

Additional Issues for Public Comment

When it published the proposed Waste Confidence Rule, the Commission specifically requested comments on four issues:

Issue 1: The Commission seeks public comment on whether specific policy statements regarding the timeline for repository availability should be removed from the rule text. The Commission's proposed revisions to § 51.23 of Title 10 of the *Code of Federal Regulations* (10 CFR 51.23) include statements regarding the feasibility of safe continued spent nuclear fuel storage and the timeframe for the availability of a repository. These conclusions are supported by the analysis contained in Appendix B of the Draft Generic Environmental Impact Statement (DGEIS). Although conclusions about repository availability have been included in Waste Confidence proceedings since 1984, these statements are not necessary to the environmental review or for fulfilling the NRC's National Environmental Policy Act (NEPA) obligations. There are national policy decisions, and societal and political factors that can significantly influence the actual timing of the availability of mined geologic repository, and these policy decisions are outside the Commission's control.

Issue 2: The Commission seeks public comment on whether specific policy statements regarding the safety of continued spent fuel storage should be made in the rule text given the expansive and detailed information in the DGEIS. Historically, a policy statement related to the safety of continued storage has been included in the Waste Confidence proceedings since 1984. However, the policy statement on safety is not related to, or necessary for, the generic determination on environmental impacts of continued storage, nor does it provide the safety analysis for storage in a particular dry cask or storage at a particular site: A safety evaluation is still required to support approval of new cask designs, to support a site-specific license for dry storage, or to store spent nuclear fuel in a spent fuel pool. The DGEIS analyzes the impacts from continued storage of spent nuclear fuel and makes generic determinations of the foreseeable environmental impacts stemming from continued storage; the proposed rule codifies the conclusions from the DGEIS so that those determinations do not need to be made in individual actions. This rule is not a licensing decision for nuclear power plants or ISFSIs, or for the renewal of those licenses. The rule does not authorize the storage of spent nuclear fuel in spent fuel pools or independent spent fuel storage installations (ISFSIs).

Issue 3: The Commission seeks public comment on whether the Discussion portion (Section III of the *Federal Register* notice) of the Statement of Considerations should be streamlined by removing content that is repeated from the DGEIS in order to improve clarity of the discussion, now that the NRC has prepared an environmental impact statement to support the rule.

Issue 4: The Commission seeks public comment on whether the title of the rule should be changed in light of a GEIS being issued instead of a separate Waste Confidence Decision.