



NUCLEAR ENERGY INSTITUTE

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February 28, 2012

Mr. Douglas W. Weaver
Acting Director
Division of Spent Fuel Storage and Transportation
Office of Nuclear Materials Safety and Safeguard
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Industry Position on Secondary Impact Considerations for Transportation Casks

Project Number: 689

Dear Mr. Weaver:

The Nuclear Energy Institute (NEI),¹ together with the NEI Dry Cask Vendor Task Force and NEI Dry Storage Task Force, has recently become aware of an emerging issue related to consideration of secondary impacts for transportation casks. The NRC appears to be using Requests for Additional Information (RAIs) associated with individual license applications as a means to address generic concerns about the potential for secondary impacts during transportation accidents resulting in damage to spent fuel. Secondary impacts are postulated to occur as a result of fuel sliding across the gap between the end of the fuel and the canister during a cask drop scenario.

We believe it is inappropriate to impose a new generic position via RAIs without appropriately communicating and addressing the generic aspects of the issue. Specifically, we believe that the RAI process was not intended to communicate new or amended generic positions to licensees and potential applicants. The NRC's emerging new position on secondary impacts has resulted in significant regulatory uncertainty that has adversely affected several applications from 2008 through

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear material licensees, and other organizations and individuals involved in the nuclear energy industry.

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2012—unnecessarily complicating and extending the review with multiple rounds of RAIs, requiring considerable subsequent rework once the NRC raised the issue in the review of each application, and reducing regulatory clarity and stability.

The NRC announced at the November 2011 SFST Regulatory Conference their intention to develop a process to identify and appropriately address potentially generic issues identified during application reviews, and avoid the emergence of new or changed NRC positions through the RAI process. We believe that this new process is essential in order to restore regulatory clarity and stability.

Further, from a substantive standpoint, we are concerned that the NRC's emerging new position on secondary impacts is inconsistent with the agency's existing regulations. We believe that the existing regulations ensure adequate protection of public health and safety, and that the safety benefit associated with the NRC's position on secondary impacts is unclear. Thus, based on the information available at this time, it does not appear that imposition of the NRC's position on secondary impacts is warranted. If NRC does believe that a new generic regulatory position on secondary impacts is warranted, we respectfully request that the NRC use its existing processes to more formally develop and establish the technical basis for such a position. The NRC has established processes (such as Regulatory Guides, NUREG's, or Generic Issue processes) available for addressing generic issues of varying safety significance, and we encourage the NRC to utilize the appropriate process in addressing this issue.

Our position is discussed more fully in the attachment to this letter. We are interested in meeting with the NRC to further discuss this topic at your earliest convenience and appreciate your attention on this matter.

Sincerely,



Rodney McCullum

Attachment

c: Ms. Catherine Haney, NMSS, NRC
Mr. Michael D. Waters, NMSS/DSFST/LB, NRC
Mr. Eric J. Benner, NMSS/DSFST/RIOB, NRC
NEI Dry Storage Vendor Task Force
NEI Dry Storage Task Force