



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

November 15, 2006

MEMORANDUM TO: William H. Ruland, Deputy Director
Licensing and Inspection Directorate
Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety and Safeguards

FROM: Daniel T. Huang, Senior Project Manager
Rules, Inspections, and Operations Branch *Daniel T. Huang*
Division of Spent Fuel Storage and Transportation
Office of Nuclear Material Safety and Safeguards

SUBJECT: SUMMARY OF NOVEMBER 7, 2006, MEETING WITH NUCLEAR
ENERGY INSTITUTE (TAC NO. LA0113)

On November 7, 2006, representatives of the Nuclear Regulatory Commission (NRC) met with the Nuclear Energy Institute (NEI) to understand NEI/industry views on the proposed Part 72 rulemaking on license and Certificate of Compliance (CoC) terms. The meeting agenda and a list of attendees are included in Enclosures 1 and 2.

The NRC staff made a brief presentation on the background of the proposed Part 72 rulemaking at the beginning of the meeting. NEI/industry used the remaining time to present their views on various issues identified in the July 7, 2006, Commission paper (SECY-06-0152) entitled, "Title 10 Code of Federal Regulations Part 72 license and Certificate of Compliance terms" and the August 14, 2006, Staff Requirements Memorandum (SRM). The issues identified include flexibility to request CoC terms beyond the 20 years currently approved by the NRC and numerous areas of Part 72 where clarification may be needed; such as "reapproval" versus "renewal" for a Part 72 CoC, and a 20-year "clock" for cask designs certified for use under the general license provisions.

NEI/industry indicated that storage casks are routinely designed to last for more than 20 years and that they would prefer to see Part 72 changed to permit CoC applicants to apply for any initial and renewal term lengths the applicant can justify. NEI/industry also suggested 10 CFR 72.240 be administratively changed to replace "reapproval" with "renewal" for consistency with site-specific licenses and for clarity. NEI/industry noted their view that aging management and inspection requirements, similar to those required in site-specific renewals, as part of the CoC renewal are appropriate. As for the 20-year "clock" at a general licensee's site, industry interprets the regulations that each cask has its own 20-year life, which begins when it is first placed in service. Utilities already maintain records for each cask that is loaded under a general license and have been supplying NRC with such information, as required by 10 CFR 72.212(b)(ii). Therefore, tracking of casks at each site would not be a problem when casks have different expiration dates. NEI/industry indicated that 10 CFR 72.212(a)(3), which resets the 20-year "clock" for all loaded casks to 0 years upon renewal of a CoC, is inconsistent with the licensing basis. For example, a cask that is designed for 20 years or more of service may lose 18 years of effective use if it were loaded 2 years prior to the CoC renewal. Consequently, NEI/industry urged 10 CFR 72.212(a)(3) be changed in such a way that the CoC renewal period would apply to each individual cask after the initial 20-year term expires.

In addition to the above, NRC and NEI/industry's discussion also touched on the hypothetical case of who is responsible for renewal if a license holder choose not to renew a CoC. If a utility licensee requested a renewal, as allowed by the current regulations, the requester may not have the necessary qualification or technical data to fabricate cask systems. This has brought up a question as to the ownership of the design because CoC holder has the right to manufacture the system. NEI/industry suggested that a CoC for already loaded casks be modified at renewal for a "service only" license to resolve this problem.

The NRC staff discussed the proposed schedule for rulemaking after the NEI presentation.

- Enclosures
1. Meeting Agenda
 2. List of Attendees
 3. NRC's Presentation
 4. NEI/Industry's Presentation

TAC No. LA0113

Agenda for Meeting With NEI

November 7, 2006

Purpose:

To understand the NEI views on the issues for initial and renewal terms for 10 CFR Part 72 licenses and Certificates of Compliance (CoC).

Outcome:

Transparency in developing the proposed rulemaking package prior to formal submission of the proposed rule to the Commission.

Process:

1. Background
 - a) July 7, 2006, Commission paper (SECY-06-0152) entitled, "Title 10 Code of Federal Regulations Part 72 license and certificate of compliance terms."
 - b) Staff Requirements Memorandum (SRM), dated August 14, 2006, pertaining to SECY-06-0152.
2. Potential issues for rulemaking
 - a) Flexibility to Request a Longer Initial Term for a Part 72 CoC
 - b) Flexibility to Request a Longer Renewal Term for a Part 72 CoC
 - c) "Reapproval" versus "Renewal" for a Part 72 Certificate of Compliance
 - d) 20-year clock for cask designs approved for use under the general license
 - e) Party responsible for CoC renewal
 - f) Tracking of casks at each site
 - g) Effects of aging as a condition of the renewal process for general licensees
3. NEI perspective of Potential issues for rulemaking
4. Discussion of path forward
5. Adjourn

ENCLOSURE 1

LIST OF ATTENDEES FOR MEETING WITH NEI

November 7, 2006

Robert Beall, Constellation Energy
Bill Brach, NRC/NMSS/SFST
Maureen Conley, Platts/McGraw-Hill
Robert Einziger, NRC/NMSS/SFST
Ben Franklin, Entergy Nuclear
Ed Hackett, NRC/NMSS/SFST
Randy Hall, NRC/NMSS/SFST
Geoff Hornseth, NRC/NMSS/SFST
Daniel Huang, NRC/NMSS/SFST
Neil Jensen, NRC/OGC
Suzanne Leblang, NMC
Robert Lewis, NRC/NMSS/SFST
Anthony Patko, NAC International
Andy Pessin, NRC/OGC
Bob Quinn, Energy Solutions
Everett Redmond, NEI
Chris Regan, NRC/NMSS/SFST
Randy Robins, Dominion
Bill Ruland, NRC/NMSS/SFST
Terry Sides, Southern Nuclear
Michael Yox, Constellation Energy

The follow attendees were connected by bridge line

Jayant Bondre, Transnuclear
Wayne Harris, Progress Energy
Zachary Kitts, TVA
Zita Martin, TVA
Seymour Raffety, Dairyland Power
Tom Ross, Exelon
Don Shaw, Transnuclear

ENCLOSURE 2

**TITLE 10 CODE OF FEDERAL
REGULATIONS PART 72
LICENSE AND CERTIFICATE
OF COMPLIANCE TERMS**

Meeting with NEI/Industry
November 7, 2006

PURPOSE

- To understand the NEI views on the issues for initial and renewal terms for 10 CFR Part 72 licenses and Certificates of Compliance.

SECY-06-0152

- Commission paper dated July 7, 2006.
- Recommends rulemaking to clarify Part 72 regulations regarding Certificates of Compliance and general licenses.
- SRM dated August 14, 2006

ISSUES IDENTIFIED IN THE COMMISSION PAPER AND SRM

- Flexibility to request a longer initial term for a Part 72 CoC
- Flexibility to request a longer renewal term for Part 72 CoC
- "Reapproval" versus "Renewal" for a Part 72 CoC
- 20-year clock for cask designs approved for use under the general license
- Party responsible for CoC renewal
- Tracking of casks at each site
- Effects of aging as a condition of the renewal process for general licenses

RULEMAKING SCHEDULE

- Proposed Rule – EDO Due date 10/31/07
- Final Rule – EDO Due date 10/31/08

Industry's Preliminary Input on Proposed Part 72 Rulemaking

Everett Redmond II
Nuclear Energy Institute
November 7, 2006



Longer Terms for the Part 72 CoC

- Storage Casks are routinely designed to last for more than 20 years
- Permitting license applicants to apply for an initial term or a renewal term of greater than 20 years is a natural extension of the licensing basis
- Ideally, the rule would be changed to permit CoC applicants to apply for an initial or renewal term equal to or greater than 20 years based on the justification provided in the FSAR



Reapproval versus Renewal in Part 72

- 10CFR72.42 uses the word “renewal” to describe the process by which a site specific license is extended
- Industry would like 10CFR72.240 to be administratively changed to replace “reapproval” with “renewal” for consistency and clarity
- 10CFR72.212 would also need to be modified since both “reapproval” and “renewal” are used



The 20-year clock

- 10CFR72.212(a)(3) states that “The general license terminates 20 years after the date that the particular cask is first used by the general licensee to store spent fuel”
- The industry interpretation and practice is that each individual cask should be used for 20 years from the date it first went into service. This is consistent with the 20 year licensing basis



The 20-year clock continued

- 10CFR72.212(a)(3) states that the 20 year clock for all loaded casks is reset to 0 years upon renewal of a CoC
- This is inconsistent with the idea that each cask is designed for 20 years or more of service and may significantly limit the amount of time a cask could be used
- For example, a cask loaded 2 years prior to the CoC renewal has lost 18 years of effective use



The 20-year clock (continued)

- Industry recommends that 10CFR72.212(a)(3) be changed in such a way that the CoC renewal period would apply to each individual cask after the initial 20 year period for each cask expires
- This maximizes the lifetime of the cask and is consistent with the licensing basis



Tracking of Casks at Each Site

- Each general licensee notifies the NRC per 10CFR72.212(b)(ii) when each cask is loaded. The CoC number, model number, and cask identification number are provided
- Each general licensee maintains this information and other pertinent information for each cask that is loaded



New License Conditions During Renewal

- Some additional inspections of casks, similar to those required in site specific renewals, as part of the CoC renewal is appropriate
- If the inspections are required as part of the license conditions in the renewed CoC, care must be taken to not inadvertently require general licensees to update to the latest amendment as this may not be possible



In addition to the above, NRC and NEI/industry's discussion also touched on the hypothetical case of who is responsible for renewal if a license holder choose not to renew a CoC. If a utility licensee requested a renewal, as allowed by the current regulations, the requester may not have the necessary qualification or technical data to fabricate cask systems. This has brought up a question as to the ownership of the design because CoC holder has the right to manufacture the system. NEI/industry suggested that a CoC for already loaded casks be modified at renewal for a "service only" license to resolve this problem.

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