



The State of Wisconsin
Department of Justice

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DOCKET NUMBER **PR-50, 51** ⁽⁸⁾
PROPOSED RULE
(48 FR 22730)

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Deputy Attorney General

July 1, 1983



Secretary, U.S. Nuclear Regulatory Commission
Washington,
D.C. 20555

Attn: Docketing and Service Branch

Re: Proposed Rule Relating To On-Site Storage of Spent
Fuel, 48 Fed. Reg. 22730 (May 20, 1983)

Dear Sir:

Please find enclosed the comments of the State of Wisconsin
regarding proposed rules 10 C.F.R § 50.54(x) and 51.5(e).

Sincerely,

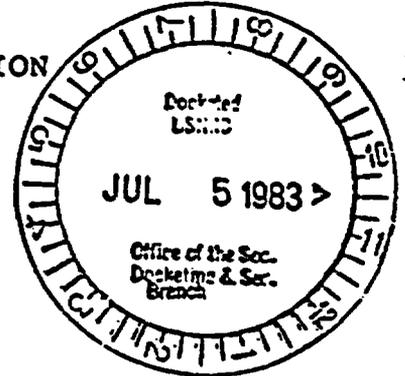
Carl A. Sinderbrand
Assistant Attorney General

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Enclosure

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UNITED STATES OF AMERICA
BEFORE THE NUCLEAR REGULATORY COMMISSION



Requirements for Licensee Sections .
Regarding the Disposition of Spent .
Fuel Upon Expiration of the Reactors' .
Operating Licenses; 48 Fed. Reg. .
22730 (May 20, 1983) .

COMMENTS OF THE STATE OF WISCONSIN

The United States Nuclear Regulatory Commission (NRC) has proposed two rules relating to the storage of spent fuel at reactor sites after expiration of operating licenses. 10 CFR sec. 50.54(x) would require a licensee to advise the NRC of its program for spent fuel management after expiration of the operating license by no later than five years prior to expiration of the license. 10 CFR sec. 51.5(e) would preclude any assessment of the environmental impacts of on-site storage of spent fuel after expiration of an operating license in any licensing proceeding.

The following comments on these two rules are submitted by and on behalf of the State of Wisconsin.

A. 10 CFR sec. 50.54(x)

The proposed rules represent the first official and express acknowledgement by the NRC that it may permit extended on-site storage after expiration of reactor operating licenses. This is a significant departure from past commission policies. We recognize that on-site storage may be necessary, particularly in

light of the slow progress of the Department of Energy (DOE) in developing a permanent high level waste repository. Nonetheless, we believe that a significant shift in policy should not be accomplished in a cavalier manner, but should be implemented only after careful consideration of all its ramifications.

Section 50.54(x) would require a licensee to submit its management plan at least five years before expiration of its license. We do not believe that five years is adequate. A utility's management plan may have broad implications with respect to its operations, both in terms of financial planning and accumulation of spent fuel. Moreover, in reviewing requests for license amendments for additional storage, the NRC should have the benefits of the utility's management-plan. A utility should not be permitted to continue to accumulate wastes if it does not have a program for managing those wastes on a long-term basis. Finally, the utilities' long-term management plans should be available to the DOE for projecting waste disposal needs and developing waste sites.

For these reasons, the State of Wisconsin respectfully requests that sec. 50.54(x) be modified to require the submission of spent fuel management plans within twelve to eighteen months after promulgation of the rule.

B. 10. CFR sec. 51.5(e)

The State of Wisconsin urges the NRC to withdraw sec. 51.5(e), and to require that an assessment of environmental impacts of post-decommissioning spent fuel storage be prepared in

each proceeding for new or amendments to existing reactor and storage facility licenses. This request is based on the following observations:

1. The rule appears to be based on the NRC's finding in the Waste Confidence Proceeding (WPC) that there is reasonable assurance that spent fuel can be stored on site for 30 years after expiration of operating licenses without "significant environmental effects. ..." Waste Confidence Rulemaking, PR-50,-51 (44 Fed. Reg. 61372), dated May 16, 1983, slip op. at 6. This finding, to the extent it purports to satisfy the requirements with NEPA, is procedurally deficient and outside the scope of the proceeding.

The purpose of the WPC has been to determine whether the NRC is confident that spent fuel can be safely disposed of after reactor decommissioning, or that spent fuel can be safely stored until a disposal site is available. While it did indirectly reference environmental impacts associated with disposal and storage, that was not its primary focus. Rather, its focus, as reflected in the Working Group Report, was to determine the technical and institutional feasibility of developing a site in a timely manner. That a site is technically feasible does not mean that it is environmentally insignificant.

The WPC did not assess or quantify the environmental impacts of spent fuel storage. The decision is admittedly speculative. WPC, slip op. at 6-7. The Commission's conclusion is one of "reasonable assurance," not the level of inquiry and certainty required under NEPA. Moreover, the storage issue was resolved by

reliance upon dry storage, a technology which was not even documented in the record. WPC, slip op. at 7. Accordingly, the WPC is not a substitute for NEPA and does not comply with its procedural requirements or substantive objectives.

2. The propriety of extended on-site storage cannot be reviewed generically. No reactor license applications have ever been reviewed with a view toward storage for 30 years after expiration of an operating license. Each facility has unique design features which may impact its ability to store wastes on a long-term basis. Moreover, an extended storage proposal may impact the schedule or propriety of decommissioning. Accordingly, each facility must be evaluated individually to determine its acceptability as a long-term storage facility.

The decision to permit on-site storage after expiration of an operating license is a dramatic shift in NRC policy. It would authorize a utility to use a reactor facility for purposes for which it was not designed and for which its environmental consequences have not been assessed. To permit such a change without environmental review represents a significant retreat from NEPA's goal of informing the public of environmental costs and factoring such costs into agency decisionmaking. Sec. 51.5(e) is ill-conceived, violates the policies embraced in NEPA and represents extremely poor public policy.

For these reasons, the State of Wisconsin asks that the proposed rule be withdrawn and replaced with a rule mandating full environmental review in each licensing proceeding.

Respectfully submitted this 1st day of July, 1983.

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-50,51 (9)
(48 FR 22730)

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JOEL D. PATTERSON
MANAGER, ENVIRONMENTAL AFFAIRS

July 1, 1983



Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attn: Docketing and Services Branch

Subject: Comments concerning 10 CFR
Parts 50 and 51; Requirements
for Licensee Actions Regarding
the Disposition of Spent Fuel
Upon Expiration of the Reactor's
Operating License (48 FR 22730)

Dear Sir:

Middle South Services, Inc. (MSS) is a technical support company for the Middle South Utilities (MSU) System which serves the electrical energy requirements of approximately 1,600,000 customers in portions of Arkansas, Louisiana, Mississippi and Missouri. The MSU System owns three nuclear power plants (approximately 5500 MWe) under various stages of operation and construction. Consequently, we have been closely following all proposed regulations concerning the storage and disposal of spent nuclear fuel and high-level radioactive waste.

MSS supports the proposed amendments to 10 CFR Parts 50 and 51. We agree with NRC's generic determination that no significant impacts will result from the storage of spent fuel for up to 30 years or more beyond the expiration of a reactor's operating license. The Commission decided during their "Waste Confidence" rulemaking proceeding that there is a reasonable assurance that one or more mined geologic repositories will be available for the permanent disposal of high-level radioactive waste by 2007-2009. This is a conservative estimate in light of the siting schedule developed in the Nuclear Waste Policy Act of 1982. The NWPA's schedule should have a repository in operation by 1998-2000. The nuclear utility industry has been actively working with the government for over 20 years seeking methods and enabling legislation to allow for the permanent disposal of high-level waste and spent nuclear fuel. With the passage of the NWPA and the benefit of over 20 years of research we are confident that the federal government should have a permanent disposal site for high-level waste by the year 2000. The Nuclear Regulatory Commission, the Department of Energy, and other federal agencies are pursuing what we believe to be a reasonable and sincere effort to meet the NWPA schedule. However, there are at least 15 years before the repository is in operation and these agencies must continue to keep pace with the schedule.

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Secretary of the Commission
July 1, 1983
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If for any reason, a permanent high-level waste repository is not open by the projected date, then we are faced with the issue of long-term on-site storage of spent nuclear fuel. Addressing the possibility of delays in permanent storage availability, the Nuclear Regulatory Commission has correctly made a generic determination that no significant environmental impacts will result from the storage of spent fuel for up to 30 years or more beyond the expiration of reactor operating licenses in onsite reactor facility storage pools or independent spent fuel storage installations located at reactor or away-from-reactor sites. Assuming proper and prudent safeguard measures are applied, there should be no problem in protecting the public's health and safety. We believe spent fuel storage systems can be operated, maintained, and managed at the reactor as part of the decommissioning process with little difficulty. As for Independent Spent Fuel Storage Installations (ISFSI) and Away-From-Reactor (AFR) sites, these facilities are by design intended for considerable long-term storage of spent nuclear fuel.

In the past the electric utility industry has maintained that long-term on-site storage of spent nuclear fuel is not as acceptable as a permanent high-level waste repository. Our position remains unchanged. We, however, believe that, in the interim, the long-term storage of spent nuclear fuel is a safe, environmentally acceptable choice which can be utilized until the time permanent storage becomes available.

In summary, MSS believes that this proposed rulemaking will affect very few, if any, currently operating reactor sites if the Federal government follows the schedule for the siting of a geologic repository as outlined in the Nuclear Waste Policy Act of 1982. However, in the event that a repository is not in operation by 2007-2009 or earlier, we agree with the Commission's generic determination that no significant environmental impacts will result from storing spent fuel for 30 or more years after the expiration of the nuclear power plant's operating license.

Sincerely,



Joel D. Patterson

JDP:LMW:cph



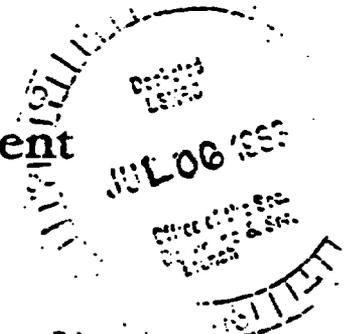
48 PR 22730 -50,51 (10)

Coalition for Nuclear Power Postponement

2612 East Robino Drive, Wilmington, DE 19808

Telephone (302) 999-7380

July 2, 1983



Comments on Amendments to 10 CFR 50 & 51: Requirements for Licensee Actions Regarding the Disposition of Spent Fuel Upon Expiration of the Reactors' Operating Licenses

"When it rains, it pours", and that is how it seems now as more and more rules are promulgated in a very short time to relieve utilities of major obligation with regard to storage and ultimate disposal of the spent fuel they make money with over the operating life of each reactor. And the same holds true for the substance of the amendments in question now.

To say with any degree of certainty, as you do now, that just because there are 80 odd cases of flawless testimony regarding expansion of spent fuel pools, that all questions of long-term safety are put to rest, is like putting the cart before the horse. One only has to read publications such as IE INFORMATION NOTICE 83-29: Fuel Binding Caused By Fuel Rack Deformation to see that we are still learning about the subject, and no decisions for actions twenty or more years hence should be made at this time. Planning for the disposition of spent fuel inventories should begin now, and not be given the grace period until 5 years before license expiration to make such a serious decision.

I tend to feel as the Union of Concerned Scientists, when they warn semi-permanent storage is an unwise decision in any case, and that by the time these reactors finish their lifetime, the utilities in question may not have, or wish to expend, the funding necessary to handle the problem they have created.

A few years ago, when I participated in the Spent Fuel Pool Expansion Hearings for the nearby Salem Reactors, I was appalled to learn that the magnitude of the request would increase the storage limit to ten times the original design figure of the pools. During those hearings, I was equally surprised to hear officials from the utility state flatly, when questioned about the time frame of the increased storage volume, that they had no intentions of ever moving the waste from the site. That was 1980, gentlemen, it seems that a sweetheart deal had been struck then, and only now it is being finalized. Shortly after the miscarriage of justice that was called the Proceedings, and Salem received its license to re-rack, the very pool in question sprung a leak, which to my knowledge continues to this day.

In the years since the Expansion Hearings, time marched on, but not for the Salem Plant and its corporate owners. The Plant has continued to fair badly in terms of capacity factor, one of two additional reactors scheduled for the site has been cancelled, the utilities were two years late in installing a siren system for Emergency Evacuation, Salem is on the suspect list for reactor vessel embrittlement and steam generator failure, has been listed as the most dangerous reactor site in America,

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Page two

and was the scene of two near-catastrophes in February of this year-all because of operator negligence-, the spent fuel pools of two reactors now fill ever towards capacity, and you promulgate hair-brained rules as this- without at least considering the most minute input by the public as one of its ~~guaranteed~~ precepts.

guaranteed

I must vehemently disagree with the amendments as promulgated now, and hope that you will delete or alter these changes as suggested by the Union of Concerned Scientists in their Comments, and by Commissioner Gillinski in his "separate views". The utilities must not be given Carte-Blanche to set their own policy in as many ways as you have recently proposed, and especially with regard to what may result in indefinite storage of their spent fuel at the reactor sites. Additionally, we, the people who must endure the onslaught of the radiation releases from these plants, the ever-increasing utility bills and tax burdens because of nuclear power, and the daily threat to our lives from shoddy maintenance and management at these reactors, must be remembered, and given every opportunity to make decision-altering comment when the cases these new rules represent are udicated in future hearings.

Yours truly;

A handwritten signature in cursive script that reads "Donald C. Frisco".

Donald C. Frisco, Chairman