

**PRM-50-88
(72FR46569)**

From: <tahenderson@firstenergycorp.com>
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Subject: Comments re: PRM-50-88, EnergySolutions

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(See attached file: PRM-50-88 Comments.doc)

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SECY-02

Comments on PRM-50-88, Petition for Rulemaking on Disposal of Major Reactor Components (72FR46569, August 21, 2007)

FirstEnergy Nuclear Operating Company (FENOC) appreciates the opportunity to provide comments on the petition for rulemaking submitted by EnergySolutions and noticed by the Nuclear Regulatory Commission (NRC) on August 21, 2007. The petition proposes that the NRC amend 10 CFR 50.82 to provide a regulatory framework that would allow funds from licensees' decommissioning trust funds (DTFs) to be used for the cost of disposal of "major radioactive components" (MRCs) that have been removed from reactors prior to the permanent cessation of operations.

FENOC supports the petition as the rulemaking will provide needed flexibility to the existing NRC decommissioning rules by establishing a framework that would allow the NRC on a case-by-case basis to authorize the use of DTFs for the disposal of MRCs prior to the cessation of reactor operations if there is reasonable assurance that the remaining funds are sufficient to meet the DTF requirements of 10 CFR 50.82 (a)(8)(B) and (C). The rule proposed by the petition maintains protection to the public health and safety as the NRC will need to be satisfied that there will be sufficient funds to 1) place and maintain the reactor in a safer storage condition if unforeseen conditions or expenses arise, and 2) the withdrawal would not inhibit the licensee's ability to obtain sufficient funds to complete the decommissioning in order to release the site and terminate the license.

It also appears that this rulemaking effort would provide a standardized approach to address disposal of MRCs using DTFs. Absent such rulemaking, licensees would have to rely on individual requests for regulatory exemption, such as provided for in 10 CFR 50.12, Specific Exemptions. For example, should this rulemaking effort proceed, FENOC would not expect to request specific exemptions from 10 CFR 50.82 to fund disposal of the MRCs as they are removed from FENOC plants.

Initiating this rulemaking is important to the Company because it currently has on its Beaver Valley site three steam generators and one reactor vessel head that the Company desires to remove from the site. Over the life of the plant, the Company expects to remove additional MRCs from its reactors at Beaver Valley and Davis-Besse that it will also desire to remove from its sites.

Disposing of these components is in the interest of the Company, its customers, and the public as 1) the source term for the sites will be reduced, 2) the costs for protecting workers and maintaining storage facilities and building new storage facilities will be avoided, 3) limited land within the protected areas now used or land that would be needed for MRC storage will be freed up for other productive uses, 4) any uncertainty regarding future disposal costs and disposal capacity for these MRCs will be eliminated, 5) overall costs to decommission the site may be reduced, and 6) adequate funds will continue to be available to decommission the reactors at the time the reactors cease operation.

Importantly, the adequacy of the funds to complete decommissioning for each reactor will be supported by a site specific decommissioning cost estimate, which is not currently required. This should address the concerns some may have with the NRC minimum funding requirement. In addition, the rule provides the opportunity for the NRC to obtain the views of government agencies with rate setting authority before NRC acts on a specific proposal.

In sum, the Company supports this rulemaking as it provides reactor licensees the needed flexibility to utilize funds collected for the purpose of disposal of these MRC for such disposals, it continues to protect the public health and safety as it assures that there will be sufficient funds to decommission each reactor, and it will remove unnecessary regulatory burden associated with storing MRCs on sites rather than disposing them, and it will simplify eventual decommissioning by removing source terms from the sites.

If there are questions, or additional information is required, please contact Mr. Gregory H. Halnon, Director - Fleet Regulatory Affairs, at 330 384 5638.

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