From: Mary Lampert [mary.lampert@comcast.net]
Sent: Friday, February 06, 2009 4:31 PM
To: Rulemaking Comments
Subject: COMMENTS BY PILGRIM WATCH REGARDING PROPOSED REVISIONS NRC WASTE CONFIDENCE DECISION
Attachments: COMMENTS BY PILGRIM WATCH REGARDING PROPOSED REVISIONS NRC WASTE CONFIDENCE DECISION 02.06.09.docx

**Attached and pasted below, please find COMMENTS BY PILGRIM WATCH REGARDING PROPOSED REVISIONS NRC WASTE CONFIDENCE DECISION – if there are any problems in receipt please call Mary Lampert at 781-934-0389- please acknowledge receipt.**
**Thank-you**

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PILGRIM WATCH – DUXBURY, MASSACHSUETTS

February 6, 2009

Via Email
Rulemaking.Comments@nrc.gov

**COMMENTS BY PILGRIM WATCH REGARDING PROPOSED REVISIONS NRC WASTE CONFIDENCE DECISION [Federal Register Notice: 73 FR 197—10.09.08 Docket ID-2008-0482 and Docket-ID-2008-0404]**

Pilgrim Watch has signed on and fully endorses *Comments By Texans For A Sound Energy Policy and Commenters On Proposed Waste Confidence Decision Update And Proposed Rule Regarding Consideration Of Environmental Impacts Of Temporary Storage Of Spent Fuel After Cessation Of Reactor Operations* prepared by Ms. Diane Curran, Esq. In addition we add the following examples to further explain why NRC's Rulemaking regarding the waste confidence rule fails to effect public confidence.

**1. REASONABLE ASSURANCE STANDARD – NOT PROVIDED**

The rulemaking finds reasonable assurance that (A) 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



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SECY-02

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; and (B) The Commission finds 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 high-level radioactive waste and spent fuel originating in such reactor and generated up to that time.

The NRC fails to define the standard for reasonable assurance –what level of assurance that they found in making their determination - 90%, 51%, 5%? Further NRC fails to provide a clear preponderance of the evidence to establish the level of assurance claimed. It is a two step process. In point of fact, the NRC fails to provide sufficient facts, and complete list of studies relied upon, so that NRC's basis for their determination may be independently reviewed by those with security clearance, if required. As a result, NRC claim of reasonable assurance has no meaning.

"Safeguards" is often used to absolve NRC of the responsibility to provide a clear preponderance of evidence to support their claim of reasonable assurance. It does not have to be this way. For example: (A) The National Academies of Sciences (hereinafter "NAS") provided a model in preparing and issuing their report, *Safety and Security of Commercial Spent Fuel Storage*, April 2005. NAS issued a redacted report to the public and invited independent specialists who had security clearance to participate in preparing the report and later to review the full report. (B) NRC can agree to closed hearings to review facts deemed to be "safeguards" with public interest representatives having security clearance. For example, NRC should have, but refused, to agree to hold closed hearings, as requested by the Mothers for Peace to allow access to the secret documents to MFP's attorney, who has security clearance in litigation regarding Diablo Canyon's ISFSI.

NRC's secrecy serves to reduce the public's ability to participate in NRC's process and is in direct conflict with President Obama's call for transparency in government decision-making.

## 2. WHAT THE RULE SHOULD HAVE ACCOMPLISHED

(A) Require low density pool storage and hardened, dispersed dry cask storage; (B) establish concrete steps to achieve a permanent scientifically and politically acceptable permanent storage facility(s) based upon NRC's recognition that lack of progress on Yucca Mountain or any repository has resulted from technical, scientific and political reasons, not simply political as now claimed; and (C) put forward a plan to reduce future waste, not continue to encourage its production and importation.

## 3. SAFER INTERIM ONSITE STORAGE

**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. We have no confidence that this is so; and NRC has failed to provide a "clear preponderance" of the evidence, or any evidence for that matter, to justify a finding of reasonable assurance.

**NRC Currently Fails To Require Safe On Site Spent Fuel Storage**: On-site interim storage involves spent fuel pools and dry cask storage (ISFSIs). NRC concedes the vulnerability of spent fuel pools to catastrophic fires caused by accidents or attacks but refuses to *require* licensees to revert to low-density pool storage and use hardened, dispersed dry cask storage on-site as an interim and safer storage method.

The Massachusetts Attorney General's and Pilgrim Watch's Motions to Intervene in the License Renewal Applications of Entergy's Pilgrim and Vermont Yankee Nuclear Power Stations and the State of New York's Attorney General's Motion to Intervene in Entergy's Indian Point License Renewal Application, and all subsequent filings, very clearly lay out the vulnerability of densely packed spent fuel pools to fire; the dire consequences of such fires; and effective mitigative measures.

**Consequences, an example:** Estimates of Costs and Latent Cancers Following Releases of Cesium-137 from Pilgrim's Spent-Fuel Pool[1]

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The Proposed Rule incorrectly states that NRC has provided for appropriate security measures. This simply is not so. For example, there is no security from an aircraft attack. A small plane loaded with fuel and explosives could quite easily cause sufficient damage so that water would drop in the spent fuel pool resulting in a fire at Pilgrim Station. The spent fuel pool is located in the attic of the reactor, outside primary containment with a thin roof overhead. There are no effective means to prevent such as attack. Airport security measures cannot be relied upon. For example, there is no separation between cockpit and passengers in many of the small planes flying from Cape Cod airports to the Islands; construction workers board these planes routinely with their tool boxes and construction equipment; flight time is less than 5 minutes from Hyannis Airport to Pilgrim – not to mention the threat posed from private planes and airports.

The Proposed Rule states that pools are all robust structures. This is not so. For example, the National Academy of Sciences *Safety and Security of Commercial Spent Nuclear Fuel Storage Public Report*, April 2005 stated at 6 that, "The potential vulnerabilities of spent fuel pools to terrorist attack are plant specific ... there are substantial differences in the designs of spent fuel pool that make them more or less vulnerable to certain types of attack." And, at 41, "The spent fuel pool, (GE Mark I BWR reactors) is located in the reactor building well above ground level. Most designs have thin steel superstructures. The superstructures and pools were not, however, specifically designed to resist terrorist attacks." So that contrary to NRC, GE Mark I Boiling Water reactors, such as Pilgrim, Vermont Yankee and Oyster Creek NPS are especially vulnerable to attack.

**Mitigation**: The Proposed Rule states that... "Mitigative measures imposed since September 11, 2001 provides high assurance that the spent fuel in both spent fuel pools and in dry storage casks will be adequately protected." Further it states that, "...it had adopted the important recommendations for the NAS report relevant to spent fuel pools." There is no demonstration that each reactor site has adopted the recommendations; and, most important, the effectiveness of those recommendations is unsupported.

Recommendations by the National Academy of Sciences *Safety and Security of Commercial Spent Nuclear Fuel Storage Public Report*, April 2005, may reduce risk but are not enough to eliminate it. For example:

- Reconfiguring the Pool or Checker-Boarding: Shifting the fuel around will be useless if there is partial drainage of the water or if debris blocks air flow in a drained pool. Low density open frame racking is the only way to go.

- Spray cooling systems installed in the pool: If water is lost from a spent fuel pool recently discharged fuel can ignite in a period as short as 1-2 hours. Actual period depends on the time since the reactor

shutdown for refueling. There is at present no pre-engineered means of spraying water into a drained pool to keep the fuel temperature below the ignition point. Human access with hoses could be precluded by fire or high radiation fields generated as part of the attack, or by other disabling mechanisms such as chemical weapons. Sophisticated attackers might attack the reactor and the pool, using the radiation field from the damaged reactor to preclude access to the pool. Once ignition had occurred, spraying water into the pool would feed the fire through the exothermic steam-zirconium reaction. A massive and probably impractical flow of water would be needed to overcome the effect.

- Dry Casks: The National Academy stated that dry casks were less vulnerable to attack because casks are passive; casks are located at or below ground level making attack more difficult; the fuel is more spread out. However, the Academy cautioned that casks are still vulnerable to attack and suggested, "..... simple steps that could be taken to reduce the likelihood of releases of radioactive material from dry casks in the event of a terrorist attack - such as spreading the casks further apart, constructing mounds around the casks." However the NRC refuses to heed NAS' advice and so require.

The Proposed Rule sites NRC's Liquid Radioactive Release Lessons Learned Task Force Final Report, September 1, 2006, recommendations and implies that they provide assurance. This is not so. For example, less than one-half of the recommendations have been completed so how can uncompleted recommendations provide assurance? Completed items include for example reliance upon an NEI voluntary industry initiative. How can a voluntary initiative, and one not in place, provide assurance?

**Mitigation Providing Real On-Site Waste Confidence**: The Massachusetts and NY Attorney Generals, Pilgrim Watch and a host of public interest groups and officials across our country have called for NRC to step up to the plate and *require* low density pool storage and hardened, dispersed dry cask storage as an interim and safer measure until a scientifically acceptable offsite permanent storage option becomes available. Second, dry cask storage on site must be recognized for what it is – a major federal action- and therefore an EIS must be required before permitting the construction of Independent Spent Fuel Storage Installations at reactor sites- as affirmed by the 9th Circuit Court.

## 4. PERMANENT OFF-SITE STORAGE FACILITY

**Finding 2:** The Commission finds 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 high-level radioactive waste and spent fuel originating in such reactor and generated up to that time.

Again, we have no confidence that this is so; and NRC has failed to provide a "clear preponderance" of the evidence, or any evidence for that matter, to justify a finding of reasonable assurance.

NRC downplays the severity of problems that come with siting and licensing a repository and incorrectly concludes that political resistance rather than legitimate technical problems is the reason that Yucca has not opened and is unlikely to do so. In the oft chance that Yucca does open, its maximum capacity of 77,000 metric tons will be met by waste generated by 2009 requiring the development of another storage facility east of the Mississippi. NRC may opine that Congress will change this law; however that is not assured. It seems that NRC does not yet know that Senator Domenici has departed from Congress; Senator Reid is Majority Leader; Barack Obama is President; and every state has two Senators. There is no assurance that they will not be replaced by like-minded decision-makers.

**5. REDUCING FUTURE WASTE**

Like drunken sailors on a spree, NRC pushes or enables the production of more waste domestically and, to make matters worse, importing foreign spent fuel. For example, on January 26, 2006, the Washington Post (Nuclear Energy Plan Would Use Spent Fuel, Peter Baker and Dafna Linzer, Washington Post, January 26, 2006, A01) reported that the Bush Administration is preparing a plan to take spent fuel from foreign countries and reprocessing it – a technology not yet approved and one that does not eliminate waste – rather creates waste. No objections raised by NRC. The notion of accepting other countries' spent fuel at a time when the United States has no means to dispose of its own nuclear waste is totally irresponsible. This was followed by the federal government's weighing of a Utah company's request to import large amounts of so-called low-level radioactive waste from Italy so that we can become the nuclear garbage dump of the world. (Christian Science Monitor, Mark Clayton, February 28, 2008).

**6. CONCLUSION**

NRC's "Nuclear Waste Confidence Decision," requests the public to blindly take a leap of faith and enter into NRC's world of make-believe, absent any factual basis. It is another confidence game or scam whereby the NRC attempts to gain the confidence of the American public that the high-level radioactive waste dilemma will be solved down the road and therefore nuclear utilities can continue making unlimited amounts of waste and storing it onsite unsafely - at the least cost to the industry. NRC uses its "Confidence Decision" to justify

rejecting any waste-related challenges to new reactors, or old reactor license extensions forcing expensive court suits. NRC's concept of "Waste Confidence" is a phrase as hollow and meaningless as NRC's use of the terms "Reasonable Assurance" and "ALARA."

Respectfully submitted,

Mary Lampert
148 Washington Street
Duxbury, MA 02332

Rebecca Chin, co-chair Duxbury Nuclear Advisory Committee
31 Deerpath Trail North
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[1] The Massachusetts Attorney General's Request for a Hearing and Petition for Leave to Intervene With respect to Entergy Nuclear Operations Inc.'s Application for Renewal of the Pilgrim Nuclear Power Plants Operating License and Petition for Backfit Order Requiring New Design features to Protect Against Spent Fuel Pool Accidents, Docket No. 50-293, May 26, 2006 includes a Report to The Massachusetts Attorney General On The Potential Consequences Of A Spent Fuel Pool Fire At The Pilgrim Or Vermont Yankee Nuclear Plant, Jan Beyea, PhD., May 25, 2006.

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Respectfully submitted,

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From: Mary Lampert <mary.lampert@comcast.net>
To: <Rulemaking.Comments@nrc.gov>
Subject: COMMENTS BY PILGRIM WATCH REGARDING PROPOSED REVISIONS NRC
WASTE CONFIDENCE DECISION
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Return-Path: mary.lampert@comcast.net