

state was promised that a solution to the permanent storage would be in place within a decade of operation, this has not proven to be the case. While the state has ensured the lack of a permanent waste disposal site would prohibit new reactors, both the Diablo Canyon and San Onofre had been grandfathered into state law.

The Nuclear Regulatory Commission's findings in the above Federal Register notices ignore the federal government's inability to solve the problem of safe permanent waste disposal for the last six decades. Furthermore, these findings solely serve the nuclear industry's need to disregard the significance of increasing stockpiles of highly radioactive waste in order to build new reactors and relicense aging reactors. Common sense should dictate that highly radioactive waste should not be stored in seismically-active coastal zones or adjacent to our nation's waterways; yet common sense seems to be absent in the NRC's findings. The findings severely reduce the ability of the public to fully participate in the NRC's process and are in direct contradiction the President Obama's call for transparency in our government's decision-making. "Transparency and the rule of law will be the touchstones of this presidency," Obama told staff who had gathered in a briefing room in the Old Executive Office Building. He said that the new rules represent a "major break with business as usual."¹ To allow a continuation of this secretive decision-making would further erode public confidence and should be viewed by the administration as unacceptable.

The NRC's Waste Confidence proposal increases the growing skepticism that the Commission is not fulfilling its mandate to protect public health and safety. In addition, experience has demonstrated that the NRC's inability to solve the problem of radioactive waste storage has resulted and will continue to result in increased economic risks to states by ignoring the present problem and allowing continued production and the onsite storage of waste.

Finding 2: The Commission finds reasonable assurance that sufficient mined geologic repository capacity can reasonably be expected to be available within 50–60 years

¹ <http://www.npr.org/templates/story/story.php?storyId=99681702>

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 high-level radioactive waste and spent fuel originating in such reactor and generated up to that time.

Finding 4: The Commission finds reasonable assurance that, if necessary, spent fuel generated in any reactor can be stored safely 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.

The current solution to store radioactive waste onsite in earthquake-active coastal zones *indefinitely*, belies the NRC's latest 60 year estimate that a permanent site will be available, and has no factual basis. The decision in California to store this waste onsite was crafted with little input from the public and has resulted in unanticipated costs for ratepayers. Furthermore, the NRC did not allow hearings on the seismic adequacy of the Diablo Canyon site. In November 2008, a new fault 1800 feet offshore of Diablo Canyon was disclosed. The Alliance for Nuclear Responsibility request the NRC determine just how many earthquake faults it takes to deny additional storage on California coast.

The Alliance fails to understand how the Commission can declare that it remains confident that "safe disposal of high-level radioactive waste and spent fuel in a mined geologic repository is technically feasible." Evidence to the contrary has been ignored, as an admission that Yucca Mountain will never operate would place the so-called "nuclear-renaissance" at risk.

The NRC's refusal to consider the impacts of additional thousands of tons of highly radioactive material that will be produced during license renewal periods on sites that would be deemed wholly unacceptable to standards set for the permanent disposal of radioactive waste is a betrayal of public trust. The secret security measure on pool storage that the Commission allows to "reduce the risk to an acceptable level" are perceived by the public as yet another effort to accommodate an industry that cannot

solve the safe storage of the its deadly byproduct. California was fooled once by NRC promises that waste would be removed from our coast. Unlike the Commission, our state demands a reality check before it allows the NRC to fool us twice with hollow promises.

The Alliance for Nuclear Responsibility is in full support and has additionally signed on to the comments filed by Texans for a Sound Energy Policy (TSEP), et al, relating to the NRC proposed Waste Confidence Decision. We reiterate the concerns of the TSEP comments who have expressed concern that:

- The proposed Waste Confidence Decision fails to protect public health and safety under the Atomic Energy Act or protect the environment under the National Environmental Policy Act (NEPA) because it is technically inadequate to support any reasonable level of confidence that a spent fuel repository can or will be licensed. The proposed Waste Confidence Decision also violates NEPA because it is not supported by an Environmental Impact Statement (“EIS”).
- The NRC must prepare an EIS that analyzes the characteristics of radioactive waste generated by the present nuclear fuel cycle, including spent fuel, depleted uranium tails, and greater than class C (GTCC) waste. Similar analysis should be conducted for waste streams that would be generated from nuclear fuel cycles being pursued under the Global Nuclear Energy Partnership. The EIS should describe current knowledge about the feasibility of disposing of each waste stream, including costs and uncertainties.
- The EIS must apply current scientific knowledge to evaluate the health impacts of the nuclear fuel cycle, updating the outmoded analyses and data in Table S-3 of NRC regulations. For example, the EIS should estimate the radioactive doses to the most exposed individual, who may be an infant or a woman rather than the “reference man;” it should estimate population doses to understand the full extent of health risks over time; and it should use time frames for health impact analyses that are based on the time frame of the contaminant’s persistence in the environment.

- The EIS for radioactive waste disposal address the cumulative impacts of radioactive waste generation, including the costs of adding new repositories for disposal of spent fuel, depleted uranium tails, and GTCC waste.
- The EIS for radioactive disposal be integrated with the NRC's EISs for licensing of new nuclear power plants and re-licensing of existing plants so that all environmental impacts and costs of NRC licensing actions can be examined in a single document. The EIS should also evaluate the costs of the entire nuclear fuel cycle, from uranium mining to radioactive waste disposal, and compare them to the costs of renewable sources of energy such as wind, geothermal and solar.
- The NRC must prepare an EIS that addresses the environmental impacts of temporary onsite storage of spent fuel at nuclear power plants. The EIS should examine the relative costs and benefits of its proposal to continue high-density pool storage at nuclear power plant sites with the costs and benefits of combining low-density pool storage of spent fuel with dry storage. It should explain why the NRC has failed to require licensees to use low-density pool storage and dry storage, in light of the fact that this combination of technologies would virtually eliminate the risk of catastrophic fire and would remove any need for secrecy regarding spent fuel storage. The EIS should also comply with the National Environmental Policy Act by disclosing the identity of all technical studies on which the NRC relies for its technical analysis, and by releasing all portions of those analyses that are not exempt from public disclosure under the Freedom of Information Act.

It is illegal for the NRC to license any new nuclear power plant or re-license any existing nuclear power plant unless and until it complies with the Atomic Energy Act and NEPA by performing the studies described above.

Respectfully Submitted

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Rulemaking Comments

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To: Rulemaking Comments
Subject: Alliance for Nuclear Responsibility Comments Docket ID – 2008-0482...
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Please see attached comments for filing in Docket ID – 2008-0482, RIN: 3150-A147, Docket ID – 2008-0404

In Peace

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