

STATE OF WEST VIRGINIA  
DEPARTMENT OF MILITARY AFFAIRS  
AND PUBLIC SAFETY

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DOCKETED  
USMPC

CECIL H. UNDERWOOD  
GOVERNOR

OTIS G. COX, JR.  
CABINET SECRETARY



JOHN W. PACK, JR.  
DIRECTOR  
'99 NOV -5 P3:47

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ADJ

November 1, 1999

DOCKET NUMBER  
PETITION RULE PRM 73-10  
(64FR49410)

Memorandum

To: U.S. Nuclear Regulatory Commission

Attn: Rulemakings and Adjudications Staff

From: John W. Pack, Jr., Director

A handwritten signature in black ink, appearing to read "John W. Pack, Jr.", written over the "From:" line.

Subject: Ref: Docket No. PRM 73-10 From the State of Nevada

Thank you for the opportunity to make comments concerning these proposed rule changes in the Federal Register. We support the petitioner's conclusion that the NRC needs to conduct a comprehensive assessment of the tasks outlined in this petition. We believe they should publish the findings of their assessment before adopting any of the changes to the Federal Code.

This rulemaking has the potential to place an additional manpower and funding burden on law enforcement agencies. We would suggest that Federal funding to state and local law enforcement be provided if rules are changed which mandates their use.

We must ensure that Federal mandates are fully funded so we can properly implement any changes to these rules. If you need further input, please contact me at (304) 558-5380.

JWP:DW

cf: Governor Underwood

PDR PRM 73-10

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OFFICE OF THE GOVERNOR  
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September 15, 1999

The Honorable Cecil H. Underwood  
Governor of West Virginia  
State Capitol Complex  
Charleston WV 25305-0370

Dear Governor Underwood:

Under legislation currently before Congress, thousands of spent fuel shipments affecting hundreds of cities in at least 43 states could be on the nation's highways and railroads as early as 2007. Given the recent emergence of a greater domestic terrorist threat and increased availability of sophisticated and portable armor piercing weapons, attacks against future nuclear waste shipments could pose significant risks to cities and communities along shipping routes.

Attached you will find a petition for rulemaking and the notice of receipt published on September 13, 1999 in the *Federal Register* (Volume 64, Number 176) for public review and comment. The petition was filed for Nevada Governor Kenny Guinn by Attorney General Frankie Sue Del Papa with the U.S. Nuclear Regulatory Commission (NRC) and docketed by the NRC on July 13, 1999. Because of the changing nature of threats involving terrorism and sabotage, the petition seeks to have the NRC reevaluate its requirements for safeguarding spent fuel shipments.

This petition was filed because many assumptions underlying the NRC's current regulations no longer reflect real world conditions and need to be modified to ensure the physical protection of radioactive materials shipments. The issue of sabotage and terrorism in connection with nuclear waste transportation has not been formally examined by the NRC for over a decade. Since the NRC last publically addressed these regulations, the number of terrorist incidents in the United States has increased. Larger payloads proposed for future shipments combined with new transport container designs create an immediate need for reexamination of the potential for sabotage and the associated impacts.

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In publishing the petition for public comment, the NRC has taken the first step towards addressing this important health and safety issue. Your state's review of and comments on the petition will be important in assuring that the NRC moves forward and undertakes the needed reassessment of its nuclear waste transportation safeguards regulations.

Written comments should be submitted to the NRC by November 29, 1999 and can be mailed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemakings and Adjudications Staff. Comments may also be submitted electronically at <http://ruleforum.llnl.gov>. Copies of the petition and related background materials including studies and analyses that demonstrate the need for the NRC to reexamine its rules can be obtained directly from this Agency's website at <http://www.state.nv.us/nucwaste/>.

I cannot overstate the importance of your state's review and comments on the petition. If you have any questions or need additional information, please do not hesitate to contact this Office.

Thank you in advance for your attention to this very important petition for rulemaking.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert R. Loux", with a large, stylized flourish at the end.

Robert R. Loux  
Executive Director

RRL:njc

Attachment