

September 7, 2012

MEMORANDUM TO: R. W. Borchardt
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary /RA/

SUBJECT: STAFF REQUIREMENTS – SECY-12-0079 –
PARTIAL CLOSURE OF PETITION FOR RULEMAKING (PRM-
72-6) C-10 RESEARCH AND EDUCATION FOUNDATION, INC.

The Commission has approved the staff's recommendation for partial closure of the petition for rulemaking from the C-10 Research and Education Foundation by considering one request in the rulemaking process (Request 11), denying nine requests (Requests 1, 2, 3, 5 through 8, 10, and 12), and reserving two requests for future rulemaking determination (Requests 4 and 9). The Commission has approved the publication of the associated *Federal Register* Notice, subject to the edits below.

The following changes should be made to the *Federal Register* Notice:

- a. Page 3, line 2, add a comma after "Foundation,"
- b. Page 3, line 7, insert correct quotation mark before "Licensing..."
- c. Page 3, line 14, revise to read: "...NRC's base its certification of casks be based on..."
- d. Page 3, line 16, insert quotation marks around "inadequate"
- e. Page 5, lines 5 to 6, revise to read: "...the rulemaking, when completed if approved by the Commission, will result..."
- f. Page 5, line 13, revise to read: "...and reaffirmed the previous Commission direction..."
- g. Page 5, line 14, revise to read: "...rulemaking provided in SRM-..."
- h. Page 5, add the following new paragraph after line 19: "In addition, since the petition was filed, in response to direction provided by the Commission in SRM-COMDEK-09-0001, the staff has initiated a thorough review of whether regulatory changes will be needed to support the safe and secure storage of spent nuclear fuel (SNF) for multiple renewal periods."

**SECY NOTE: THIS SRM, SECY PAPER AND VOTING RECORD TO BE
RELEASED TO THE PUBLIC 5 WORKING DAYS AFTER DISPATCH OF THE
LETTER TO THE PETITIONER.**

- i. Pages 7, first line of “NRC Response,” revise to read: “As described below in the response to Petitioner Request 9...”
- j. Page 7, second line of “NRC Response,” revise to read: “...facilities as part of its review of potential regulatory changes to accommodate the storage of SNF for multiple renewal periods.”
- k. Page 7 last line to Page 8 first line, revise to read: “...discussed below in the response to Petitioner Requests...”
- l. Page 8, line 2, revise to read: “...regarding either ASME Code requirements and or to include...”
- m. Page 8, line 7 add the following new sentence after “timeframe.” “In addition, when renewing licenses to store SNF, the NRC requires that licensees implement an aging management program to ensure that storage casks will perform as designed under extended license terms.”
- n. Page 8, line 8, revise to read: “...pPetitioner...”
- o. Page 9, line 12, revise to read: “...discussed in the below in NRC response to Petitioner...”
- p. Page 9, line 13, revise to read: “...the pPetitioner’s Request...”
- q. Page 9, line 15, revise to read: “...studies, the NRC has initiated independent research on the impacts of long term storage for multiple renewal periods, has cooperated...”
- r. Page 10, line 15, delete the comma after “rulemaking”
- s. Pages 10 to 11, revise the “NRC Response” to “Other Comments” as follows:

Regarding comments about HOSS requirements at nuclear power plant ISFSIs and away-from-reactor dry storage sites, in the response to the petitioner’s Request 11, the NRC notes that it has conducted considerable analyses regarding the safety of dry storage casks in use in the United States. The agency has, consistently, found that the robust nature of dry storage systems approved by the NRC under 10 CFR Part 72 assures the protection of public health, safety, and security and therefore has not mandated HOSS. Nevertheless, the NRC is in the process of reviewing a potential rulemaking regarding enhancements to the security of spent fuel dry storage facilities. As the substance of Request 11 is relevant to this rulemaking, the NRC will examine this item in the context of this rulemaking process.”

With regard to comments regarding a requirement that nuclear power facilities promptly transfer spent fuel from pools to dry casks, the NRC remains confident that both wet and dry storage systems are fully protective of public safety and security. However, as an element of the NRC’s post-Fukushima review, the agency is conducting a detailed assessment of the safety benefits and challenges that could result from the expedited transfer of spent fuel from pools to dry casks.”

- t. Page 11, line 6, revise to read: "...denying the pPetitioner's Requests..."
- u. Page 11, last line, revise to read: "...evaluated by staff as part of its review of the regulatory changes that might be necessary to safely store fuel for multiple renewal periods."
- v. Page 12 lines 6 and 12 revise to read: "...the pPetitioner's..."
- w. Page 13, second line from the bottom, revise to read: "...repository and therefore, States..."
- x. Page 15, line 16, revise to read: "...the pPetitioner's..."
- y. Page 17, line 11, delete "[EST]"
- z. Page 18, line 1, revise to read: "...the pPetitioner's..."
- aa. Page 19, line 21, revise to read: "...denying the pPetitioner's..."
- bb. Page 20, third line from the bottom, delete the comma after "1998)"
- cc. Page 20, second line from the bottom, revise to read: "...stated notes that in that Part 72 rulemaking..."
- dd. Page 21, line 17, revise to read: "...denying the pPetitioner's ..."
- ee. Page 23, revise the "NRC Response" to "Petitioner Request 11" as follows:

Regarding comments about HOSS requirements at nuclear power plant ISFSIs and away-from-reactor dry storage sites, in the response to the petitioner's Request 11, the NRC notes that it has conducted considerable analyses regarding the safety of dry storage casks in use in the United States. The agency has, consistently, found that the robust nature of dry storage systems approved by the NRC under 10 CFR Part 72 assures the protection of public health, safety, and security and therefore has not mandated HOSS. Nevertheless, the NRC is in the process of reviewing a potential rulemaking regarding enhancements to the security of spent fuel dry storage facilities. The NRC concludes that the petitioner's Request 11 warrants consideration in rulemaking. It will be considered as part of the NRC's effort to revise the security requirements for ISFSIs and monitored retrievable storage (MRSs) installations. The Commission has directed the NRC staff to update the security requirements for ISFSIs and MRSs (SRM-SECY-10-0114 and SRM-SECY-07-0148 – ADAMS Accession No. ML103210025 and ML073530119 respectively). Because Petitioner Request 11 raises issues that are relevant to this rulemaking, the NRC will address this item in the context of this proposed rule. Further information regarding NRC action on pPetitioner Request 11 will be available at <http://www.regulations.gov> by searching Docket ID NRC-2009-0558."

- ff. Page 23, line 16, revise to read: "...denying the pPetitioner's ..."

gg. Page 23 line 17 to 18, revise to read: "...The NRC has initiated independent research on the impacts of long term storage of SNF for multiple renewal periods, cooperated with..."

cc: Chairman Macfarlane
Commissioner Svinicki
Commissioner Apostolakis
Commissioner Magwood
Commissioner Ostendorff
OGC
CFO
OCA
OPA
Office Directors, Regions, ACRS, ASLBP (via E-Mail)
PDR