

PUBLIC SUBMISSION

As of: November 14, 2012
Received: November 14, 2012
Status: Pending_Post
Tracking No. 1jw-81z5-lbl6
Comments Due: January 02, 2013
Submission Type: Web

Docket: NRC-2012-0246

Consideration on Environmental Impacts on Temporary Storage of Spent Fuel After Cessation of Reactor Operation

Comment On: NRC-2012-0246-0001

Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation

Document: NRC-2012-0246-DRAFT-0080

Comment on FR Doc # 2012-26295

10/25/2012

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77 FR 65137

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2012 NOV 14 PM 3:10

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General Comment

See attached file(s)

Attachments

Regulatory Filing Letter 11-2012

SUNSI Review Complete

Template = ADM - 013

E-RIDS = ADM - 03

Add = S. Lopas (SLL2)

November 14, 2012
Ms. Cindy Bladey
Chief, of Rules, Announcements, & Directives Branch
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C., 20555-0001.

Re: *Comment on Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation*

Dear NRC Commissioners and Staff:

As a law student involved in the study of energy law and as a concerned citizen, it is my sincere hope the Commission will consider my comment in formulating its Environmental Impact Statement (EIS) and Waste Confidence Decision and Rule. Although these decisions present significant political and social challenges, the continued lack of a permanent disposal site for nuclear waste poses a substantial threat to the safety of all U.S. residents.

Pursuant to the court's order in *New York v. NRC*, 681 F.3d 471 (D.C. Cir. 2012), the 2010 rule did not satisfy NEPA obligations. In particular, the conclusion that permanent disposal will be available "when necessary" was rejected because the environmental effects of failing to secure permanent disposal were not explored. To alleviate this deficiency, you propose an analysis of two possible scenarios: 1) temporary spent fuel storage after cessation of reactor operation until a repository is made available in either the middle of the century or at the end; and 2) storage of spent fuel if no repository is made available by the end of the century.

However, the notice provision clearly frames the inquiry in a way that is likely to favor on-site storage. The framework itself neglects to consider the potential harmful effects over a sufficient period. Each scenario ends its inquiry at the end of the twenty-first century. Yet, it is well known that high-level wastes decay over a period of hundreds of thousands of years. Blue Ribbon Commission on America's Nuclear Future, *Report to the Secretary of Energy 27-28* (2012). If the timeframe is so limited and the EIS finds that the risk of harmful effects is low, it reduces the likelihood that any repository will in fact be built. Simply extending the time spent-fuel is stored on-site makes no progress toward a permanent disposal solution.

The effect of continual use and possible expansion of nuclear power without a repository is significant. "Under a no-growth scenario," projected spent fuel inventory is expected to be less than 150,000 metric tons by 2050. *Id.* at 14. Given the current pending licenses for new power plants in Georgia and elsewhere, a "no growth scenario" is unrealistic. A more careful analysis would therefore view future nuclear power needs under a "high-growth scenario." *Id.* In that instance, over 200,000 metric tons of waste will accumulate by 2050. *Id.*

Considering power plants were not built with permanent storage in mind, the harmful effects of storing excessive amounts of waste without a permanent disposal site could extend well-beyond the end of the century. *Id.* at 34. Even if the probabilities for harm are "low," the happening of one unexpected disaster can have substantial ramifications; Fukushima is the most recent and prime example.

Despite a Congressional mandate to develop a disposal site at Yucca Mountain and ratepayers' continual contributions to the Nuclear Waste Fund, over three decades have passed without any real development or progress. *Id.* at 28. If history is any indicator, the potential for no repository existing at the end of the century is very real, particularly if the EIS views storage and disposal only under short-term scenarios. Even if politics makes disposal difficult, the NRC's continued insistence on short-term storage solutions essentially substitutes the agency's judgment for that of Congress.

Ultimately, the EIS and Waste Confidence Rule, therefore, should focus on the potential environmental effects over a greater timeframe. Continued extension of a short-term storage solution does not help to achieve any kind of permanent repository. The D.C. Circuit in *New York v. NRC*, was particularly concerned with the effects of a "failure to secure permanent storage" when the Commission has "no long-term plan other than hoping for a geologic repository." 681 F.3d at 479. Under the parameters identified, it is unclear whether the EIS will be "fully informed and well-considered," despite agency deference. Even if the extension of short-term storage is found to be "safe" for now, the policy achieves nothing toward fulfilling the Commission's obligation for a repository program under the Nuclear Waste Policy Act.

Accordingly, I respectfully request that the NRC consider longer-term scenarios in its EIS for potential environmental effects of failure to establish a permanent disposal site. Even if a provision for expansion of short-term storage is permitted for now, I urge the Commission to begin implementing a program for permanent waste disposal immediately. Just as when an individual suffers a heart attack, it is better to know the risks and take preventative measures than to wait and only medicate after the fact. Waiting too long may prove disastrous.

Sincerely,

Amy L. Fredrickson

"The significant problems we face cannot be solved at the same level of thinking we were at when we created them."

- Albert Einstein