



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 29, 1999

Mr. Eldon V.C. Greenberg
Garvey, Schubert & Barer
Fifth Floor
1000 Potomac Street, N.W.
Washington, D.C. 20007

SUBJECT: NOTICE OF PROPOSED RULEMAKING: DOMESTIC LICENSING OF
SPECIAL NUCLEAR MATERIAL (10 CFR PART 70)

Dear Mr. Greenberg:

I am responding to your correspondence, dated October 12, 1999, in which you requested that the U.S. Nuclear Regulatory Commission (NRC) extend the public comment period for the proposed amendments to regulations governing the domestic licensing of special nuclear material for at least 60 days. The proposed regulations amending 10 CFR Part 70, were published in the Federal Register on July 30, 1999 (64 FR 41338). The basis for your request was the need to fully examine the implications of the recent nuclear criticality accident at the Tokai-mura plant in Japan.

After carefully reviewing your request, I am denying it for reasons discussed below. Any comments you provide, however, will be considered to the extent practicable.

We note that the proposed 10 CFR Part 70 regulations include provisions that specifically require prevention of nuclear criticality accidents (see proposed § 70.61(d)).

"...the risk of nuclear criticality accidents must be limited by assuring that under normal and credible abnormal conditions, all nuclear processes are subcritical, including use of an approved margin of subcriticality for safety. Preventive controls and measures must be the primary means of protection against nuclear criticality accidents."

The NRC does not, at this time, anticipate a need to change this requirement as a result of the Tokai-mura accident. Rather, the accident reinforces the appropriateness of this provision. However, as you noted in your letter, NRC staff will be reviewing, over the coming months, the criticality accident at the Tokai-mura fuel fabrication facility. Should any of these results indicate the need to modify the proposed amendments to 10 CFR Part 70, then such a modification will be incorporated by means of the rulemaking process. Also, if pertinent findings come available at a later time that would justify a change to the regulations, such a modification could be incorporated into a subsequent amendment to the regulations.

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Mr. Eldon V.C. Greenberg

Any insights gleaned from the staff's review of the Tokai-mura accident that need to be addressed in our licensing process are more likely to be applicable to the Standard Review Plan or other guidance documents, rather than the proposed amendments to 10 CFR Part 70. The NRC's acceptance criteria for its review of applications submitted under 10 CFR Part 70 are described in a Standard Review Plan for the Review of a License Application for a Fuel Cycle Facility (NUREG-1520), which has also been published for comment.

In closing, I would like to reiterate that although the public comment period for the proposed regulation is now closed, any comments received in the future will still be considered to the extent practicable. The earlier these comments are provided, the more likely it will be practical to consider them.

If you have any further questions, please contact Mr. Drew Persinko of my staff at (301) 415-6522.

Sincerely,

Original signed by:

William F. Kane, Director
Office of Nuclear Material Safety
and Safeguards

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*Please see previous concurrence

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Mr. Eldon V.C. Greenberg

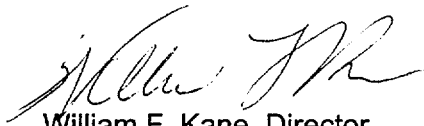
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Sincerely,

A handwritten signature in black ink, appearing to read "William F. Kane". The signature is fluid and cursive, with a large initial "W" and "K".

William F. Kane, Director
Office of Nuclear Material Safety
and Safeguards

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