

December 28, 2006

MEMORANDUM TO: Dennis K. Rathbun, Director
Division of Intergovernmental Liaison
and Rulemaking
Office of Federal and State Materials
and Environmental Management Programs

FROM: E. William Brach, Director
Division of Spent Fuel Storage /RA/
and Transportation
Office of Nuclear Material Safety
and Safeguards

SUBJECT: USER NEED MEMORANDUM - TITLE 10 CODE OF FEDERAL
REGULATIONS PART 72 LICENSE AND CERTIFICATE OF
COMPLIANCE TERMS

The Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards, requests assistance from the Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, for rulemaking to clarify the license terms for 10 CFR Part 72 Certificates of Compliance (CoCs) and to clarify the regulatory requirements of CoCs and general licenses. This rulemaking is directed by the Commission in a Staff Requirements Memorandum (SRM) entitled, "Staff Requirements - SECY-06-0152 - Title 10 Code of Federal Regulations (CFR) Part 72 license and certificate of compliance terms," dated August 14, 2006. The SRM specifically waives the need for developing a rulemaking plan.

The proposed rulemaking seeks to improve regulatory efficiency by clarifying the scope, applicability, and terminology of CoC and general license regulations to better align them with each other. In addition, it also seeks to provide consistency between the general license requirements and the site-specific independent spent fuel storage installation license requirements within 10 CFR Part 72. The staff anticipates that the proposed effort will involve significant material revision of 10 CFR Part 72. Although the SRM directs staff to proceed with the rulemaking proposal laid out in a July 7, 2006, Commission paper generated by the staff, the Commission paper was only intended to recommend the potential scope for rulemaking. It did not contain any specifics regarding the rule change. Developing a rationale for "where" and "how" the Part 72 would be changed will likely involve significant interactions among the staff, including the Office of the General Counsel. The best platform for developing the technical basis and specific rule language would be the rulemaking working group. Consequently, the technical basis attached to this user need memorandum represents the "best effort" by the staff at the present time. The staff envisions the technical basis to be a living document that will be updated as the rule is being developed. The SRM directed the staff to submit the proposed rule to the Executive Director for Operations (EDO) by October 31, 2007 and the final rule to EDO by October 31, 2008.

For further information, please contact Daniel Huang of my staff at 415-3381.

Enclosure: Technical Basis

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