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Comment On: NRC-2019-0091-0001

Leakage Tests on Packages for Shipment of Radioactive Material

Document: NRC-2019-0091-DRAFT-0002

Comment on FR Doc # 2019-06899

Submitter Information

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Organization: Nuclear Energy Institute

General Comment

See attached file(s)

Attachments

06-06-19_NRC_Industry Comments on DG-7010 Leak Test Standards

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Office of Administration
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U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Submitted via Regulations.gov

Subject: Industry Comments on Draft Guidance-7010, "Leakage Tests on Packages for Shipment of Radioactive Material;" Proposed Revision 2 of Regulatory Guide 7.4; 84 FRN 13969; Docket ID NRC-2019-0091

Project Number: 689

Dear Ms. JoAnn Ireland:

The Nuclear Energy Institute (NEI)¹, on behalf of its members, submits the following comments on the subject Draft Guidance (DG)-7010, "Leakage Tests on Packages for Shipment of Radioactive Material;" Proposed Revision 2 of Regulatory Guide 7.4. The DG-7010 proposes to recognize a standard issued by the American National Standards Institute's (ANSI) Subcommittee on Leakage Tests on Packages for Shipment of Radioactive Materials (N14.5). Specifically, ANSI N14.5, "Radioactive Materials—Leakage Tests on Packages for Shipment" issued June 2015. Further, DG-7010 was made available for comment by June 7, 2019 in a Federal Register Notice issued April 8, 2019. We would also like to acknowledge that the U.S. Nuclear Regulatory Commission (NRC) first introduced ANSI N14.5-2014 to licensees through Information Notice 2016-04, "ANSI N14.5-2014 Revision and Leakage Rate Testing Considerations" issued in March 2016.

Most importantly, current NRC standards and industry programs and practices for leak testing of packages prior to shipment already ensure adequate protection of workers, the public, and the environment. There is no evidence or data to suggest otherwise. Industry fully supports scientifically-based and timely updates of technical standards to reflect operational experience, technological advances, and industry best practices, particularly when a safety or security basis has been clearly identified and documented.

¹ The Nuclear Energy Institute (NEI) is responsible for establishing unified policy on behalf of its members relating to matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect and engineering firms, fuel cycle facilities, nuclear materials licensees, and other organizations involved in the nuclear energy industry.

Fundamental Process Concerns with DG-7010:

1. NRC states on page 3 of DG-7010 that regulatory guides "are not substitutes for regulations and compliance with them is not required." We would add, neither are Information Notices (e.g., IN 2016-04). Contrary to that statement, industry is aware of more than one case where NRC imposed the ANSI N14.5-2014 standard during the renewal process for a current transportation package certificate of compliance. As stated above, we fully support the implementation of new industry standards when properly justified and clearly warranted from a safety perspective. However, such standards should not and cannot legally be imposed on existing licensees without a proper analysis as required by NRC's own rules (e.g., 10 CFR 50.109 and 70.76) and the Administrative Procedure Act (APA). Such analysis must include a well-documented and vetted cost-benefit analysis developed with stakeholder input. The specific NRC licensing actions referenced above where NRC imposed ANSI N14.5-2014 without any such analysis has already resulted in significant costs to industry, both to the package certificate holders and shippers of radioactive material including commercial power plants. Even in the renewal context, imposition of new standards without the consideration of costs violates the backfit rule and the APA in the absence of an adequate protection issue.
2. The reality is that several currently licensed Type B transport casks, built prior to 1999, were not subject to nor did they undergo a containment boundary leak test during fabrication; and the containments cannot now be accessed for leak testing in accordance with the ANSI N14.5-2014 standard. These casks were designed and manufactured to the then current standards and neither NRC nor industry has identified any safety issue with their continued use. Before imposing ANSI N14.5-2014 on these casks, the NRC would need to demonstrate that such a backfitting action would: (1) result in a substantial increase in protection to the occupational or public health and safety; and (2) the direct and indirect costs of implementation are justified in light of this increased protection. Absent such a showing, NRC should grandfather these casks to avoid the unnecessary and costly burden for processing exemption requests to ANSI N14.5-2014 or attempting to develop new methods for conducting leak tests for existing casks.

Resource Impacts of Imposing New Standard

1. Logistics - Utilities have already been forced to expend resources to meet the standard since not all power plants have available indoor space or the appropriate controlled conditions to meet the specifications of ANSI N14.25, e.g., temperature and insulation controls. In order to use the subject transportation package for the routine shipment of radioactive material, more than one utility has been forced to establish a well-controlled, temporary, cordoned outdoor space in which to perform the leak test. Another utility will have to lease the cask for several additional days to move the cask from an indoor leak test area out to the waste container loading area and back again. Also, most if not all hospitals and research facilities do not have indoor space to house large Type B transportation casks when needed (e.g., re-location of large blood irradiators).

Imposing this standard results in additional costs for everyone involved: 1) the package certificate holder who must modify leak testing equipment, develop new procedures, and train and qualify staff to a new standard; 2) shippers' costs for increased cask lease rates (to reimburse the certificate holders additional cost); 3) personnel and contractors to set up the controlled conditions and space;

- 4) on-site time and travel cost for use of contracted leak test personnel qualified to meet the training standards in ANSI N14.5-2014; and 5) additional cask rental fees for the added time on-site to conduct the leak test in a controlled space. All these new costs to industry *in the absence of a clearly articulated safety concern* cannot be justified and have not been justified through a rulemaking. Rather, the staff has and, if DG-7010 is finalized, will likely continue to impose these new standards through the licensing process licensee-by-licensee. This practice must stop and the agency must follow its regulation, the APA, and the new instruction recently issued Management Directive 8.4.
2. In addition, significant new and costly training and qualification of leak test personnel is required to meet the additional training standards in ANSI N14.5-2014. Specifically, ANSI N14.5-1997 required that trained and qualified personnel perform leak testing in accordance with a Quality Assurance program. The 2014 version of the standard is much more costly and burdensome in that leak test procedures must be approved by an ASNT NDT Level III qualified person. Further, the testing must be performed by personnel certified based on SNT-TC-1A. This means that the leak test will have to be performed by personnel certified at the Level II or Level III level. Apparently, there are less than 100 certified individuals available nationwide to perform such tests for the entire nuclear industry. The basis for this resource intensive, costly, unnecessary and burdensome increase in the training standard for leak test personnel is not justified yet it has been imposed by NRC.

Cost Estimate Comments:

Alternative 3 in the Draft Regulatory Analysis discusses the "minimal cost" to NRC to revise and implement the final RG 7.4. It goes on to state that the public could be impacted by reviewing and providing comments to NRC but it ignores the cost impact to the cask certificate holders and cask users as discussed above. For example, in one case, a utility that has an indoor space expects to expend approximately \$10,000 for a single leak test performed on site. This increased cost in the absence of a clearly defined regulatory safety issue with the current standard or industry practice is unacceptable.

We trust that NRC staff will find these comments useful and informative, assuming it finalizes a revision to Regulatory Guide 7.4. We look forward to future engagement on this important generic regulatory area and, as we stated in our May 28, 2019 letter on the draft Part 71 Regulatory Basis, we trust that NRC will work to take a more holistic approach to addressing the various low-level waste and transportation-related ongoing regulatory initiatives. Please contact me with any questions or comments about the content of this letter.

Sincerely,



Janet R. Schlueter

c: Mr. Michael Layton, NMSS/DSFM, NRC
Mr. John Tappert, NMSS/DWUP, NRC