

Rulemaking Comments

From: Sally Shaw [acer8sac@comcast.net]
Sent: Monday, February 02, 2009 5:36 PM
To: Rulemaking Comments
Subject: Docket NRC-2008-0482 Waste Confidence

Comment on NRC "Waste Confidence Rule" extension

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RE Comment on Docket ID NRC-2008-0482

To Whom it May Concern:

1. The Waste Confidence Rule is based on faith, not science, and therefore has no place in regulatory practice. A generic finding on nuclear waste disposition is anti-scientific and undemocratic and violates the spirit and letter of NEPA. It is an evasion of regulatory responsibility, and a refusal to face the intractable and inconvenient facts of the unimaginably long-lived hazard of radioactive wastes.

2. NEPA review of all spent fuel pools and ISFSIs at all sites should be required.

"The federal Environmental Protection Agency (EPA) defines an Environmental Impact Statement (EIS) as a document needed for all major projects or legislative proposals significantly affecting the environment as required by the federal National Environmental Policy Act. EIS's are done by federal agencies and are used as an environmental assessment and decision-making tool. EIS's are supposed to assess and describe all the positive and negative environmental effects of each possible action relating to a proposed project or cleanup. The law requires that the public be provided with opportunities to comment on draft EIS documents.

The National Environmental Policy Act (NEPA) [P.L. 91-190] went into effect in 1970 and required Environmental Impact Statements (EIS) be performed and a Record of Decision (ROD) be made public for any federal action that could have a significant effect on the environment. If a federal agency takes an action it must determine, with public comment and usually hearings, whether the action could significantly affect the environment. It must consider alternatives to the action, including taking no action. The law requires that there be a Scoping Period to identify the scope of the action and its potential environmental impacts. Once the scope is outlined, an Environmental Assessment (EA) is prepared and released for public comment and hearing. The agency then decides if there is potential for significant environmental impact. If the agency makes a Finding of No Significant Impact (FONSI), it may proceed with the action without further process. If it decides there is potential for significant impact, it proceeds to write a Draft Environmental Impact Statement (DEIS) and the public is invited to comment and hearings are held. The agency reviews public input and releases a Final Environmental Impact Statement (EIS) followed by another public comment period. Usually shortly thereafter, the agency makes a Record of Decision, or final decision, on the action. At any point, parties that have participated in the process can challenge the

findings and decisions by appealing to the agency and/or going to the courts." (Synapse, Inc. 2008)

(See the entire report, Synapse, Inc. 2008: The Real Costs of Cleaning Up Nuclear Waste: A Full Cost Accounting of Cleanup Options for the West Valley Nuclear Waste Site, incorporated in this comment by reference.)

The proposed extension of NRC's waste confidence rule subverts NEPA and cheats the public out of it's right to an EIS and the opportunity to comment and hold hearings on the issue of greatest concern to neighbors of nuclear waste production and storage facilities: the long-term containment and security of the radioactive waste generated and/or stored in their communities.

The individual storage sites for ISFSIs are not adequately vetted, so you cannot claim confidence in their integrity over the period of time you propose. For example, an ISFSI on the bank of the Connecticut River in Vermont was based on OUTDATED flood zone maps, and did not account for the increase in major storms and increased flooding events due to global climate disturbance. The state Agency of Natural Resources, at the behest of the Governor, failed to even do the required site visit before issuing a wetlands permit. Had a full NEPA EIS been required, alternatives to waste storage on the banks of a major river would have been more fully explored, public hearings held, and these oversights corrected, with public opportunity to comment and seek remedy in the courts.

3. The real costs of disposal of radioactive waste, which must be monitored and guarded and isolated from the environment and human or natural communities for tens to millions of years, are incalculable--therefore we should stop producing it.

The projected costs and even the feasibility of long-term waste STORAGE, since it can never really be "disposed of," must not include economic "discount rates" because over the time scale of necessary nuclear waste containment: centuries and beyond, these result in discounting the value of human lives and health, therefore are undemocratic, unrealistic, and unethical.

The containment of nuclear waste is a massive problem, and does not go away with a generic proclamation such as the Waste Confidence Decision. Because this "imaginary technical fix" anticipated by NRC in it's finding number 2 is unknown, has no environmental parameters, and has no accurate indicators, we have no basis for confidence. The waste confidence rule should be discarded, requiring NRC to do its job and evaluate existing waste disposal options at real sites.

4. I oppose the NRC's proposed Waste Confidence rule extension and support NEPA analyses of the issues associated with wastes generated at every step in the nuclear fuel chain, prior to any federal action.

5. RE NRC's 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."

--While this rule change would be convenient for companies seeking reactor license extensions but lacking sufficient long term storage capacity for all the waste they have already produced and stored in dangerous fuel pools, plus the spent fuel they anticipate producing in the future, it is merely putting off an inevitable day of

reckoning based on a false premise and unfounded confidence. As such, it is a violation of the trust placed in the NRC by the public, and a failure of agency integrity.

I incorporate by reference the 2006 National Academy of Sciences Study on the Safety and Security of Commercial Spent Nuclear Fuel Storage. The report concluded, "The government does not fully understand the risks that a terrorist attack could pose to the pools and ought to expedite the removal of the fuel to dry storage casks that are more resilient to attack."

Spent fuel pools, particularly in the overstuffed configuration currently existing at many aging nuclear reactors, are inherently unsafe.

Existing waste storage facilities currently sanctioned by NRC including Braidwood, Byron, Dresden, Yankee Rowe, Millstone, Connecticut Yankee, West Valley, Indian Point, Palo Verde and others have ALREADY leaked deadly radioactive chemicals into ground water, with unassessed damage to public health and lives over the long run. Dry Casks approved by NRC are already leaking. NRC has no business expressing confidence if even one life has been ruined by serious health problems due to radiation exposure. It is outrageous to consider a temporal extension of a blanket "Waste Confidence" decision, given that the original decision has been shown to be unfounded, although NRC is willing to stretch the truth by proclaiming that after-the-fact fixes of these leaks of unknown duration and extent have been adequate. A waste confidence extension for another 50-60 years only prolongs the charade, is clearly contrary to NRC's responsibility as a regulator and will result in further erosion of public confidence in the NRC, violating NRC's mission to increase public confidence.

6. RE: 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."

There is no basis for this bland assurance given that Yucca Mountain was promised to us by 2009, and is further away from opening now after the revelation of falsified science in the environmental and geologic analyses, and thanks to BIA rulings and opposition from the state of Nevada and many in Congress, than it was when first proposed. It is very likely that nuclear waste will remain on scattered sites without adequate protection in (some currently leaking) spent fuel pools and in technically dubious dry casks (with known fabrication issues) indefinitely.

Furthermore, an eventual Yucca Mountain itself is no guarantee that future generations of human beings will be protected from the dangers of the radioactivity we bury there. I again refer to the Synapse, Inc. report incorporated above:

Adequate safeguards for the long-lived radionuclides disposed (and their decay products) would have to be active and effective for tens of thousands of years. It is extremely difficult to assess how or whether the persistence of institutional controls can be ensured for that length of time....

Maintaining institutional controls at a nuclear waste site first requires a continuity of government and language. This continuity is absolutely necessary but not sufficient to ensuring adequate controls are maintained at a site where highly hazardous waste, left unchecked, can pose major public health and environmental threats. Yet, even assuming the continuity of government and language, there are

many reasons to doubt that institutional controls would remain in place over one thousand years or more. Some of the reasons include: poor record-keeping or institutional memory, insufficient appropriations of funds or changes in government leadership or priorities. A fundamental obstacle to maintenance of institutional controls, however, is the improbability of thousand-year continuity in either government or language. A thousand years is a long time for any institutions of government to endure, let alone institutional controls at a particular waste site.

It is of course impossible to look forward in time and see the world of 3008; as an alternative, we can look the other way, at the world of a thousand years ago. In 1008, Vikings were attacking England; the Norman Conquest was still decades away. Events that are now ancient history were still centuries in the future—the rise of Genghis Khan in central Asia, the Aztecs in Mexico and the Incas in Peru; the Black Plague; Columbus' voyage to the Americas; and Martin Luther' s break with the Catholic Church. Of the governments and nations that exist today, only Iceland has an unbroken lineage spanning the last thousand years.

It is doubtful that we can guarantee the safety and security of unsuspecting visitors to a radioactive waste disposal site even over 1000 years, let alone millions of years. We have no confidence in our ability to dispose of high level radioactive waste safely now, and have no evidence that it will remain safe over it's radioactive life span.

7. The U.S. is still dangerously unprepared for an attack on a nuclear facility. I incorporate by reference the report The U.S. and Nuclear Terrorism: Still Dangerously Unprepared, published by Physicians for Social Responsibility.

Among the report's major findings:

The U.S. has no system for determining whether people should try to evacuate or take shelter at home or work after an attack;

No central coordinating authority has been designated to step in to direct response and rescue efforts;

Plans for establishing field medical care, mobilizing health care personnel, and deploying supplies to the site of an attack are inadequate; and

The U.S. public health system, which would bear a large burden in responding to nuclear terrorism, is under-funded and under-staffed.

Clearly, knowledgeable people including physicians and security specialists do not share NRC's confidence in spent fuel pools and security of nuclear waste stored on site near human populations. Site-specific risks and consequences of a spent fuel accident must be evaluated as a result of major government actions such as the licensing of new reactors, extending licenses of old plants reaching the end of their 40-year design life, and major uprates, producing more and hotter spent fuel.

Therefore I urge you to withdraw this rule change, revoke the previous Waste Confidence decision, and revise your GEIS accordingly so that analyses of the wastes generated at every step of the nuclear fuel cycle are fully evaluated under NEPA, as they should be. To do otherwise is to endanger the lives and health of people in reactor and waste processing communities, now and for generations to come, and to deprive current citizens the right to due process and self-determination of the energy and environmental challenges they choose to confront.

Sincerely,

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