



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

June 28, 2007

COMMISSIONER

REQUEST REPLY BY 7/16/07

Approve with comments.

MEMORANDUM TO: Chairman Klein  
Commissioner McGaffigan  
Commissioner Merrifield  
Commissioner Lyons

*Dale E. Klein*  
Dale E. Klein 07/24/07

FROM: Gregory B. Jaczko

SUBJECT: CLOSING OUT TASK RE: RULEMAKING ON TABLES S-3 AND S-4

Staff has requested to close out a tasking item (WITS #199100146) from a 1991 SRM in which they were instructed to complete a rulemaking updating tables associated with the generic environmental impacts from the fuel cycle. The genesis of this rulemaking effort, in part, was a Petition for Rulemaking (PRM-51-1) filed by the New England Coalition on Nuclear Pollution. The petition was partially resolved years ago, and staff believes the remaining request in the petition has been effectively resolved in the interim years. The petition, however, has never been formally closed.

Staff's request to close out this tasking item and the petition for rulemaking associated with it came in the form of an extension request. In order to ensure that the record on this ticket item is clear, I thought it best if the item were closed in a transparent process. Thus, I approve staff's request to close out the tracking item and the request to formally close the petition for rulemaking associated with this effort.

SECY, please track.

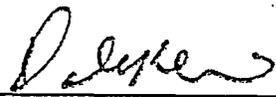
cc: OGC  
EDO

**Chairman Klein's Comments on COMGBJ-07-0002**

Subject to the comments below, I approve closing out task item identified as WITS #199100146 for which the staff was tasked to complete a rulemaking to update Tables S-3 and S-4 of 10 CFR Part 51 concerning environmental impacts from fuel cycle and transportation of fuel and waste.

The rulemaking to revise Tables S-3 and S-4 was considered in response to a petition for rulemaking. Table S-3 lists natural resource consumption and radiological and non-radiological release values for fuel cycle activities. Table S-4 lists environmental impacts from transportation of fuel and waste to and from the reactor. A majority of the petitioner's issues with Table S-3 was effectively addressed in the table's revision in response to the petition; however, the petition remained open for a long period over a revised Rn-222 value. The rulemaking to revise these tables was intended to establish a generic value for Rn-222 and to reflect higher burn-up fuels and enrichment. A previous effort to update these tables was deferred to redirect technical assistance resources to higher priority issues, in part, because the estimated effort to complete this rulemaking would be quite substantial due to the extensive technical work needed. At this time, however, the resolution of the remaining issues can be addressed by an applicant providing site-specific data for Table S-3 and a full environmental analysis for transportation in place of Table S-4. For these reasons, I approve the closure of WITS #199100146. Nonetheless, I support the staff's plan to annually evaluate the priority and resources for updating Tables S-3 and S-4 as part of the staff's Planning, Budgeting, and Performance Management process.

With respect to the related petition for rulemaking, although the staff has not formally communicated their intention to close the petition, I believe, based on the reasons stated above and subject to the concurrence of the Office of the General Council, that the decades-old petition should be closed. In addition, the staff, in close coordination with the Office of the General Council, should formally communicate the closure of this petition and its basis to the petitioner. Lastly, the staff should consider developing a process for dispositioning a petition in a more effective and efficient manner so that we can close out any existing petitions that are deemed old and prevent future petitions from remaining open for periods longer than necessary.

 7/24/07  
Dale E. Klein Date



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REQUEST REPLY

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Approved  
 E. M. Jaffee Jr.  
 7/12/07

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 Commissioner Lyons

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7/16/07

*Peter B. Lyons* 7/6/07  
 Peter B. Lyons Date

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 Commissioner Lyons

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