certificate holders should be subject to enforcement actions based on someone's opinion regarding what is practicable.

In summary Transnuclear concurs with proposed changes for clarification but believes that imposition of enforcement actions may not be necessary. If the NRC decides that enforcement actions are necessary, then Transnuclear believes that it should not apply to the subcontractors of certificate holders.

Despite reservations concerning the proposed rule, Transnuclear is committed to strict compliance with all NRC requirements and will adhere to the final rule in whatever form promulgated.

Sincerely,



Alan S. Hanson
President & CEO