

Rulemaking Comments

**From:** BELL, Denise [dxb@nei.org] on behalf of KRAFT, Steven [spk@nei.org]  
**Sent:** Monday, May 18, 2009 4:14 PM  
**Subject:** Nuclear Energy Institute Comments on PRM-72-6 Petition for Rulemaking; Notice of Receipt Filed by C-10 Research and Education Foundation, Inc.  
**Attachments:** 05-18-09\_NRC\_Comments on PRM-72-6, March 3, 2009.pdf

May 18, 2009

DOCKETED  
USNRC

May 18, 2009 (4:30pm)

Ms. Annette L. Vietti-Cook  
Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**Attention:** Rulemaking and Adjudications Staff

**Subject:** Nuclear Energy Institute Comments on PRM-72-6, Petition for Rulemaking; Notice of Receipt Filed by C-10 Research and Education Foundation, Inc. (74 Fed. Reg. 9178), Dated March 3, 2009.

**Project Number: 689**

Dear Ms. Vietti-Cook:

The Nuclear Energy Institute (NEI), on behalf of the nuclear energy industry, is pleased to respond to the U.S. Nuclear Regulatory Commission (NRC) request for public comments regarding PRM-72-6, Petition for Rulemaking, filed by C-10 Research and Education Foundation, Inc. (74 Fed. Reg. 9178) dated March 3, 2009. The petitioner is requesting that the NRC amend the regulations that govern licensing requirements for the independent storage of spent nuclear fuel, high-level radioactive waste, and reactor-related greater than class C waste.

We believe that the current NRC regulations contained in 10 CFR Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste," are sufficient to provide for the safe storage of spent nuclear fuel, and we respectfully request that the NRC deny the subject petition.

Industry has now safely maintained spent-fuel storage pools for over 40 years and has, over the past 25 years, successfully loaded and emplaced at Independent Spent Fuel Storage Installations (ISFSIs) over 1,000 dry-cask storage systems at 47 locations. Existing regulations regarding dry-cask storage systems cover all activities that ensure safety, including maintenance and quality assurance activities. The additional requirements suggested by the petitioner would go far beyond the necessary regulation of existing dry-cask storage design technology and extend to dictating design changes that go beyond the NRC's purview. For example, the petitioner's call for the NRC to require a hot cell transfer station coupled with an auxiliary pool is an optional design level of detail that should not be included in the regulations as it is not necessary for safety and would impose significant additional costs on both the NRC and the regulated entities.

Sincerely,

Steven P. Kraft

Steven P. Kraft  
Senior Director, Used Nuclear Fuel

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NUCLEAR ENERGY INSTITUTE

Steven P. Kraft  
SENIOR DIRECTOR  
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May 18, 2009

Ms. Annette L. Vietti-Cook  
Secretary  
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<sup>1</sup> NEI is the organization responsible for establishing unified industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all entities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear materials licensees, and other organizations and entities involved in the nuclear energy industry.

Industry has now safely maintained spent-fuel storage pools for over 40 years and has, over the past 25 years, successfully loaded and emplaced at Independent Spent Fuel Storage Installations (ISFSIs) over 1,000 dry-cask storage systems at 47 locations. Existing regulations regarding dry-cask storage systems cover all activities that ensure safety, including maintenance and quality assurance activities. The additional requirements suggested by the petitioner would go far beyond the necessary regulation of existing dry-cask storage design technology and extend to dictating design changes that go beyond the NRC's purview. For example, the petitioner's call for the NRC to require a hot cell transfer station coupled with an auxiliary pool is an optional design level of detail that should not be included in the regulations as it is not necessary for safety and would impose significant additional costs on both the NRC and the regulated entities.

Similarly, we do not believe that it is currently appropriate for the NRC to specify, as called for by the petitioners, a design criteria and technical specifications for a 100-year minimum age related degradation timeframe for dry-cask storage certification. The NRC is currently developing rulemaking to extend the initial and renewal license periods of dry casks to 40 years. (*Federal Register* Vol 73, No 150, August 4, 2008) and has already issued license renewals for up to 40 years (e.g., H.B. Robinson ISFSI license renewal). The renewed licenses appropriately include license conditions to monitor the components via the Aging Management Review (AMR) Program, which is subject to NRC inspections to confirm effectiveness. Future renewals will also contain similar aging management programs. Given the long-term safety assurances provided by the existing license renewal and aging management programs, the NRC should not be redirecting scarce staff resources to developing regulations beyond the rulemaking which is currently in progress.

We believe that there is no need for rulemaking regarding ASME Code requirements, since the NRC acknowledges in NUREG-1536 that ASME Code Section III is an acceptable standard to the design and fabrication of spent-fuel dry-storage casks. However, since — as the NRC appropriately recognizes in Spent Fuel Storage and Transportation Interim Staff Guide 10 — dry storage casks are not pressure vessels, ASME Code Section III cannot be implemented without allowing some exceptions to its requirements. The Standard Review Plan (SRP) for Spent Fuel Dry Storage Facilities (i.e., NUREG-1567, Section 16.4.1, "Code Exceptions") has provisions for the dry storage casks license and certificate of compliance (CoC) applicants to request exceptions from the ASME Code. Commitments to the ASME Code Section III, with proposed alternatives to the Code, should be documented in the application, which is submitted to the NRC for review and approval.

We disagree with the proposed new requirement for real-time heat and radiation monitoring, since the current NRC regulations (i.e., 10 CFR 72.44) and the SRP (i.e., NUREG-1567) already contain requirements for the technical specifications to include monitoring instruments, surveillance requirements, and administrative controls. Existing ISFSI data monitoring is based on design requirements, ensures safe operation, and is consistent with monitoring requirements for nuclear reactors.

Ms. Annette L. Vietti-Cook

May 18, 2009

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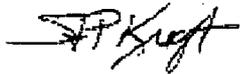
With regard to security issues, the NRC relies on security assessments to ensure the industry meets the regulations (e.g., 10 CFR 72.212 and 10 CFR 73.55). Compliance with these existing regulations assures that dry cask storage modules will be appropriately designed to resist terrorist attack; therefore, we do not recommend additional rulemaking.

We consider that there is no need for rulemaking to include funding to conduct effectiveness studies of age-related material degradation since the ISFSI license renewal contains license conditions addressing the AMR program. These license conditions provide for sufficient evaluation of age-related material degradation consistent with what is being requested by the petitioner. It would be unduly cumbersome to have this process constrained by regulations, because such programs are best defined on a case-specific basis to meet the applicable license conditions

In conclusion, we are confident that existing NRC regulations will continue to provide a high standard of safety in the storage of spent nuclear fuel. Therefore, NEI recommends that the NRC deny the subject petition.

If you have any questions, please feel free to contact me at 202-739-8116, [spk@nei.org](mailto:spk@nei.org) or Rodney McCullum at 202-739-8082; [rxm@nei.org](mailto:rxm@nei.org).

Sincerely,



Steven P. Kraft

c: Mr. William Brach, Director, Spent Fuel Storage and Transportation, NRC

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