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NUCLEAR ENERGY INSTITUTE

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PROPOSED RULE **PR 72-150**

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(65 FR 37712)

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August 30, 2000

Secretary
Attention: Rulemakings and Adjudication's Staff
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

SUBJECT: Industry Comments in Support of Proposed Rule, "Interim Storage for Greater Than Class C Waste" (GTCC) (F.R. Vol. 65, Number 117, June 16, 2000)

The Nuclear Energy Institute (NEI) appreciates the opportunity to provide comments on behalf of the nuclear industry on "Interim Storage for Greater Than Class C Waste (GTCC)." As proposed, the rulemaking would allow licensing for interim storage of "spent fuel associated material" and reactor related GTCC waste in a manner that is consistent with licensing for interim storage of spent fuel. The rule also would maintain Federal jurisdiction for storage of spent fuel associated material and reactor-related GTCC waste, and would **simplify** and clarify the licensing process. The industry commends the NRC for taking this needed regulatory action.

In our view **the rulemaking proposes** two separate and distinct but equally important actions. The first action **proposed** is to permit, on a generic basis, the co-location and co-mingling (in the same cask) of spent fuel and "spent fuel associated material" at an Independent Spent Fuel Storage Installation (ISFSI) or Monitored Retrievable Storage Installation (MRS). The second action is to allow co-location of reactor-related GTCC waste within an ISFSI or MRS.

Currently, licensees are **authorized** on a case-by-case basis to store spent fuel and associated materials (i.e., the non-fuel components associated with those fuel assemblies) at an ISFSI or MRS under 10 CFR Part 72. In fact, these non-fuel components are included in the definition of spent fuel in 10 CFR 72.3, which states that spent fuel "...includes special nuclear material, byproduct material, source

material, and other radioactive material associated with fuel assemblies.” We note that the Nuclear Waste Policy Act of 1982, as amended, grants NRC explicit authority to define “spent fuel” in this manner.¹ We also note that non-fuel components are included in the definition of spent nuclear fuel in 10 CFR Part 961, “Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste” (Standard Contract). According to the Standard Contract, non-fuel components include, but are not limited to: control spiders, burnable poison rod assemblies, control rod elements, thimble plugs, fission chambers, primary and secondary neutron sources, BWR channels, etc. In effect, this definition assigns Federal responsibility for disposal of these materials even these materials were to be separated from the fuel for interim storage.

Explicit inclusion of these non-fuel components in the spent fuel storage definition is also supported by practical considerations. Non-fuel components are in close association with the fuel assembly in operation. These components remain with the fuel in pool storage or dry cask storage. These same non-fuel components will ultimately be disposed of in the Federal repository in accordance with the Nuclear Waste Policy Act as implemented in 10 CFR Part 961.

The second stated purpose of the proposed rule is to authorize the storage of additional materials at an ISFSI or MRS. This material includes reactor-related GTCC waste such as reactor internals, filters and resins. These reactor-related GTCC wastes are under Federal jurisdiction when they are generated and stored at the reactor under Part 50, and come under Federal jurisdiction when they are disposed of (Low-Level Waste Policy Amendments Act of 1985, Public Law 99-240). They should remain under Federal jurisdiction interim storage at an ISFSI or MRS. The industry fully supports this proposal.

In places, the proposed rule includes spent fuel associated material in the category of reactor related GTCC. We believe it is important for NRC to clarify that non-fuel components are in a separate category by virtue of the fact that these components are included in the definition of spent fuel. The rule should clearly state that a licensing basis is being proposed for storage of both categories of material, spent fuel associated material and reactor related GTCC in an ISFSI or MRS under Federal jurisdiction. Without this important clarification we believe the rule could be misinterpreted to impose new requirements for licensees to demonstrate that non-fuel components also meet the radiological classification of GTCC waste as a condition of storage under Federal jurisdiction at an ISFSI or MRS. Such a requirement would be clearly counter to current practice, and is contrary to the intent of both NRC and DOE in including these materials in the definition of spent fuel for purposes of storage and disposal (Parts 72 and 961, respectively) under Federal jurisdiction. Further, a new requirement to classify these materials in any other manner could result in substantial

¹ Public Law 97-425, Section 2(12)(B)

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unnecessary worker dose to perform the classification without any benefit to public health and safety or the environment.

Industry comments on the six specific questions posed in the proposed rule are provided on the attachment to this letter.

Once again, NEI appreciates the opportunity to provide these comments. If you have questions concerning the enclosed comments, please contact me at (202) 739-8109 or Paul Genoa at (202) 739-8034.

Sincerely,

Lynette Hendricks

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PHG/amj

Attachment

Industry Responses to Questions Posed in GTCC Proposed Rule

1. NRC should allow co-mingling of GTCC and spent fuel in the same storage cask when justified through a safety analysis. As discussed in the proposed rule, "Allowing commingling may be technically safe and economical use of spent fuel storage cask space."
2. The NRC should only permit the storage of explosive, pyrophoric, combustible, or chemically reactive GTCC waste in an ISFSI or MRS if it has been appropriately conditioned to eliminate the characteristic such that the GTCC material can now be safely stored. The adequacy of the waste conditioning should be demonstrated through a safety analysis.
3. The NRC should only permit the storage of GTCC waste that may generate or release gas in an ISFSI or MRS if it has been demonstrated that quantities of gas released will not exceed safe limits. The adequacy of safe limits should be demonstrated through a safety analysis.
4. The NRC should only permit the storage of solid GTCC waste that may contain free liquid in an ISFSI or MRS if the waste satisfies one of the following two conditions. First if the waste has been appropriately conditioned to eliminate the free liquid or, if it has been determined that the container has design features demonstrated to mitigate any safety impacts associated with free liquid. The adequacy of the conditioning and/or design should be demonstrated through a safety analysis.
5. The NRC should only permit the storage of liquid GTCC waste in an ISFSI or MRS if it has been determined that the container has design features demonstrated to mitigate any safety impacts associated with the liquid. The adequacy of the design should be demonstrated through a safety analysis.
6. NEI does not believe additional guidance in 10 CFR Parts 30 & 70 related to the storage of GTCC waste after license termination is needed. Experience with storage practices for the same storage under Part 50 is likely to be sufficient.