

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[Docket Nos. PRM-51-14, *et al.*; NRC-2011-0189]

**Taxpayers and Ratepayers United, *et al.*; Environmental Impacts of Severe Reactor
and Spent Fuel Pool Accidents**

AGENCY: Nuclear Regulatory Commission.

ACTION: Petitions for rulemaking; notice of receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC or the Commission) has received 15 petitions for rulemaking (PRMs), each dated August 10, August 11, or August 12, 2011, from the multiple petitioners listed in Section I, Procedural Processing, of this document. The petitioners request that the NRC rescind its regulations that allow generic conclusions about the environmental impacts of severe reactor and spent fuel pool accidents and its regulations that preclude considerations of those issues in individual licensing proceedings. The petitioners also request the NRC to suspend multiple ongoing licensing proceedings while the NRC considers these petitions and the environmental issues raised in the Fukushima Task Force Report. The NRC is not instituting a public comment period for these PRMs at this time.

ADDRESSES: You can access publicly available documents related to the 15 petitions for rulemaking, using the following methods:

- **NRC's Public Document Room (PDR):** The public may examine and have copies made, for a fee, publicly available documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** Publicly available documents created or received at the NRC are available online in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of the NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdresource@nrc.gov. For the ADAMS accession numbers for the documents related to the 15 PRMs, see Section I, Procedural Processing, of this document.

- **Federal Rulemaking Web Site:** Supporting materials related to the 15 petitions for rulemaking can be found at <http://www.regulations.gov> by searching on Docket ID NRC-2011-0189. Address questions about NRC dockets to Carol Gallagher; telephone: 301-492-3668; e-mail: Carol.Gallagher@nrc.gov.

FOR FURTHER INFORMATION CONTACT: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-492-3667, e-mail: Cindy.Bladey@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Procedural Processing

The petitions for rulemaking were docketed by the NRC on September 20, 2011, and have been assigned the Docket Numbers identified in the following table. The following table also identifies the ADAMS accession numbers for each PRM. In addition, the following table provides the specific licensing proceedings that each petitioner requests the NRC to suspend.

Petitioner	Docket Nos.	ADAMS Accession No.	Licensing Proceeding Affected
Gene Stilp, on behalf of Taxpayers and Ratepayers United	PRM-51-14	ML112430559	Bell Bend
Diane Curran, on behalf of San Luis Obispo Mothers for Peace	PRM-51-15	ML11236A322	Diablo Canyon
Diane Curran, on behalf of Southern Alliance for Clean Energy	PRM-51-16	ML11223A291	Watts Bar
Mindy Goldstein, on behalf of Center for a Sustainable Coast, Georgia Women's Action for New Directions f/k/a/ Atlanta Women's Action for New Directions, and Southern Alliance for Clean Energy	PRM-51-17	ML11223A043	Vogtle
Mindy Goldstein, on behalf of Southern Alliance for Clean Energy, National Parks Conservation Association, Dan Kipnis, and Mark Oncavage	PRM-51-18	ML11223A044	Turkey Point
Deborah Brancato, on behalf of Riverkeeper, Inc. & Hudson River Sloop Clearwater, Inc	PRM-51-19	ML11229A712	Indian Point
Paul Gunter, on behalf of Beyond Nuclear, Seacoast Anti-Pollution League and Sierra Club of New Hampshire	PRM-51-20	ML11223A371	Seabrook

Michael Mariotte, on behalf of Nuclear Information and Resource Service, Beyond Nuclear, Public Citizen, and SOMDCARES	PRM-51-21	ML11223A344	Calvert Cliffs
Raymond Shadis, on behalf of Friends of the Coast and New England Coalition	PRM-51-22	ML11223A465 (PRM) ML11223A443 (Motion to Admit) ML11223A444 (Contention) ML11223A446 (Declaration)	Seabrook
Robert V. Eye, on behalf of Intervenor in South Texas Project Nuclear Operating Co., Application for Units 3 and 4 Combined Operating License	PRM-51-23	ML11223A472	South Texas
Robert V. Eye, on behalf of Intervenor in Luminant Generation Company, LCC, Application for Comanche Peak Nuclear Power Plant Combined License	PRM-51-24	ML11223A477	Comanche Peak
Mary Olson, on behalf of the Ecology Party of Florida, Nuclear Information and Resource Service Southeast Office, and the Green Party of Florida	PRM-51-25	ML11224A074	Levy
Terry Lodge, on behalf of Beyond Nuclear, Citizens Environment Alliance of Southwestern Ontario, Don't Waste Michigan, and the Green Party of Ohio	PRM-51-26	ML112450527	Davis-Besse
Terry Lodge, on behalf of Beyond Nuclear, Citizens for Alternatives to Chemical Contamination, Citizens Environmental Alliance of Southwestern Ontario, Don't Waste Michigan, Sierra Club, Keith Gunter, Edward McArdle, Henry Newman, Derek Coronado, Sandra Bihn, Harold L. Stokes, Michael J. Keegan, Richard Coronado, George Steinman,	PRM-51-27	ML112450528	Fermi

Marilyn R. Timmer, Leonard Mandeville, Frank Mantei, Marcee Meyers, and Shirley Steinman			
Barry White, on behalf of Citizens Allied for Safe Energy, Inc	PRM-51-28	ML11224A232	Turkey Point

Each submission separately cites the “Recommendations for Enhancing Reactor Safety in the 21st Century: The Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident” (Fukushima Task Force Report, ADAMS Accession No. ML111861807), dated July 12, 2011, as rationale for the petitions for rulemaking. The Commission has recently directed staff to engage promptly with stakeholders to review and assess the recommendations of the Fukushima Task Force Report for the purpose of providing the Commission with fully-informed options and recommendations. See U.S. Nuclear Regulatory Commission, “Near-Term Report and Recommendations for Agency Actions Following the Events in Japan,” Staff Requirements Memorandum SECY-11-0093, August 19, 2011 (ADAMS Accession No. ML112310021) and U.S. Nuclear Regulatory Commission, “Engagement of Stakeholders Regarding the Events in Japan,” Staff Requirements Memorandum COMWDM-11-0001/COMWCO-11-0001, August 22, 2011 (ADAMS Accession No. ML112340693). The NRC will consider the issues raised by these PRMs through the process the Commission has established for addressing the recommendations from the Fukushima Task Force Report, and is not providing a separate opportunity for public comment on the PRMs at this time.

On September 9, 2011, the Commission issued a Memorandum and Order, Union Electric Company D/B/A/ Ameren Missouri et al. (Callaway Plant, Unit, et al.), CLI-11-05, __ NRC __ (Sept. 9, 2011) (slip op. at 41) which declined the petitioners’ request to suspend any of the licensing or rulemaking proceedings pending resolution of these rulemaking petitions.

II. Petitioners

Each petitioner is an intervener group that has filed PRMs and contentions to suspend licensing proceedings while the NRC considers the environmental impacts of each licensing proceeding and the environmental implications in the Fukushima Task Force Report.

III. Petitions

All 15 PRMs cite the Fukushima Task Force Report dated July 12, 2011, currently under review by the Commission, as rationale for the petitions for rulemaking. The Fukushima Task Force was a group of NRC staff experts specifically selected to review the Fukushima Dai-ichi Accident and make recommendations applicable to power reactors in the United States.

In addition to the Fukushima Task Force Report, each petitioner cites the Declaration of Dr. Arjun Makhijani (the Declaration, ADAMS Accession No. ML11223A446) as rationale for their contentions and PRMs. Dr. Makhijani is the President of the Institute for Energy and Environmental Research (IEER) in Takoma Park, Maryland. The IEER provides scientific information and analyses to advocacy groups and policy makers on a wide range of technical topics such as energy and environmental issues. Dr. Makhijani declares that the Fukushima Task Force Report “provides further support for [his] opinions that the Fukushima accident presents new and significant information regarding the risks to public health and safety and the environment posed by the operation of nuclear reactors and that the integration of this new information into the NRC’s licensing process could affect the outcome of safety and environmental analyses for reactor licensing and relicensing decisions and the NRC’s evaluation of the fitness of new reactor designs for certification.” See page 2 in the Declaration.

The petitioners assert that the Fukushima Task Force Report and the Declaration demonstrate that the “Fukushima accident has significant regulatory implications with respect to both severe reactor accidents and spent fuel pool accidents, because the Task Force Report recommends that mitigative measures for both of these types of accidents, which are not

currently included in the design basis for nuclear reactors, should be added to the design basis and subject to mandatory safety regulation.”

Primarily, the petitioners request that the NRC rescind all regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) part 51 (including §§ 51.45, 51.53, and 51.95 and Appendix B to 10 CFR part 51) that “reach generic conclusions about the environmental impacts of severe reactor and/or spent fuel pool accidents and therefore prohibit consideration of those impacts” in reactor licensing proceedings.

Specifically, the petitioners request rescission of “any NRC regulations that would prevent the NRC from complying with its obligation under the National Environmental Policy Act (NEPA).” The petitioners also request rescission of NRC regulations that would impede consideration of “the environmental implications of new and significant information discussed in the Fukushima Task Force Report regarding the regulatory implications of the Fukushima Dai-ichi nuclear accident” in the licensing proceedings.

In support of their requests to suspend licensing proceedings, the petitioners quoted *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989) which states that “NEPA requires that agencies consider the environmental impacts of their actions *before* they are taken, in order to ensure that ‘important effects [of the licensing decision] will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast.’” The petitioners assert that the “NRC’s obligation to comply with NEPA in this respect is independent of and in addition to the NRC’s responsibilities under the Atomic Energy Act, and must be enforced to the ‘fullest extent possible.’” Thus, the petitioners argue that the “NRC has a non-discretionary duty to suspend” the subject licensing proceedings “while it considers the environmental impacts of that decision, including the environmental implications of the Task Force Report with respect to severe reactor and spent fuel pool accidents.”

IV. Conclusion

The Commission is currently reviewing the Fukushima Task Force Report, including the issues presented in the 15 petitions for rulemaking. The petitioners specifically cite the Fukushima Task Force Report as rationale for the PRMs. The NRC will consider the issues raised by these PRMs through the process the Commission has established for addressing the recommendations from the Fukushima Task Force Report and is not providing a separate opportunity for public comment on the PRMs at this time.

Dated at Rockville, Maryland, this 2nd day of November, 2011.

For the Nuclear Regulatory Commission.

/RA/

Andrew L. Bates,
Acting Secretary of the Commission.

