

MEMORANDUM REPORT NO. 11/19/07



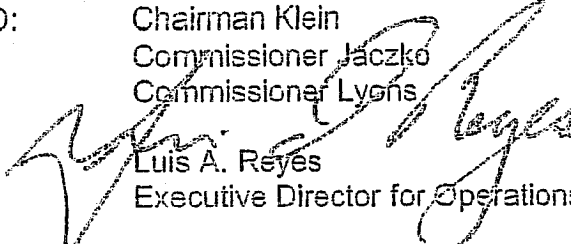
UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 24, 2007

I do not object to the staff's intended course of action. Please see attached comments.

Dale E. Klein 11/9/2007

MEMORANDUM TO: Chairman Klein
Commissioner Jaczko
Commissioner Lyons

FROM:  Luis A. Reyes
Executive Director for Operations

SUBJECT: STAFF CONSIDERING TWO ADDITIONAL REVISIONS IN THE CURRENT 10 CFR PART 72 RULEMAKING EFFORT

The purpose of this memorandum is to inform the Commission that the staff is considering two additional revisions to 10 CFR Part 72, not previously discussed in SECY-06-0152, "Title 10 Code of Federal Regulations Part 72 License and Certificate of Compliance Terms," dated July 7, 2006. Previously the staff recommended several revisions to Part 72 that would allow longer approval terms for storage casks used by general licensees. At that time, the staff recommended not to revise the regulations to allow similar longer approval terms for specific licensees. This recommendation was based on a staff determination that there would be limited need for this term flexibility. The Commission approved the staff recommendations in the Staff Requirements Memorandum (SRM) regarding SECY-06-0152 dated August 14, 2006. The staff has subsequently determined that the additional rulemaking effort needed to include longer approval terms for specific licensees would be minimal. Further, extending the approval terms for both general and specific licensees would provide regulatory consistency between Part 72 general and specific licensees. The staff plans to amend Part 72 to allow the same flexibility for longer approval terms for both specific licensees and general licensees.

Another question that has arisen recently is whether a Part 72 general licensee can apply changes authorized in a dry storage cask Certificate of Compliance (CoC) amendment to a cask loaded under the terms and conditions of the original CoC or an earlier amendment thereto (a "previously loaded cask"). The staff has concluded that the current Part 72 regulation allows a general licensee to apply the changes of a CoC amendment to a previously loaded cask only after obtaining express NRC approval by exemption [see enclosed memorandum from Francis X. Cameron, Assistant General Counsel for Rulemaking and Fuel Cycle, dated March 22, 2007 (ML071210376)].

CONTACT: Robert Nelson, NMSS/SFST
(301) 492-3294

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**Chairman Klein's Comments on COMSECY-07-0032,
Staff Considering Two Additional Revisions in the
Current 10 CFR Part 72 Rulemaking Effort**

I commend the staff for making a sound management decision to add two items to the 10 CFR Part 72 rulemaking, as discussed in the Executive Director for Operations' September 24, 2007 memorandum to the Commission. The staff's decision is consistent with the expectation I expressed in my vote on SECY-06-0152 that, should the need arise to revisit these issues due to changing conditions, the staff should reconsider rulemaking to address them at that time. In support of its decision, the staff has made a convincing case that the regulatory consistency and process efficiencies that will result from addressing these items now will far outweigh the minimal increase in resources and one year delay that will be needed to address these two items. I therefore do not object to the staff's intended course of action in this regard, and I thank the staff for keeping the Commission fully and currently informed of progress on this matter.



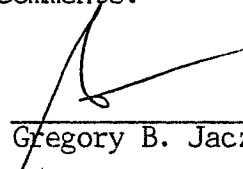
Dale E. Klein 11/9 /2007



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Approve, subject to attached
comments.

September 24, 2007

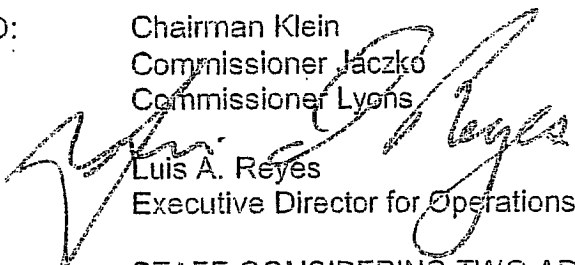

Gregory B. Jaczko

11/20/07
Date

MEMORANDUM TO:

Chairman Klein
Commissioner Jaczko
Commissioner Lyons

FROM:


Luis A. Reyes
Executive Director for Operations

SUBJECT:

STAFF CONSIDERING TWO ADDITIONAL REVISIONS IN THE
CURRENT 10 CFR PART 72 RULEMAKING EFFORT

The purpose of this memorandum is to inform the Commission that the staff is considering two additional revisions to 10 CFR Part 72, not previously discussed in SECY-06-0152, "Title 10 Code of Federal Regulations Part 72 License and Certificate of Compliance Terms," dated July 7, 2006. Previously the staff recommended several revisions to Part 72 that would allow longer approval terms for storage casks used by general licensees. At that time, the staff recommended not to revise the regulations to allow similar longer approval terms for specific licensees. This recommendation was based on a staff determination that there would be limited need for this term flexibility. The Commission approved the staff recommendations in the Staff Requirements Memorandum (SRM) regarding SECY-06-0152 dated August 14, 2006. The staff has subsequently determined that the additional rulemaking effort needed to include longer approval terms for specific licensees would be minimal. Further, extending the approval terms for both general and specific licensees would provide regulatory consistency between Part 72 general and specific licensees. The staff plans to amend Part 72 to allow the same flexibility for longer approval terms for both specific licensees and general licensees.

Another question that has arisen recently is whether a Part 72 general licensee can apply changes authorized in a dry storage cask Certificate of Compliance (CoC) amendment to a cask loaded under the terms and conditions of the original CoC or an earlier amendment thereto (a "previously loaded cask"). The staff has concluded that the current Part 72 regulation allows a general licensee to apply the changes of a CoC amendment to a previously loaded cask only after obtaining express NRC approval by exemption [see enclosed memorandum from Francis X. Cameron, Assistant General Counsel for Rulemaking and Fuel Cycle, dated March 22, 2007 (ML071210376)].

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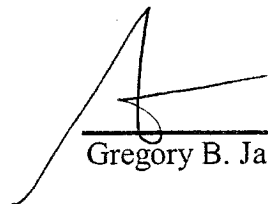
**Commissioner Jaczko's Comments on COMSECY-07-0032
Staff considering two Additional Revisions in the Current 10 CFR Part 72
Rulemaking Effort**

In the Commission notation vote on SECY-06-0152, "Title 10 Code of Federal Regulations Part 72 License and Certificate of Compliance Terms," dated July 7, 2006, the Commission approved the staff recommendation to not revise storage casks license terms for specific licensees. The Commission, in the Staff Requirements Memorandum, dated August 14, 2006, indicated that the issue of revising the length of specific licenses for independent spent fuel storage installation could be revisited if conditions warrant changes in the future.

By memorandum dated September 24, 2007, the staff indicated that it would like to expand its plans for rulemaking concerning license terms for ISFSIs to include specific licensees. Additionally, the staff memorandum suggested that they would also modify the regulations to allow licensees to apply changes from a Certificate of Compliance (CoC) amendment to a cask loaded under a different CoC without express Commission approval.

I approve of the staff's action to revise the license terms for both general and specific licensees which is consistent with my vote to approve the alternative approach provided by staff in SECY-06-0152. This approach eliminates the need for future exemption requests for terms of greater than 20 years for initial and/or renewed site-specific ISFSI licenses. Additionally, it allows the public an opportunity to participate in the potential change for longer term ISFSI licenses.

I approve of the staff's action to clarify the Commission regulations through rulemaking as it regards licensees application of CoC amendments to a previously loaded cask with the below modifications. I do not believe that in all cases that licensees should be allowed to make changes to previously loaded cask technical specification requirements. Thus, I believe licensees should be required to submit amendments to their CoC to incorporate changes as appropriate. In the case where the changes are very minor in nature the staff should consider allowing licensees to make those changes under 10 CFR 72.48.



Gregory B. Jaczko 11/25/07
Date

REQUEST REPLY BY: 11/19/07Approved with the attached
comments.

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

September 24, 2007

Peter B. Lyons 11/13/07
Peter B. Lyons Date



MEMORANDUM TO: Chairman Klein
Commissioner Jaczko
Commissioner Lyons

FROM: *Luis A. Reyes*
Luis A. Reyes
Executive Director for Operations

SUBJECT: STAFF CONSIDERING TWO ADDITIONAL REVISIONS IN THE
CURRENT 10 CFR PART 72 RULEMAKING EFFORT

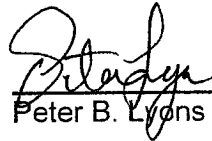
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Commissioner Lyons' Comments on COMSECY-07-0032

I appreciate the staff's initiative to enhance regulatory consistency between 10 CFR Part 72 general and specific licensees. Staff also proposed to leverage the ongoing 10 CFR Part 72 rulemaking, thus increasing the efficiency and effectiveness of the rulemaking to clarify whether changes resulting from an amendment to a storage cask Certificate of Compliance design may be applied to previously loaded casks. I have no objection to the staff's plan to include both issues in the current rulemaking effort.

 11/13/07
Peter B. Lyons Date