



Department of Energy  
Washington, DC 20585

DOCKET NUMBER  
PROPOSED RULE PR 51

6

DOCKETED  
USNRC (54 FR 39767)

DEC 27 1989

89 DEC 27 P3:47

Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Attn: Chief, Docketing and  
Service Branch  
Washington, D.C. 20555

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Dear Sir:

This letter and its enclosure constitute the Department of Energy's (DOE) comments on two Federal Register notices published on September 28, 1989. The first notice (54 FR 39765-39767) proposed changes to 10 CFR 51.23 in consideration of environmental impacts of temporary storage of spent fuel after cessation of reactor operation. These proposed changes are based on a second notice (54 FR 39767-39797) which represents the Commission's review and proposed revision to the 1984 Waste Confidence Decision.

The DOE has reviewed the proposed revisions to the 1984 Waste Confidence Decision and the proposed rule. DOE supports the Commission's proposed changes in the waste confidence decision pertaining to the second and fourth findings, the conclusions in the proposed rule, and the Commission's proposal to extend the cycle of review of the waste confidence decision from every 5 years to every 10 years. Additional comments are provided in the enclosure.

We appreciate the opportunity to comment on the proposed rule. If you have any questions, please feel free to contact Ralph Stein (585-6046) of my staff.

Sincerely,

Samuel Rousso, Acting Director  
Office of Civilian Radioactive  
Waste Management

Enclosure: Department of Energy Comments on Proposed Changes to  
10 CFR 51 (54 FR 39765-39767) and the Waste  
Confidence Decision Review (54 FR 39767-39797)

cc:

- R. Loux, State of Nevada
- N. Baughman, Lincoln County, NV
- S. Bradhurst, Nye County, NV
- D. Bechtel, Clark County, NV

Department of Energy Comments on Proposed Changes to  
10 CFR 51 (54 FR 39765-39767) and the  
Waste Confidence Decision Review (54 FR 39767-39797)

General Comments

- o The Department supports the Commission's proposed changes in the waste confidence decision pertaining to the second finding, concerning the initial availability of a repository.
- o The Department supports the Commission's proposed changes in the waste confidence decision pertaining to the fourth finding which deals with the duration of safe spent fuel storage.
- o The Department also supports the Commission's conclusions in the proposed rule.
- o The Department concurs with the Commission's proposal to extend the cycle of review of the waste confidence decision from every 5 years to every 10 years.

Specific Comments

- o We agree, as pointed out in the analysis for the proposed fourth finding, that the possibility of a major accident with offsite radiological impacts at a spent fuel storage facility is extremely remote. To support this finding, NUREG 1353 has also examined the risk and consequences of a spent fuel pool accident which, in its analysis, appear to meet the public health objectives outlined in the Commission's Safety Goal Policy Statement, 51 FR 28044 (which states that the risk from an accident at a nuclear power plant shall be 0.1% of that normally encountered by the public).
- o Page 39780, Third Column, Third paragraph  
It is stated that "DOE has the responsibility for designing the LSS and bearing the costs associated with it and NRC will be responsible for implementing it."  
  
We agree that DOE has the responsibility for designing the LSS. It is unclear to us as to what is meant by "implementing it." The LSS rule (54 FR 14925) has indicated that the NRC, as LSS administrator, is responsible for the management and operation of the LSS.
- o The NRC envisions extending some reactor operating licenses for up to 30 years. Such license renewals would probably increase the total amount of spent fuel requiring disposal or interim storage. This potential increase in waste management requirements would be taken into account in DOE program planning. Also, cumulative impacts on waste management probably should be considered in the NRC's National Environmental Policy Act documentation for license renewals.

Editorial Comments

1. Page 39783, second column, first full paragraph, sixth line.

Replace "2203" with "2003" for consistency with the remainder of the existing document. However, in November 1989 the Department of Energy published the "Report to Congress on Reassessment of the Civilian Radioactive Waste Management Program" (DOE/RW-0247). This report provides a revised schedule of January 2010 for the start of waste emplacement in the geologic repository. Copies of this report were distributed to NRC at publication.

2. Page 39792, third column, first full paragraph, third line.

Replace "10 years" with "100 years."