

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Mar 17, 2008 17:11

PAPER NUMBER: LTR-08-0150
ACTION OFFICE: EDO

LOGGING DATE: 03/17/2008

To: Miller, FSME

AUTHOR: Peter Crane
AFFILIATION: WA
ADDRESSEE: *Comp S*
SUBJECT: PRM 35-18

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ACTION: Appropriate
DISTRIBUTION: RF

LETTER DATE: 03/08/2008

ACKNOWLEDGED: No

SPECIAL HANDLING: Made publicly available in ADAMS via EDO/DPC

NOTES:

FILE LOCATION: ADAMS

DATE DUE:

DATE SIGNED:

March 8, 2008

Chairman Dale E. Klein
Commissioner Peter B. Lyons
Commissioner Gregory B. Jaczko
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: PRM-35-18

Dear Chairman Klein and Commissioners:

Since I have had no reply to or acknowledgment of the enclosed letter, sent to you on January 6 of this year, the website omissions described in its final paragraph remain uncorrected, and the letter itself does not appear to have been entered in the ADAMS system, I am resending the letter, this time by certified mail, to avoid any uncertainty as to whether it was actually received.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Crane", with a long horizontal flourish extending to the right.

Peter Crane

Enclosure:

Letter of Peter Crane to Chairman Klein and Commissioners, dated January 6, 2008

cc:

Chairman John Dingell
Chairman Ed Markey
Chairman Bart Stupak
Chairman Frank Pallone

January 6, 2008

Chairman Dale E. Klein
Commissioner Peter B. Lyons
Commissioner Gregory B. Jaczko
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: PRM-35-18

Dear Chairman Klein and Commissioners:

In 2005, I filed a petition for rulemaking with the NRC. The comment period closed almost two years ago, in March 2006. A few days ago, I received the latest in a series of identical letters – they arrive twice a year – from the NRC staff, informing me that my petition was still under review. My principal purpose in writing today is to ask you to make a decision on my petition one way or the other: up or down. Secondly, I would like to ask that the lists of petitions on the NRC website, which unaccountably do not include mine, be corrected.

At the outset, I wish to make clear that I am neither making new arguments nor reiterating old ones; I am not even mentioning the subject of the rulemaking. I want to do nothing that could be construed as reopening any of the issues in the rulemaking, and thereby offering grounds for the agency to delay acting on it.

My concern about delay stems from unfortunate past experience. In my years as Counsel for Special Projects at NRC, long before any of the present Commissioners joined the agency, I twice filed Differing Professional Opinions. In one case, it took twelve years for the agency to face up to the issue involved; in the other, it took seven. In both cases, my position ultimately prevailed, but the length of time involved was unconscionable.

Rulemaking decisions *can* be quick and efficient, if the will is there to make them so. Almost 20 years ago, I handled the “realism” rulemaking, which revised the NRC’s emergency planning regulations. It was complicated and controversial, eliciting, if I remember correctly, 38,000 comments, all of which I read (not counting duplicates, of which there were thousands). There wasn’t an argument raised that I left unaddressed in the memorandum I wrote for the Commission and presented to the Commission and the public in a two-hour open meeting. The entire rulemaking took just nine months, and it was legally airtight: no one even challenged it in court. I am sure that many other similar examples could be cited.

I urge the Commission to move rapidly to a decision on my petition. If the Commission believes that the NRC's existing rules in this area are sound, let it say so, and explain why. If it believes that they are unsound, it has an obligation to fix the problem. In either case, a reviewing court would probably give great deference to agency expertise.

Finally, a word about the NRC's website. I am told that the contract for maintaining the "Ruleforum" website has expired, and that until a substitute contractor is found, the public does not have easy Internet access, as it used to, to all documents filed in rulemakings. I can well understand this temporary problem. However, that does not explain why, if one goes to the NRC's website and looks for a list of pending rulemakings, one finds two lists ("Rulemaking Petitions - Completed" and "Rulemaking Petitions - Active"), with my petition on neither one. Nor is there anything on the lists to warn the reader that they may be incomplete. Especially given that my petition recently received attention in the national press, this is a disservice to interested members of the public. I wish to make clear that I am not suggesting that anyone was deliberately trying to hide the ball from the public; I assume that the omission is the result of the disruption caused by the expiration of the "Ruleforum" contract. Nevertheless, it needs to be corrected.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to be "P. Crane" or similar, written in a cursive style.

Peter Crane