



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

COMMISSION
CORRESPONDENCE

June 24, 1980

The Honorable Aian K. Simpson
Subcommittee on Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

Dear Senator Simpson:

Attached are the staff responses to the questions raised in your June 20, 1980 letter to Chairman Ahearne. In view of the time constraint of your request, the Commission has not had the opportunity to review the response.

I hope you will find this information helpful.

Sincerely,

A handwritten signature in cursive script that reads "Carlton Kammerer".

Carlton Kammerer, Director
Office of Congressional Affairs

Attachment:
As stated

cc: Senator Gary Hart

8007110399

QUESTION 1. What are your estimates for the time required for NRC review and action on a proposal to construct an additional spent fuel storage pool at a reactor site, and for planning and construction of such a pool?

ANSWER. We estimate that it would take about 5 years to get a new AFR on line at a new site. The steps involved include: (1) site investigations, (2) facility design, (3) preparation of the license application (Safety Analysis Report and Environmental Report), (4) staff licensing review, (5) public hearing, (6) facility construction and (7) pre-operational testing. The first three steps would likely take at least one year by the applicant. The staff's licensing review, including issuance of a final environmental impact statement, should be completed in about one year followed by an expected public hearing process* (pre-hearings, discovery, evidentiary hearing, decision) taking at least 7-8 months, but likely two years or more. Construction should be completed in 18-24 months followed by 2-3 months of pre-operational testing preparatory to receiving the initial spent fuel.

If the independent spent fuel storage facility is proposed for construction on the site of a reactor, the timing could be shortened to about 4 years. Preparation of the application by the applicant would require less time because of available site data and environmental information. Staff licensing review time would be less if an environmental assessment is prepared rather

* It should be noted that a hearing on spent fuel storage proposals is required only if requested by an interested person. Recent experience with proposals for reracking of existing pools suggests that hearings will be requested in the majority of cases.

than a full environmental impact statement. Other aspects would be comparable in timing.

The timing for availability of a pre-existing facility should be less than the above cases, but it is dependent upon the modifications or expansions that might be proposed for the facility. A license application (assuming the facility had not been licensed for storage of spent fuel previously) including the applicant's Safety Analysis Report and Environmental Report would be required. The licensing review would require about one year, including the preparation of a final environmental impact statement needed prior to the expected public hearing. Thus, presuming that required site data were available to the applicant and that construction time for any modification was minimal, the total elapsed time for availability of the facility would be about 2 to 2-1/2 years.

QUESTION 2: Would the same procedural restrictions that apply to reracking proposals (the requirement for completion of any requested hearing before NRC action on the proposal and before the utility can begin to expand storage capacity) also apply to proposals to construct new onsite pools?

ANSWER: Generally speaking, the same procedural provisions that apply to reracking proposals would apply to proposals to construct onsite pools. In particular, the requirement for completion of any requested hearing before NRC action on the proposal and before the utility can begin to expand storage capacity would apply. The procedural requirements which would govern any requested hearing--whether for reracking or construction of new storage capacity--are found in the Commission's rules of practice 10 CFR Part 2.

QUESTION 3:

What are your estimates for the time required to prepare for and conduct any requested hearing on a proposal to construct a new spent fuel storage pool? Given the experience with interventions on reracking proposals, is it possible that the requirement for completion of any requested hearing before commencement of construction of the new pool will substantially lengthen NRC's review time for such a proposal and lengthen the time required to make additional storage capacity available?

ANSWER:

We estimate that it would take at least two years to prepare for and conduct any requested hearing on a proposal to construct a new spent fuel storage pool. This estimate is based upon our experience with interventions on reracking proposals, and may be ~~an~~ unrealistically short given our lack of experience with construction and licensing of separate facilities for the storage of spent fuel. (The pending proceeding involving the General Electric facility at Morris, Illinois is not particularly relevant since it involves renewal of an existing license and ongoing operations are not affected by the conduct of the hearing process. See 10 CFR 2.109 which provides that an existing license is not deemed to have expired until a timely application for renewal has been finally acted upon.)

While a portion of the time required for review of a proposal to construct a spent fuel storage pool will run concurrently with preparation for any requested hearing, it is clear that completion of the hearing process will extend the total time required for NRC review of and action on any such proposal, perhaps by a year or more. Thus, it is "possible that the requirement for completion of any requested hearing before commencement of construction

of the new pool will substantially lengthen NRC's review time for such a proposal and lengthen the time required to make additional storage capacity available".

QUESTION 4: Would a statutory provision directing NRC to conduct an expedited rulemaking proceeding to resolve any generic issues relating to the construction of new spent fuel storage pools at reactor sites simplify and expedite subsequent NRC reviews of proposals to build new onsite pools by resolving other than site-related issues in advance?

ANSWER: NRC has already prepared a Generic Environmental Impact Statement on the handling and storage of spent light water power reactor fuel (NUREG 0575, August 1979). We believe that all of the issues relating to the construction of new spent fuel storage pools which could be treated generically were so treated in that document and that the statutory provision contemplated in this question is accordingly unneeded. It should be noted that 10 CFR Part 72, dealing with licensing of independent spent fuel storage installations, which we expect to issue in final form in the near future, was developed as a direct result of NUREG 0575. We do not see much room for further simplification and expedition of NRC reviews of proposals to build new onsite pools than we expect to accomplish in this rulemaking effort.

QUESTION 5. Would a statutory provision authorizing the NRC to allow the start of construction or use of a new onsite pool prior to the conduct or completion of any required hearing reduce the potential for delay associated with a protracted hearing? If such a provision also required a determination by the Commission or its designee that all requirements other than completion of the hearing have been met prior to authorizing the start of construction, and if the utility proceeded at its own risk with construction prior to final NRC approval, would such a provision adversely affect the Commission's ability to protect the public health and safety?

ANSWER. As the question is stated, it is reasonable to assume that a statutory provision which authorizes the NRC to allow the start of construction or use of a new onsite pool prior to the conduct or completion of a required hearing would reduce the delay associated with a protracted hearing. It should be noted however, that earlier legislative proposals which would have allowed limited construction activities or interim operation in advance of a hearing were very controversial. See, e.g., the prepared statements of Commissioners Hendrie and Bradford before the Subcommittee on Nuclear Regulation of the Senate Committee on Environment and Public Works, Hearing, "Nuclear Siting and Licensing Act of 1978, 95th Cong., 2nd Sess. at pages 150 and 189.

With regard to the second part of this question, it is assumed that the exercise of such authority would require specific criteria to be satisfied to provide assurance that the public health and safety is not prejudiced by allowing the start of construction or use of a new onsite pool prior to the conduct or completion of any required hearing. At a minimum, these criteria

must assure that the resolution of the issues in the required hearing is not prejudiced by allowing such construction or use, and the Commission should continue to have the authority to halt such construction or use if, in its judgment, such action is necessary in the interest of assuring that the public health and safety will be protected.

Among the controversial issues raised in similar proposals (see references cited above) are the desirability from a policy standpoint of allowing interim construction or operation in advance of a hearing, the frequency with which such authority might be needed; and the extent to which such authority would detract from the hearing phase of the licensing process and the rights of interested persons to participate in the hearing phase of that process.

QUESTION 6.

Would a statutory provision authorizing the NRC to conduct a "hybrid" proceeding for proposals to construct new onsite spent fuel storage pools, involving procedures other than the formal adjudicatory procedures now required for such proceedings, expedite the conduct of such hearings and reduce the potential for extended proceedings? What impact would such a provision have on the Commission's ability to protect the public health and safety?

ANSWER.

Heretofore, the proposed introduction of "hybrid", or non-adjudicatory hearings, only for environmental (but not safety) issues in the licensing process has also been controversial (see the references in the answer to Question 5). Among the issues which have been raised and discussed and on which there are differing opinions are: the extent to which adjudicatory licensing hearings serve to protect public health and safety, especially if complex factual issues are involved; the extent to which those hearings contribute to delays in the licensing process; and the relative merits of adjudicatory hearings, with accompanying rights of discovery and cross-examination, and "hybrid" hearings which may modify those, and similar, rights.

It should be noted that the advantages and disadvantages of adjudicatory and less formal type hearings have been discussed as a part of an overall reform of the regulatory process throughout the government. (See Comptroller General Report FFCD-78-25 "Administrative Law Process; Better Management is Needed" May 15, 1978 and S. 262, the "Reform of Federal Regulation Act of 1979" which we understand the cognizant Senate Committees have ordered to be reported.

In the event that there were statutory authorization to conduct less formal "hybrid" proceedings for the review of proposals to construct new onsite spent fuel storage pools, it seems clear that the conduct of such proceedings could be expedited and that the potential for extended proceedings could be reduced. The extent of this expedition might be tempered, however, by the necessity--possibly time--consuming--of working out the ground-rules for the conduct of the "hybrid" proceeding.

As to the impact such a provision would have on the Commission's ability to protect the public health and safety, there are opposing viewpoints. On the one hand, complete Commission staff review of any proposal occurs regardless of whether any hearing is requested, and the Commission can impose any conditions needed to protect the public health and safety without going through the hearing process (as it routinely does in cases where no hearing is requested). On the other hand, some would argue that nothing less than an adjudicatory hearing with full discovery and cross-examination would expose important health and safety concerns which may have been overlooked in the Commission review process.