



PR 51
(73FR59547)
(73FR59551)

Nye County

Nuclear Waste Repository Project Office

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08-201-DL (L)

November 25, 2008

Secretary
U.S. Nuclear Regulatory Commission (NRC)
Washington, DC 20555-0001
ATTN: Rulemakings and Adjudications Staff

DOCKETED
USNRC

December 4, 2008 (9:30am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

**Subject: Comments on the Update and Proposed Revision of Waste Confidence Decision;
Federal Register, Vol. 73, No. 197, Thursday October 9, 2008, pages 59551-59570.**

Dear Secretary:

As Situs County for the Yucca Mountain repository for spent nuclear fuel (SNF) and high-level radioactive waste (HLW) of both commercial and defense origin, Nye County welcomes the opportunity to provide the following comments on the subject topic.

1. Nye County agrees with the NRC's conclusions regarding waste confidence findings 1, 3, and 5. They continue to be valid and should be reaffirmed. While we also agree with the NRC's conclusion regarding waste confidence finding 4, it should be updated as proposed.
 - a. Finding 1 states that safe disposal of HLW and SNF in a mined geologic repository is technically feasible.
 - b. Finding 3 states that there is reasonable assurance that HLW and SNF will be managed in a safe manner until sufficient repository capacity is available to assure the safe disposal of all HLW and SNF.
 - c. Proposed revised Finding 4 states that there is reasonable assurance that, if necessary, spent fuel generated in any reactor can be stored safely and without significant environmental impacts for at least 60 years beyond the licensed life for operation (which may include the term of a revised or renewed license) of that reactor in a combination of storage in its spent fuel storage basin and either onsite or offsite independent spent fuel storage installations.
 - d. Finding 5 states that there is reasonable assurance that safe independent onsite SNF storage or offsite SNF storage will be made available if such storage capacity is needed.

Template = SECY-067

SECY-02

The findings regarding the safety and environmental impacts of SNF storage have proven true over years of operating experience and there is every reason to believe they will continue to be valid in the future. SNF can and will be managed safely at existing and potential new storage locations for as long as is necessary, as it is safely stored today.

2. Nye County believes that the proposed update of waste confidence finding 2 may have unintended and undesired consequences.
 - a. Proposed revised Finding 2 states that there is reasonable assurance that sufficient mined geologic repository capacity can reasonably be expected to be available within 50-60 years beyond the licensed life for operation (which may include the term of a revised or renewed license) of any reactor to dispose of the commercial HLW and spent fuel originating in such reactor up to that time.

The original finding 2 in 1984 stated, in part, that there was "reasonable assurance that one or more mined geologic repositories for commercial HLW and SNF will be available by the years 2007-2009." The current finding 2, updated in 1990, states, in part, that "at least one mined geologic repository will be available within the first quarter of the twenty-first century." The original finding has, of course, turned out not to be valid. The validity of the current finding is questionable as noted in the NRC's evaluation, leading to the proposal to update finding 2. Nye County agrees that an update of this finding is appropriate.

There is at least one significant unintended consequence of the proposed extension of the timeframe associated with finding 2. An extension or the removal of the time frame altogether, as suggested in the specific question posed for public comment implies there is no urgency in implementing the Nuclear Waste Policy Act (NWPA). The resolution of societal issues associated with geologic disposal has become more, not less, difficult as delays in the Yucca Mountain program have occurred.

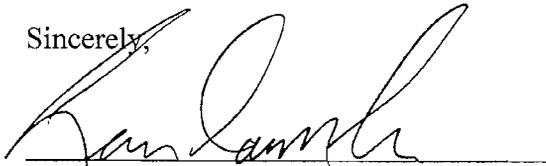
A more appropriate statement for finding 2 would include a reaffirmation of the need for a geologic repository for ultimate waste confidence and its role in the nation's commitment to support the environmental cleanup of weapons' program sites. The basis for the finding should recognize that geologic disposal continues to be the policy of the United States of America pursuant to the NWPA and that adequate funding has been supplied by nuclear utilities to implement the NWPA as it relates to disposal of commercial SNF. The basis should also recognize that the NWPA policy of geologic disposal has not changed, even if there are other safe and environmentally protective short term options for storing SNF. In addition, the bases discussion should recognize that even though other options for management of SNF are currently being considered, such as recycling commercial SNF under the Department of Energy's (DOE) proposed

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Global Nuclear Energy Partnership (GNEP) activities, there is an enduring need for geologic disposal for HLW and SNF generated as part of U.S. defense activities and for the ultimate HLW byproduct of any commercial recycling program that might be implemented.

Lastly, the NRC evaluation should recognize that the geologic disposal policy was put in place to assure that the HLW and SNF created in the production of nuclear power be dealt with by the generation(s) that benefited from its creation and not be passed along to future generations. This is still the primary international basis for the policy of geologic disposal. The proposed revision to finding 2 is based on a repository being "available within 50-60 years beyond the licensed life for operation... of any reactor..." Without a reaffirmation of the need for geologic disposal, this could imply pushing at least part of the waste disposal problem to future generations significantly removed from ours.

Sincerely,



Lewis Darrell Lacy, Director
Nye County Nuclear Waste Repository Project Office

DL/zc

cc: Nye County BOCC
AULGs
Ward Sproat, DOE/OCRWM
Allen Benson, DOE/OCRWM

Rulemaking Comments

From: Carol Gallagher
Sent: Tuesday, December 02, 2008 12:05 PM
To: Rulemaking Comments
Subject: Comment letter on Waste Confidence Decision Update
Attachments: NRC-2008-0482-DRAFT-0007[1].1.pdf

Attached for docketing is a comment letter on the above noted action (73 FR 59551) from Lewis D. Lacy that I received via regulations.gov on 11/26/08.

Carol

Received: from HQCLSTR01.nrc.gov ([148.184.44.76]) by OWMS01.nrc.gov
([148.184.100.43]) with mapi; Tue, 2 Dec 2008 12:04:41 -0500
Content-Type: application/ms-tnef; name="winmail.dat"
Content-Transfer-Encoding: binary
From: Carol Gallagher <Carol.Gallagher@nrc.gov>
To: Rulemaking Comments <Rulemaking.Comments@nrc.gov>
Date: Tue, 2 Dec 2008 12:04:37 -0500
Subject: Comment letter on Waste Confidence Decision Update
Thread-Topic: Comment letter on Waste Confidence Decision Update
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