

Arce, Jeannette

From: Iyengar, Raj
Sent: Thursday, July 07, 2011 6:22 PM
To: Arce, Jeannette
Subject: FW: NRDC Comments on NRC-2010-0267
Attachments: NRC-2010-0267 Comments by NRDC July2011.pdf

From: Rulemaking Comments
Sent: Thursday, July 07, 2011 5:47 PM
To: Iyengar, Raj; Sulima, John
Subject: FW: NRDC Comments on NRC-2010-0267

From: McLaughlin, Jonathan [<mailto:jmclaughlin@nrdc.org>]
Sent: Thursday, July 07, 2011 5:42 PM
To: Rulemaking Comments
Subject: NRDC Comments on NRC-2010-0267

Ms. Vietti Cook,

Attached are the NRDC's comments on *Draft Regulatory Basis for a Potential Rulemaking on Spent Nuclear Fuel Reprocessing Facilities*, Docket ID NRC-2010-0267. Please contact Geoff Fettus (gfettus@nrdc.org) with any questions.

Thank you for considering our view on these important matters.

Best regards,
Jonathan

Jonathan McLaughlin
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Natural Resources Defense Council (NRDC)
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We've moved as of July 5, 2011: Please note new address.



July 7, 2011

Via Electronic Mail

Ms. Annette Vietti Cook, Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attn: Rulemakings & Adjudications Staff
Rulemaking.Comments@nrc.gov

RE: NRDC Comments on *Draft Regulatory Basis for a Potential Rulemaking on Spent Nuclear Fuel Reprocessing Facilities*, Docket ID NRC-2010-0267

Dear Ms. Vietti-Cook:

The Natural Resources Defense Council (NRDC) writes today to comment on the Nuclear Regulatory Commission's *Draft Regulatory Basis for a Potential Rulemaking on Spent Nuclear Fuel Reprocessing Facilities*. 76 Fed. Reg. 34007, June 10, 2011. This notice concerns development of regulations for future facilities engaged in the reprocessing of spent, or irradiated nuclear fuel and our comments will be brief.

NRDC Statement of Interest

NRDC is a national non-profit membership environmental organization with offices in Washington, D.C., New York City, San Francisco, Chicago, Los Angeles and Beijing. NRDC has a nationwide membership of over one million combined members and activists. NRDC's activities include maintaining and enhancing environmental quality and monitoring federal agency actions to ensure that federal statutes enacted to protect human health and the environment are fully and properly implemented. Since its inception in 1970, NRDC has sought to improve the environmental, health, and safety conditions at the nuclear facilities operated by DOE and the civil nuclear facilities licensed by the NRC and their predecessor agencies.

Comments

It is rare that we express amazement in a formal letter of comments for a public record, but we do so in this instance. Despite the urgent task before it of absorbing and acting on the safety lessons to be learned from Japan's catastrophic nuclear accident at Fukushima, the NRC staff is proposing to distract itself and the Commission with the development of new regulations for the

utterly uneconomic and improbable prospect of licensing commercial facilities for the reprocessing of light water reactor spent fuel. We find this regulatory séance objectionable on several counts.

First, there is no urgency to proceed on this front. To the contrary, we find it unlikely in the extreme that any private corporate entity will pursue the licensing and construction of a domestic reprocessing facility in this decade. There is simply no need to develop regulations for facilities that will not even be pursued, much less actually exist.

Second, unless national policy shifted without our knowledge, there is no established national policy promoting the commercial use of plutonium beyond use of already separated plutonium in excess of nuclear weapons needs. And even there, the Department of Energy's Mixed Oxide Fuel (MOX) program is facing severe challenges, including the fact that no reactors have been identified to use the MOX fuel and DOE has yet to reveal the decade-long testing program that will be needed to test MOX in reactors owned by the Tennessee Valley Authority.

And finally, relatively ancient history must be exhumed. At a preliminary injunction hearing in the 1974 case, *West Michigan Environmental Action Council v. AEC*, the AEC offered to prepare a Generic EIS on plutonium reprocessing, which later came to be known as the Generic Environmental Statement on Mixed Oxide Fuel (GESMO), No. RM-50-1, (a document subsequently initiated by NRC as the successor to AEC for these matters). In 1976, the NRC began extensive administrative proceedings to compile a record on whether or not it was wise to reprocess spent nuclear fuel and recycle the recovered plutonium. Shortly after President Carter took office the GESMO proceedings were suspended pending an evaluation of the impact of President Carter's decision to indefinitely defer plutonium reprocessing. The proceedings were never resumed. Therefore, even before commencing work on any such set of regulations, the NRC must conduct a Generic or Programmatic Environmental Impact Statement (GEIS) under the National Environmental Policy Act (NEPA), 42. U.S.C. 4321, *et. seq.* The environmental consequences of reprocessing and associated facilities – and any alternatives – must be considered and examined under NEPA's "hard look" standard – including scrutiny of implications for the taxpayer, the ratepayer, waste management, the environmental impacts at every step and the international ramifications on the global fuel cycle as well. The overall issue of international proliferation of nuclear weapons materials is appropriate to include in the full public debate and should be included in any such analysis.

But more pertinent to today's letter, even commencing such a NEPA review of the closed fuel cycle is unnecessary and wasteful at this juncture. If some decade down the road there is meaningful commercial interest in building reprocessing facilities and fast reactors with private money, then the NRC can act. Today, however, we respectfully urge the NRC to focus its efforts on learning the appropriate lessons from the Fukushima disaster. The nuclear accident in Japan continues to unfold and there is no end to the serious implications for the Japanese people, economy, and their natural environment. And as the NRC is well aware, the Fukushima disaster also has serious implications for the operation of our own domestic nuclear fleet and the NRC ~~has taken initial steps (albeit not in as public and transparent a manner as we would recommend) to address those implications. At this critical juncture, the Commission can ill afford to expend~~

Ms. Annette Vietti-Cook, Secretary
Nuclear Regulatory Commission
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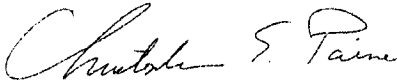
its scarce resources chasing the will-o'-the-wisp of a "potential rulemaking" to govern nonexistent government or private market demand for licensing US commercial reprocessing facilities.

Consequently, we believe the Commission should direct the Staff to terminate this process. If you have questions, please do not hesitate to contact me at (202) 289-6868. Thank you for considering our views on these important matters.

Sincerely,



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Christopher E. Paine
Nuclear Program Director
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Dr. Thomas B. Cochran
Senior Scientist
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