

35 days. The exemption would be limited to truck, combination truck/rail shipping and potential future combination barge/rail shipping methods. The exemption request is based on a statistical analysis of the historical data of low-level radioactive waste shipment times from the licensee's site to the disposal site.

### 3.0 Discussion

The proposed action would grant an exemption to extend the 20-day investigation and reporting requirements for shipments of low-level radioactive waste to 35 days. Beginning in 2003, CYAPCO has made over 40 shipments of low-level radioactive waste as part of the decommissioning efforts at the facility. MHF Logistical Solutions is the rail broker company used by CYAPCO to perform these shipments. MHF Logistical Solutions has a tracking system that monitors the progress of the shipments from their originating point at HNP to their final destination at Envirocare of Utah, Inc. The shipments are made by either truck or combination truck/rail and, according to CYAPCO, the transportation time alone takes over 21 days on average, with one shipment taking 25 days.

In addition, administrative procedures at Envirocare and mail delivery can add up to 4 additional days. Based on historical data and estimates of the remaining waste at HNP, CYAPCO could have to perform over 400 investigations and reports to the NRC during the next 3 years if the 20-day notification criteria is maintained. The licensee affirms that the low-level radioactive waste shipments will always be tracked throughout transportation until they arrive at their intended destination. CYAPCO believes that the need to investigate, trace, and report to the NRC on the shipment of low-level radioactive waste packages not reaching their destination within 20 days does not serve the underlying purpose of the rule and is not necessary. As a result, CYAPCO states that granting this exemption will not result in an undue hazard to life or property.

Pursuant to 10 CFR 20.2301, the Commission may, upon application by a licensee or upon its own initiative, grant an exemption from the requirements of regulations in 10 CFR part 20 if it determines the exemption is authorized by law and would not result in undue hazard to life or property. There are no provisions in the Atomic Energy Act (or in any other Federal statute) that impose a requirement to investigate and report on low-level radioactive waste shipments that have not been

acknowledged by the recipient within 20 days of transfer. Therefore, the Commission concludes that there is no statutory prohibition on the issuance of the requested exemption and the Commission is authorized to grant the exemption by law.

The Commission acknowledges that based on the statistical analysis of low-level radioactive waste shipments from the HNP site, the need to investigate and report on shipments that take longer than 20 days could result in an excessive administrative burden on the licensee. The Commission asserts that the underlying purpose of the rule is to investigate a late shipment that may be lost, misdirected, or diverted. Because of the oversight and monitoring of radioactive waste shipments throughout the entire journey from HNP to the disposal site, it is unlikely that a shipment could be lost, misdirected, or diverted without the knowledge of the carrier or CYAPCO. Furthermore, by extending the elapsed time for receipt acknowledgment to 35 days before requiring investigations and reporting, a reasonable upper limit on shipment duration (based on historical analysis) is still maintained if a breakdown of normal tracking systems were to occur. Consequently, the Commission finds that there is no hazard to life or property by extending the investigation and reporting time for low-level radioactive waste shipments from 20 days to 35 days for truck, combination truck/rail, or potential future combination barge/rail shipments. Therefore, the Commission concludes that the underlying purpose of 10 CFR part 20, Appendix G, Section III.E will be met.

### 4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 20.2301, the exemption requested by CYAPCO in its January 26, 2004, letter is authorized by law and will not result in undue hazards to life or property. Therefore, the Commission hereby grants CYAPCO an exemption to extend the 20-day investigation and reporting requirements for shipments of low-level radioactive waste, as required by 10 CFR part 20, Appendix G, Section III.E, to 35 days.

Pursuant to 10 CFR 51.31, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment as documented in **Federal Register** notice 69 FR 59971 (October 6, 2004).

This exemption is effective upon issuance.

Dated in Rockville, Maryland this 14th day of October, 2004.

For the Nuclear Regulatory Commission.

**Daniel M. Gillen,**

*Deputy Director, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards.*

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## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on November 3, 2004, Room T-2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to the internal personnel rules and practices of the ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

*Wednesday, November 3, 2004—11:45 a.m.—1 p.m.*

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: 301-415-7364) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: October 18, 2004.

**John H. Flack,**

*Acting Branch Chief, ACRS/ACNW.*

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