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TITLE: PR-072 - 58FR29795 - EMERGENCY PLANNING LICENSING REQUIREMENTS FOR INDEPENDENT SPENT FUEL STORAGE FACILITIES (ISFSI) AND MONITORED RETRIEVABLE STORAGE FACILITIES (MRS)

CASE REFERENCE:

58FR29795

PR-072

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PROPOSED RULE:PR-072OPEN ITEM (Y/N) NRULE NAME:EMERGENCY PLANNING LICENSING REQUIREMENTS FOR
INDEPENDENT SPENT FUEL STORAGE FACILITIES (ISFSI)
AND MONITORED RETRIEVABLE STORAGE FACILITIES (MRS)PROPOSED RULE FED REG CITE:58FR29795PROPOSED RULE PUBLICATION DATE:05/24/93NUMBER OF COMMENTS:PROPOSED RULE PUBLICATION DATE:08/09/93EXTENSION DATE:PROPOSED RULE FED. REG. CITE:60FR32430FINAL RULE PUBLICATION DATE:ORIGINAL DATE FOR COMMENTS:08/09/93EXTENSION DATE:PROPOSE ON FINAL RULE EFFECTIVE 9/20/95.FILE LOCATED ON P1.STATUS
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HISTORY OF THE RULE

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RULE TITLE: EM	ERGENCY PLANNING	LICENSING R	EQUIREMENTS FOR		
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SECY PAPER: 93-00	6 SRM DATE:	03/31/93	SIGNED BY SECRETARY:	05/17/93	
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SECY PAPER: 95-11	6 SRM DATE:	06/02/95	SIGNED BY SECRETARY:	08/14/95	
SECY PAPER: 95-116 SRM DATE: 06/02/95 SIGNED BY SECRETARY: 08/14/95					

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In the Matter of

EMERGENCY PLANNING LICENSING REQUIREMENTS FOR INDEPENDENT SPENT FUEL STORAGE FACILITIES (ISFSI) AND MONITORED RETRIEVABLE STORAGE FACILITIES (MRS)

DATE Docketed	DATE OF Document	TITLE OR DESCRIPTION OF DOCUMENT
05/17/93	05/17/93	FEDERAL REGISTER NOTICE - PROPOSED RULE
06/28/93	06/23/93	COMMENT OF COMMONWEALTH OF VIRGINIA (A.E. SLAYTON, JR.) (1)
07/28/93	07/25/93	LTR FM M. OLSON TO S. CHILK REQ EXTENSION OF THE COMMENT PERIOD ON THE PROPOSED RULE
08/02/93	07/27/93	COMMENT OF STATE OF ILLINOIS DEPT OF NUCLEAR SAFETY (THOMAS W. ORTCIGER) (3)
08/02/93	07/29/93	LTR FM J. SALZMAN TO S. CHILK REQUESTING Extension of the comment period for proposed rule Re Emerg Planing Lic Reqs for Isfsi and Mrs
08/04/93	07/29/93	COMMENT OF VIRGINIA POWER (M. L. BOWLING) (2)
08/06/93	08/03/93	COMMENT OF PA EMERGENCY MANAGEMENT AGENCY (JOSEPH L. LAFLEUR) (4)
08/06/93	07/30/93	COMMENT OF YANKEE ATOMIC ELECTRIC COMPANY (D. W. EDWARDS) (5)
08/06/93	08/05/93	COMMENT OF DEPARTMENT OF ENERGY (DWIGHT E. SHELOR) (6)
08/09/93	08/09/93	COMMENT OF PUBLIC SERVICE COMPANY OF COLORADO (DON W. WAREMBOURG) (7)
08/09/93	07/28/93	COMMENT OF RUFINA MARIE LAWS (8)
08/09/93	08/03/93	COMMENT OF ALL PEOPLE'S COALITION (SUSAN DIANE) (9)
08/09/93	08/06/93	COMMENT OF LONG ISLAND POWER AUTHORITY (S. SCHOENWIESNER) (10)
08/09/93	08/03/93	COMMENT OF BENTON CO. EMERGENCY MANAGEMENT (ROBERT C. MARTIN) (11)

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DOCKET NO. PR-072 (58FR29795)

DATE Docketed	DATE OF Document	TITLE OR Description of document
08/09/93	08/08/93	COMMENT OF OHIO CITIZENS FOR RESPONSIBLE ENERGY INC (SUSAN L. HIATT) (12)
08/09/93	08/02/93	COMMENT OF VILLAGE OF RUIDOSO (JERRY G. SHAW) (13)
08/10/93	08/08/93	COMMENT OF NUCLEAR INFORMATION & RESOURCE SERVICE (NIRS) (14)
08/10/93	08/09/93	COMMENT OF EDISON ELECTRIC INSTITUTE (STEVEN P. KRAFT) (15)
08/10/93	08/04/93	COMMENT OF CONCERNED CITIZENS FOR NUCLEAR SAFETY (MARGRET CARDE) (16)
08/10/93	08/09/93	COMMENT OF NUCLEAR MANAGEMENT & RESOURCES COUNCIL (THOMAS E. TIPTON) (17)
08/17/93	08/06/93	COMMENT OF MESCALERO APACHE TRIBE (MR. FREDERICK PESO) (18)
08/25/93	08/24/93	EXTENSION OF TIME NOTICE PUBLISHED ON 8/30/93 AT 58 FR 45463. TIME FOR SUBMITTING COMMENTS EXTENDED TO NOVEMBER 9, 1993.
08/30/93	08/19/93	COMMENT OF WASH. DEPT. OF COMMUNITY DEVELOPMENT (JOSEPH W. MURRAY, ASSISTANT DIR.) (19)
08/31/93	08/26/93	COMMENT OF BALTIMORE GAS AND ELECTRIC COMPANY (ROBERT E. DENTON, V. P.) (20)
10/04/93	09/29/93	COMMENT OF NEW MEXICO ENVIRONMENT DEPARTMENT (BENITO J. GARCIA) (21)
10/18/93	09/28/93	COMMENT OF MESCALERO APACHE TRIBE (FREDERICK PESO) (22)
11/12/93	11/03/93	COMMENT OF STATE OF NEW MEXICO (ANITA LOCKWOOD) (23)
05/05/94	04/16/94	COMMENT OF ENVIRONMENTAL COALITION ON NUCLEAR POWER (DR. JUDITH JOHNSRUD, DIRECTOR) (24)
08/15/94	07/11/94	COMMENT OF OKLAHOMA TOXICS CAMPAIGN, INC. (EARL L. HATLEY, EXECUTIVE DIRECTOR) (25)
06/19/95	06/16/95	FEDERAL REGISTER NOTICE - FINAL RULE

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DOCKETED USNRC [7590-01-P]

'95 JIN 19 P2:35

NUCLEAR REGULATORY COMMISSION 10 CFR Part 72

RIN 3150-AE17

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

¹ Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

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SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations, in accordance with the Nuclear Waste Policy Act of 1982, for the emergency planning licensing requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS). The amendments are necessary to ensure that local authorities will be notified in the event of an accident so that they may take appropriate action. The regulation will provide a level of preparedness at these facilities that is consistent with NRC's defense-in-depth philosophy.

EFFECTIVE DATE: (90 days after publication)

60FR 32430 Pul- 6/22/95 3. Y

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

On May 27, 1986 (51 FR 19106), following Commission approval, the proposed revision to 10 CFR Part 72 relating to licensing requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS), including requirements for emergency planning, was published in the Federal Register for comment.

On November 30, 1988 (53 FR 31651), the Commission published the final rule outlining the licensing requirements for ISFSI and MRS but reserved the emergency planning licensing requirements for a later date.

On May 24, 1993 (58 FR 29795), the Commission published for public comment the proposed emergency planning licensing requirements for ISFSI and MRS. This final rule codifies the emergency planning licensing requirements.

Discussion

On April 7, 1989 (54 FR 14051), the Commission published in the Federal Register the final regulations relating to Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees (10 CFR Parts 30, 40, and 70).

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These regulations require certain NRC fuel cycle and other radioactive materials licensees that engage in activities that may have the potential for a significant accidental release of NRC licensed materials to establish and maintain approved emergency plans for responding to such accidents.

Although applicable to those licensed under different parts of the Commission's regulations, the requirements for emergency plans in Parts 30, 40, and 70 contain similar provisions because they are designed to protect the public against similar radiological hazards. The proposed revision of 10 CFR Part 72 as published for comment on May 24, 1993 (58 FR 29795), would also require applicants for an ISFSI and MRS license to submit an emergency plan. Although the texts of the Fuel Cycle final emergency planning requirements and the parallel provisions of the proposed Emergency Preparedness licensing requirements for ISFSI and MRS are not identical, these provisions have the same purpose and use the same approach. In both cases, the proposed regulations require onsite emergency planning with provisions for offsite emergency response in terms of coordination and communication with offsite authorities and the public. It is therefore appropriate that in both cases these requirements should be expressed in the same manner.

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The Commission has determined that the emergency planning licensing requirements for 10 CFR Part 72 licensees should be similar to those requirements already codified in § 70.22 for Part 70 licensees. Nonetheless, the Commission wishes to establish unique provisions in the emergency planning requirements for MRS facilities (and certain more complex ISFSIs) versus typical ISFSI facilities. The Commission anticipates a potential need for enhanced emergency planning requirements appropriate to the entire range of operations which may be conducted at an MRS facility (or ISFSI that may be

repackaging or handling spent fuel). The Commission acknowledges that, to date, accidents that have been postulated and analyzed for either an ISFSI or MRS would result in similar offsite doses. The analysis of potential onsite and offsite consequences of accidental releases associated with the operation of an ISFSI is contained in NUREG-1140. This evaluation shows that the maximum dose to a member of the public offsite due to an accidental release of radioactive materials would not exceed 1 rem effective dose equivalent, which is within the EPA Protective Action Guides or an intake of 2 milligrams of soluble uranium (due to chemical toxicity).

Thus, the consequences of worst-case accidents involving an ISFSI located on a reactor site would be inconsequential when compared to those involving the reactor itself. Therefore, current reactor emergency plans cover all at- or near-reactor ISFSI's. An ISFSI that is to be licensed for a stand-alone operation will need an emergency plan established in accordance with the requirements in this rulemaking. NUREG-1140 concluded that the postulated worst-case accident involving an ISFSI has insignificant consequences to the public health and safety. Therefore, the final requirements to be imposed on most ISFSI licensees reflect this fact, and do not mandate formal offsite components to their onsite emergency plans.

Similarly, the Commission has conducted an analysis of potential onsite and offsite consequences of accidental release associated with the operation of an MRS. The analysis is contained in NUREG-1092. This evaluation shows that the maximum dose to a member of the public offsite due to an accidental release of radioactive materials would likely not exceed 1 rem effective dose equivalent which is within the EPA Protective Action Guides or an intake of 2 milligrams of soluble uranium (due to chemical toxicity).

In the final NRC Generic Environmental Impact Statement on the handling and storage of light water reactor fuel¹, it is stated that

"...To be a potential radiological hazard to the general public, radioactive materials must be released from a facility and dispersed offsite. For this to happen:

- The radioactive material must be in a dispersible form
- There must be a mechanism available for the release of such materials from the facility, and
- There must be a mechanism available for offsite dispersion of such released material.

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Although the inventory of radioactive material contained in 1000 MTHM of aged spent fuel may be on the order of a billion curies or more, very little is available in a dispersible form; there is no mechanism available for the release of radioactive materials in significant quantities from facility; and the only mechanism available for offsite dispersion is atmosphere dispersion....."

Furthermore, NRC has conducted Safety Evaluations on many different storage systems. Those studies included evaluations of the effects of corrosion, handling accidents such as cask drops and tipovers, explosions, fires, floods, earthquakes, and severe weather conditions. As documented in each of those Safety Evaluation Reports (SER), NRC was not able to identify

¹NUREG-0575 Vol. 1 sec. 4.2.2 Safety and Accident Considerations.

any design basis accident that would result in the failure of a confinement boundary. However, to provide a conservative bounding analysis of the threat to the public health and safety, the failure of the confinement barrier was postulated. As discussed in each of the SERs and again in the response to Issue 48 the consequences of this postulated failure do not result in an increased risk to the public health and safety.

In the environmental assessment for 10 CFR Part 72^2 , the accident judged the most severe was the failure of a packaged fuel element. In this analysis, the accident involves the failure of a storage system containing 1.7 MTHM. The postulated individual doses are presented in Table 1³.

Table 1 Total Dose to an Individual as a Result of a Fuel Canister Failure Accident at a Surface Storage Installation (mrem)					
<u>Pathway</u>	<u>Skin</u>	<u>Total Body</u>	<u>Thyroid</u>	Lung	
Air Submersion	1.0 x 10 ⁻¹	1.1 x 10 ⁻³	1.1 x 10 ⁻³	1.1 x 10 ⁻³	
Inhalation		1.2 x 10 ⁻⁵	1.1 x 10 ⁻²	7.3 x 10 ⁻⁵	
Total	1.0 x 10 ⁻¹	1.1 x 10 ⁻³	1.2 x 10 ⁻²	1.1 x 10 ⁻³	

Note: The maximum individual is defined as a permanent resident at a location 1600 meters southeast of the stack with a time-integrated atmospheric dispersion coefficient (E/Q of 1.5 x 10⁻⁴ sec/m³). The accident involves failure of a fuel canister containing approximately 1.7 MTHM.

Since the time these calculations were performed, the storage canisters have increased in capacity, and today the capacity of the largest approved design is approximately 9 MTHM. However, because dose varies directly with

²NUREG-1092 Environmental Assessment for Part 72 "Licensing Requirements for Independent Spent Fuel and High-Level Radioactive Waste."

³NUREG-1092 Table 2.2.4-2

inventory, when the totals are increased by a factor of ten, they are still a very small fraction of the 300 mrem/yr⁴ an individual receives from natural background radiation, and is below the EPA protective action guides.

Nonetheless, the Commission believes it 'appropriate to require enhanced offsite emergency planning at an MRS (as well as any ISFSI that conducts similar operations) because of the broader scope of activities which could be performed at such a facility.

In addition to the handling and repackaging for storage of large numbers of individual fuel bundles, which involves the receipt, inspection, and transfer of several thousand transport casks, MRS operations may also encompass the consolidation of the stored fuel into casks for subsequent geological disposal after interim storage. At this time, a final MRS design has not been selected. The MRS may be a large industrial facility equipped to handle the loading, unloading, and decontaminating of a large number of spent fuel shipping containers arriving by both truck and rail. It could also include facilities to disassemble the fuel bundles and consolidate that fuel into special storage/transport containers, and facilities to handle solidified high-level waste. These facilities would require the equipment necessary to process low- and high-level waste that would be associated with the above operations. It is also possible, however, for an MRS facility to serve primarily as a warehouse operation, limited solely to accepting, sorting and later transhipping a large number of multi-purpose canister (MPC) systems of the type being considered by DOE.

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The Multi-Purpose-Canister (MPC) being considered by the DOE would be used to store and transport spent fuel. The MPC system provides a sealed

⁴NRCP Report No. 94.

canister into which spent fuel would be loaded. After loading, the MPC is evacuated, backfilled with an inert gas, and then permanently sealed. At this point the MPC concept offers several options: the sealed canister could be placed into a storage overpack at the reactor site, or it could be placed in a transportation overpack for movement to an ISFSI or MRS. After arriving at the ISFSI or MRS the MPC would most likely be placed in the storage configuration awaiting transport to the geological repository. When the repository is ready to accept fuel, several options would exist. The canisters could be placed into the transport overpack for movement to the geological repository. Once there, the canister could be transferred directly into the disposal overpack for emplacement into the repository. An option to repackage the spent fuel into disposal canisters allowing the optimum configuration required at the repository remains possible. This could take place at either the repository or MRS. Because the canister may only be opened once during its entire storage life and individual fuel elements only handled under a controlled environment, the MPC concept appears to reduce the overall risk to public health and safety.

Given the uncertainties in the design and operation of an MRS, the Commission believes it prudent to plan and provide for an enhanced level of emergency planning to include some offsite preparedness should operation of a MRS (or any ISFSI conducting similar operations) present accident risks that exceed those analyzed in NUREGS 1140 and 1092. Because the level of risk to the public health and safety from such an MRS (or ISFSI) may exceed that from a typical ISFSI, the relevant emergency planning requirements should be enhanced to include an offsite component. To achieve this goal, the final enhanced emergency plan requirements are modeled after 10 CFR 50.47(d). The

intent of 10 CFR 50.47(d) was to mandate a minimum level of offsite response capability during initial reactor licensing and low power operations. This same level of response capability is considered appropriate to MRS (and any comparable ISFSI) operations. Because much of the language needed to achieve this level of offsite protection has already been codified in 10 CFR Part 50, similar language is included within the final emergency planning requirements for an MRS (and ISFSI) (10 CFR 72.32(b)(15)(i-vi)).

The Commission notes that, for both types of facilities, this rulemaking is not required in order to provide adequate safety and may not be justified based solely on a comparison of the anticipated costs of implementing these regulations to the increase in public health and safety. Rather, the Commission believes that it is justified in terms of safety enhancement such as the intangible benefit of being able to assure the public that local authorities will be notified in the event of an accident so that they may take appropriate actions. The NRC feels that such preparedness is prudent and consistent with the NRC's philosophy of defense-in-depth.

Public Comments

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The NRC received a total of 25 comment letters. Five were from utilities, two were from organizations representing utilities, eight were from State and/or local emergency management agencies, three were from the Mescalero Indian Tribe, five were from environmental/intervener groups, one was from a private citizen, and one was from the Department of Energy.

One of the letters that opposed the proposed regulation came from a member of the Mescalero Indian Tribe and included the signatures of 40 other

tribal members who agreed with opposition to the proposed rule change. Opposition also came from the private citizen, all of the intervener/environmental groups, and a local governmental official.

Letters that were generally in agreement with the proposed rule change were submitted by the Mescalero Tribal MRS Program Manager, the Department of Energy, all of the utilities, all of the State governmental agencies, and from the industry groups (though the industry group letters expressed a preference for deferring the MRS portion of the regulation (10 CFR 72.32(b)) because the industry groups considered it premature).

The comment letters that were received provided many thought-provoking and constructive comments. The Commission's evaluation of and response to these comments is presented in the following section.

<u>Issue 1</u>. The frequency for conducting offsite communication checks (quarterly) and onsite exercises (annually) for MRS should not be more conservative than for ISFSI communications checks (semiannually) and onsite exercises (biennially). The increase in frequency is not justified by experience or analysis.

<u>Response</u>. The Commission agrees that the onsite exercise requirements should be biennial rather than annual. Nonetheless, the quarterly communication checks will remain unchanged due to the obvious importance of reliable communications capabilities.

<u>Issue 2</u>. The proposed rule, 10 CFR 72.32(a)(15) states that the review shall include certain "arrangements" and "other organizations." Those items are not listed as specific elements to be included in the plan. It is inferred that they do not need to be addressed other than in the information regarding offsite interface activities required by paragraphs (a)(7), (a)(8),

(a)(9), (a)(10), (a)(12), and (a)(14). As written, the paragraph imposes a review requirement upon the NRC and is merely informational to the applicant.

<u>Response.</u> The Commission agrees and has rewritten §§ 72.32(a)(15) and 72.32(b)(15) in the final regulations.

<u>Issue 3</u>. The discussion section and the proposed rule regarding the frequency of communications checks should be consistent. The discussion section indicates quarterly checks (page 29796, Section xii) and the proposed rule in 10 CFR 72.32(a)(12)(i) indicates semiannual checks. Semiannual checks are appropriate.

<u>Response</u>. The Commission disagrees. The discussion section referred to relates to a Final Rulemaking for Fuel Cycle and Material licensees published on April 7, 1989 (54 FR 14051). The requirement for quarterly communication checks is identical to that requirement for an MRS (and comparable ISFSI). The semiannual communication checks are for a typical, storage only ISFSI. There is no inconsistency.

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<u>Issue 4</u>. At a site where the affected ISFSI site could be contiguous to a Part 50 licensed site, the 10 CFR 50.47 emergency plans should apply automatically. This would preclude the unnecessary expenditure of limited utility, State, local and Federal resources; avoid duplication in emergency preparedness; and minimize confusion offsite. In order to limit confusion, change the existing proposed first sentence of 10 CFR 72.32(a) to read: "For an ISFSI that is located on (or immediately adjacent to) the site of a nuclear power reactor..."

<u>Response</u>. The Commission agrees and has incorporated this concept into the final regulation by referencing the exclusion area as defined in 10 CFR Part 100.

Issue 5. The following areas of the proposed rule introduce inconsistencies that require clarification: Paragraphs (a)(1) through (a)(13) of 10 CFR 72.32 list specific information to be included in the emergency plan. Paragraph (a)(16) also appears to list specific information to be included. However, it is unclear whether paragraphs (a)(14) and (a)(15) are intended to be specific information included in the emergency plan or review and comment requirements related to the submittal of the emergency plan which do not have to be included as specific information in the plan. The discussion contained in the supplementary information section of the Federal Register notice implies that these paragraphs are review and comment requirements only. "...the proposed requirements to be imposed on ISFSI licensee...do not mandate formal offsite components to their onsite emergency plans." (58 FR 29797, May 24, 1993.)

<u>Response</u>. The Commission agrees and has clarified paragraphs (a)(14) and (a)(15).

<u>Issue 6</u>. 10 CFR 72.32(a)(15), Offsite Arrangement: The wording "... arrangements to accommodate State local staff at the licensee's near-site emergency facility have been made, ...," should be deleted from § 72.32(a)(15). The nature of potential emergency events at ISFSIs do not require personnel from State and local governments to respond in a staff capacity, and do not require near-site emergency facilities to be available. The proposed rule already requires that the emergency facilities at the site, and the emergency response staff for the facility, be adequate for emergency planning purposes.

<u>Response</u>. The Commission agrees and has incorporated this comment in the final regulation.

<u>Issue 7</u>. 10 CFR 72.32(b)(14), Offsite Review: The request for the offsite response organization to comment as to whether an offsite component to emergency preparedness at an MRS is reasonable, appropriate, or premature at this time. We believe that it is, in fact, premature at this time. The analyses that have already been done undoubtedly contain a considerable amount of conservatism. It is far easier to add requirements later, should they be found to be recommended, than to remove them when they are confirmed to be excessive later.

<u>Response</u>. See Commission Response to Issue 18.

<u>Issue 8</u>. 10 CFR 72.32(a)(13), Hazardous Chemicals: The certification deals with hazardous materials at the facility. The last phrase of the statement does not clearly convey this message. To clarify, the commenters suggest replacing the phase, "if applicable to the applicant's activities at the proposed place of use of special nuclear material," with "with respect to hazardous materials at the facility."

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<u>Response</u>. The Commission agrees and has clarified the final rule accordingly.

<u>Issue 9</u>. 10 CFR 72.32(a)(14), Offsite Review: The proposed rule should only require the 60-day comment period for offsite response organizations prior to the initial plan submittal to the NRC. Subsequent plan changes should not have this 60-day time restriction built into the submittal process unless the plan changes involve offsite response organizations.

<u>Response</u>. The Commission agrees and has changed the final rule accordingly.

Issue 10. 10 CFR 72.32(a)(12)ii, Offsite Participation: "Participation of offsite response organizations in biennial exercises, although recommended,

is not required," sends a message to State and local agencies that they may need extensive planning to accommodate the facility. There is nothing unique to a potential release from an ISFSI that is not enveloped by the utility and associated State and local emergency plans to support an operating plant or one with a possession only license. State and local agencies should be provided a copy of the facility's plan and be asked to take part in "tabletop" exercises to help them understand their role.

<u>Response</u>. The Commission disagrees, because offsite response organizations should also become familiar with the facility.

<u>Issue 11</u>. 10 CFR 73.32(a)(12)(i), Exercises: The listed drills are capitalized, creating the impression that they are specific types of drills, such as those described in NUREG-0654, for the conduct of similar type drills for operating power reactors. Furthermore, ISFSIs, in view of the relatively passive nature of the facility and the potential consequence of a release as compared to operating power reactors, do not warrant this frequency. Drills should be held biennially.

<u>Response</u>. See the Commission's Response to Issue 12. Additionally, the frequency of these drills have been changed from semiannual to annual.

<u>Issue 12</u>. It is recommended that the existing wording, "...Radiological/Health Physics, Medical, and Fire Drills should be conducted semiannually...," be reworded in a manner similar to 10 CFR 50.47(b)(14) as follows: "Periodic drills shall be conducted to develop and maintain key skills."

<u>Response</u>. The Commission disagrees because it believes that it is beneficial to specify the types of drills necessary.

Issue 13. 10 CFR 72.32(a)(12)(i), Exercises: Semiannual fire drills may not be appropriate for an ISFSI because there are no flammable materials associated with the facility.

<u>Response</u>. The frequency of these drills has been changed and will be required annually.

<u>Issue 14</u>. 10 CFR 72.32(a)(8), Notification and Coordination: The means to promptly notify offsite response organizations should be limited to using commercial telephones. Ring-down systems should not be necessary to meet this requirement.

<u>Response</u>. Ring-down systems are not mentioned in the proposed or final regulations.

<u>Issue 15</u>. 10 CFR 72.32(a)(6), Assessment of Releases: Extensive dose assessment methodology is not necessary to implement the emergency plans.

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<u>Response</u>. The proposed rule did not suggest requiring and the final regulation does not require "Extensive" dose assessment.

Issue 16. 10 CFR 72.32(a)(8), Notification and Coordination: The Emergency Response Data System (ERDS) provides for the automated transmission of a limited data set of selected onsite parameters (e.g., system pressure, temperature, radiation monitoring). The activation of the ERDS does not apply to nuclear power facilities that are shut down permanently or indefinitely. The activation of ERDS should not apply to ISFSI incidents even located at operating plant sites.

<u>Response</u>. The proposed rule did not suggest requiring and the final regulation does not require the use of ERDS.

<u>Issue 17</u>. 10 CFR 72.32(a)(3), Classification Requirements: The implementation guidance for the rule should provide for the simplest and

easiest understood classification, notification, and reporting system for nonemergency events. NUREG-1140 "A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licenses," August 1991 Section 2.27 (Spent Fuel Storage) supports the discussion that EPA's protective action guides would not be exceeded during an accident. Therefore, both classifications for a site and general emergency should not be considered. Redundant classifications, notifications and reports for non-emergency events, such as Notifications of Unusual Events (NOUEs), 1-hour non-emergency event reports, and four-hour non-emergency event reports used for operating reactors, should not apply to ISFSIs and MRSs. These conclusions are based on the magnitude, duration, and energy involved in an incident involving spent fuel storage facilities. These analyses have been docketed as part of submittals to the NRC to license individual ISFSIs. For actual ISFSI and MRS emergencies, the emergency classification, "Alert," should be sufficient. A "NOUE" classification for ISFSI and MRS emergency planning should not be necessary.

<u>Response</u>. The proposed rule did not suggest requiring and the final regulation does not require the use of notification of unusual events "NOUE" or "general" emergency classification.

Issue 18. EEI/WASTE supports adoption of proposed § 72.32(a) that would establish emergency planning requirements for ISFSI. EEI/WASTE recommends that NRC defer proposed § 72.32(b) that would establish emergency planning requirements for MRSs. Because no final design for MRS facilities has been selected, there is no rational basis to determine the level of radiological hazards for which emergency planning requirements are designed. It is

therefore premature for the NRC to establish emergency planning requirements for MRS facilities.

Response. The Commission disagrees. The proposed emergency planning licensing requirements for an MRS as published in the Federal Register on May 24, 1993 (58 FR 29795), have provided to the public some insight as to what the Commission now feels would be appropriate and reasonable emergency planning licensing requirements for an MRS. One comment stated that, "We have concluded that minimum requirements, such as those currently proposed by the NRC rulemaking process, should serve as guidance for the starting point from which Emergency Planning and Licensing Requirements can be fully developed." Also, the Department of Energy stated that it "...intends to work closely with the host community to develop a comprehensive emergency response plan with offsite components that will not only encompass the requirements contained in 10 CFR 72.32(b)(15), but likely will exceed them."

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<u>Issue 19</u>. The proposed rule does not require MRS operators to notify local residents of any increased exposure, nor does it require MRS operators to develop a plan for evacuation. This rule is an unfair burden on local emergency responders with little or no training for these type of emergencies. There is specialized training and equipment for radiation accidents and exposure; therefore, the proposed rules should provide for the training and obtaining equipment for the local responders.

<u>Response</u>. The Commission disagrees. The emergency planning regulations specifically require in 10 CFR 72.32(b)(8), "Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations..." In 10 CFR 72.32(b)(9), (10), and (12), the licensee is required to provide:

"Information to be communicated: A brief description of the types of information on facility status; radioactive releases; and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC." "Training. A brief description of the training the licensee will provide workers on how to respond to an emergency and any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel." "...The licensee shall invite offsite response organizations to participate in the annual exercises."

Additionally, in 10 CFR 72.32(b)(15) and (b)(16) the licensee is required to identify:

"(ii) Provisions that exist for prompt communications among principal response organizations to offsite emergency personnel who would be responding onsite.

(iii) Adequate emergency facilities and equipment to support the emergency response onsite are provided and maintained.

(iv) Adequate methods, systems, and equipment for assessing and monitoring actual or potential consequences of a radiological emergency condition are available.

(v) Arrangements are made for medical services for contaminated and injured onsite individuals.

(vi) Radiological Emergency Response Training has been made available to those off site who may be called to assist in an emergency on site.

(16) Arrangements made for providing information to the public."

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Issue 20. Although it is true that emergency plans for ISFSI and MRS need not be equivalent to emergency plans for reactors due to the relatively passive natures of the ISFSI and MRS, offsite emergency planning should not be eliminated for either type of facility. The proposed rule indicates that the maximum offsite dose due to an accidental release of radioactive material from either type of facility would probably not exceed 1 rem. However, 1 rem is within the Environmental Protection Agency (EPA) Protective Action Guides of 1-5 rem whole body, and it is the lower limit of these guides which is to be used as the basis for taking protective actions in emergency response. The commenter would also question whether worst-case scenarios have been considered in the evaluation of potential offsite doses. Worst-case scenarios would include acts of radiological sabotage, such as terrorist attacks employing explosives. Offsite emergency planning is a prudent measure to take against such uncertainties. Offsite plans may not be needed for a 10-mile radius, as is the case for power reactors, but they should not be eliminated for ISFSI and MRS. Reducing the radius of the Emergency Planning Zone (EPZ) (perhaps to 1-5 miles, as appropriate) is the proper response to the reduced hazard posed by the ISFSI and MRS. A reduced zone will provide the basis and flexibility for an enhanced offsite response in those events where this is necessary.

<u>Response</u>. Emergency planning requirements for power reactors, fuel cycle facilities, ISFSIs and MRSs are all based on a spectrum of accidents, including worst-case severe accidents. Emergency planning focuses on the detection of accidents and the mitigation of their consequences. Emergency planning does not focus on the initiating events. Therefore, based on the potential inventory of radioactive material, potential driving forces for distributing that amount of radioactive material, and the probability of the initiation of these events, the Commission concludes that the offsite consequences of potential accidents at an ISFSI or a MRS would not warrant establishing Emergency Planning Zones.

Issue 21. In the interest of protecting public health and safety, appropriate offsite agencies should be notified immediately of any classifiable accident at an ISFSI or MRS. Section 72.32(a)8 should specify that the agency(ies) with responsibility to respond to accidents receive the notifications. In Illinois, IDNS should be notified of all such accidents. Consequently, we request that any licensee submitting a plan for approval under 10 CFR Part 72 for an ISFSI or MRS in Illinois specifically provide in its emergency plan for timely notifications to IDNS. The notifications are important to ensure that emergency response actions are not unduly or unnecessarily delayed.

<u>Response</u>. The Commission agrees. This comment focuses on the rationale that was used in proposing the following requirements:

"A commitment to, and a brief description of, the means to promptly notify offsite response organizations and request offsite assistance, including medical" and "The licensee shall allow the

offsite response organizations expected to respond in case of an accident 60 days to comment on the initial submittal of the license's emergency plan before submitting it to NRC." "....The licensee shall provide any comments received within the 60 days to the NRC with the emergency plan."

<u>Issue 22</u>. The requirements for exercises are appropriate for the facilities involved. We do believe, however, that offsite participation in these exercises should be an integral, not perfunctory, part of the exercise process. Invitations to participate should be both timely and informative, maximizing the opportunity for productive interaction between licensee.*and offsite personnel. The rule should require that licensees document timely invitations to offsite agencies to participate in annual or biennial exercises, and offsite participation actually resulting from these invitations.

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<u>Response</u>. The Commission does not believe that it is necessary for the rule to require licensees to document timely invitations for offsite *i* participation in exercises. NRC expects licensees will do so on their own initiative. Experience has shown that cooperative interactions between licensee and offsite authorities generally are quite productive.

Issue 23. Proposed 10 CFR 72.32(a)(12)(ii) and (b)(12)(ii): Participation of offsite response organizations in exercises should be required.

<u>Response</u>. The Commission believes that this requirement would be unnecessary in that experience shows almost all offsite authorities that are

invited to participate in exercises do participate without being required to do so.

<u>Issue 24</u>. Proposed 10 CFR 72.32(a)(12)(i): For the ISFSI, communications checks with offsite response organizations should be conducted quarterly, not semiannually, and onsite exercises conducted annually, not biennially. /

<u>Response</u>. The Commission disagrees due to the very low probability of offsite consequences resulting from potential accidents at these facilities in conjunction with the low probability of a significant accident occurring.

Issue 25. Proposed 10 CFR 72.32(a)(3) and (b)(3): These provisions limit the accident classification levels to an alert for the ISFSI and a site area emergency for the MRS. For both facilities, the accident classification system should include the general emergency. This might be necessary in cases of radiological sabotage.

<u>Response</u>. The Commission disagrees. An essential element of a General Emergency is that "A release can be reasonably expected to exceed EPA Protective Action Guidelines exposure levels off site for more than the immediate site area." As previously discussed, NRC studies have concluded that the maximum offsite dose would be less than 1 rem which is within the EPA Protective Action Guides.

<u>Issue 26</u>. Proposed 10 CFR 72.32(a)(8) and (b)(8): Time limits ought to be established for notifying offsite response organizations and the NRC. An appropriate time limit is 15 minutes.

<u>Response</u>. The Commission has established a reasonable time limit for notification which has proven to be adequate in the past. "The licensee shall also commit to notify the NRC operations center immediately after

notifications of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency."

<u>Issue 27</u>. Proposed 10 CFR 72.32(a)(15) and (b)(15)(i): The phrase, "and other organizations capable of augmenting the planned onsite response have been identified" should be modified to include the requirement that arrangements should be made (such as letters of agreement) with any organizations so identified.

Response. The Commission believes that offsite response organizations will respond in the event of an actual emergency in order to protect the health and safety of the public. Therefore, the Commission does not believe that this requirement would be necessary.

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<u>Issue 28</u>. On page 29797 of the proposed rule, first column, the statement is made: "As a result of the above evaluation, the Commission is proposing that the emergency planning licensing requirements for Part 72 licensees be similar to those requirements already codified in 10 CFR 70.22 for other Part 70 licensees." Should this statement also include 10 CFR 70.24 (Criticality Accident requirements)? Because the racking arrangement of spent fuel storage is changing in a manner that places spent fuel assemblies closer than in the past because of storage space needs, criticality accidents possibilities might increase, especially in the dry cell storage.

<u>Response</u>. The Commission disagrees. Criticality is only a concern during a wet loading and unloading evolution. Additionally, such activities would not be expected to occur under a 10 CFR Part 72 ISFSI license and, therefore, there is no basis to change 10 CFR Part 72 criticality requirements.

Issue 29. Because 10 CFR Part 72 contains no language that parallels 10 CFR 50.54(x), we recommend that something similar to it be considered as part of this rulemaking. During the operating life of an Independent Spent Fuel Storage Facility or Monitored Retrievable Storage Facility, it is possible that an unanticipated situation may arise where the most correct action would be one that is not allowed by the license or technical specifications. The writers of 10 CFR Part 50 foresaw this eventuality and allowed a licensee to:

"take reasonable action that departs from license condition or a technical specification in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent."

Although we never expect to invoke this option, prudence dictates that we should thoughtfully plan and develop procedures that allow for the possibility of low probability events where deviating from a technical specification or any other license condition is the most correct action. Adding this provision to the Part 72 rule gives us a legal basis to include it in our procedures. As a licensee under both 10 CFR Parts 50 and 72, we feel that similar language has been useful under 10 CFR Part 50 for developing procedures, and that it would be equally useful under 10 CFR Part 72.

<u>Response</u>. The Commission agrees. The final rule reflects this comment.

Issue 30. In § 72.32(a)(12)(ii), the proposed rule states that the licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. We disagree with this provision since it excludes our emergency planning (EP) staff from the critique. The individuals who develop the plans are EP experts. These are exactly the individuals that should critique the exercises. As the rule is written, we would have to maintain an EP expert on staff whose only EP job function would be to critique exercises. At all other times, this individual would have to remain at arms length from the EP program. A better use of resources would be to allow individuals from the EP staff to be a part of the team that critiques exercises.

<u>Response</u>. The Commission agrees and has modified the final regulation to state "the licensee shall critique each exercise using individuals not having direct implementation responsibility for conducting the exercise." å

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<u>Issue 31</u>. In § 72.32(a)(14), NRC has proposed that an applicant for an ISFSI submit the proposed emergency plan to offsite response organizations (which are expected to respond in case of an onsite accident) 60 days in advance of submittal to NRC. Comments would then be forwarded to the NRC upon submittal of the ISFSI application. This requirement should be deleted as the current licensing process for review and approval of an ISFSI license affords all parties a sufficient amount of time to review and comment on the licensee's entire application to include the emergency plan. Furthermore, licensees have gained sufficient experience from the operating nuclear power plant environment to recognize the benefits of working with the offsite authorities in order to ensure adequacy of an emergency plan and its

implementation. A requirement to instruct applications to do as much is unnecessary.

<u>Response</u>. The Commission disagrees. The Commission believes that requiring participation by offsite organizations in the development of the emergency plan significantly helps establish coordination and working relationships between the principals.

Issue 32. In § 72.32(a)(15), NRC proposed to require that the licensee of an ISFSI provide for a "near-site emergency facility" for State and local staff. This requirement should be deleted as it implies that an offsite emergency response facility is needed, when in fact NRC's own studies in NUREG-1140 demonstrate that the consequences of an accident at an ISFSI are insignificant in terms of the public health and safety. Furthermore, NRC has generally affirmed this conclusion through its evaluation of Defueled Emergency Plans for nuclear power plants which are permanently defueled but continue to store spent fuel on site (Possession Only License). The emergency plans for these facilities are appropriately focused on the onsite aspects of emergency response, while maintaining the ability to notify offsite authorities such as the fire, police, and medical personnel who play a role in addressing onsite emergency response. No licensee-provided "near-site" facility is needed for such offsite authorities to implement their onsite emergency planning responsibilities.

<u>Response</u>. The Commission agrees. This change is incorporated in the final regulation.

<u>Issue 33</u>. Mitigation of consequences (§ 72.32(a)(5)): The NRC proposes that the licensee describe those actions which would be taken to mitigate the consequences of each type of accident. This requirement should be revised to

require that the licensee describe the response actions for each classification of emergency.

<u>Response</u>. The regulation already requires, "Information to be communicated. A brief description of the types of information on facility status; radioactive releases; and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC."

Issue 34. Responsibilities (§ 72.32(a)(7)): The term "offsite response organizations" should be revised to "offsite authorities" in recognition of the findings of NUREG-1140, i.e., the consequences of accidental releases associated with the operation of an ISFSI would not exceed the EPA Protective Action Guidelines. The term "offsite response organizations" connotes a need for formal offsite components to the onsite emergency plan and thus, an offsite emergency response plan. This interpretation would be inconsistent with the conclusions of NUREG-1140 which postulated the worst-case accidents involving an ISFSI and found that the consequences were insignificant in terms of public health and safety. To preclude misinterpretation, the term "offsite authorities" should be used.

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<u>Response</u>. The Commission disagrees that the term "offsite response organizations" connotes the need for "formal offsite components" to the onsite emergency plan. The term simply refers to those offsite organizations that may be needed to respond to an emergency (medical, fire department, police, etc.)

<u>Issue 35</u>. Information to be communicated (§ 72.32(a)(9)): As concluded by the NRC in NUREG-1140, the consequences of the postulated worst-case accident involving an ISFSI are insignificant in terms of public health and safety. Therefore, because no offsite protective actions are needed, this

requirement should be revised to require that the licensee communicate only onsite facility status to offsite authorities.

<u>Response</u>. The Commission disagrees with the suggestion to delete the requirement that licensees notify offsite organizations of recommended protective actions. The Commission acknowledges that the consequences of a postulated worst-case accident involving an ISFSI are insignificant in terms of public health and safety. Nonetheless, the Commission also recognizes the need for offsite organizations to be informed by licensees so that, in the event of an accident, protective actions may or may not need to be taken.

<u>Issue 36</u>. Notification and coordination (§ 72.32(a)(8)): As recommended for § 72.32(a)(7), the term "offsite response organizations" should be revised to "offsite authorities."

Response. See Commission Response to Issue 34.

<u>Issue 37</u>. Types of accident (§ 72.32(a)(2): The NRC has proposed that the licensee identify the "types of accidents" that could occur at an ISFSI installation "for which protective actions may be needed." This requirement should be deleted because the analysis of potential accidents and their consequences, as documented in NUREG-1140, demonstrates that there are no accidents for which protective actions for the public may be needed. Furthermore, even if there were such accidents, the emergency plan is not the appropriate document for a description of the types of accidents that could occur. As is similarly done for operating reactors, any discussion on types of accidents is contained in the ISFSI Safety Analysis Report that supports the license application. Therefore, the licensee should be required only to identify the classification of accidents in 10 CFR 72.32(a)(3) and, in

general, response to those classifications, as is similarly required for operating plants.

<u>Response</u>. The Commission agrees to delete the words "... for which protective action may be needed." Nonetheless, the Commission believes that licensees should identify the types of accidents in the emergency plan in the same manner as Part 30, 40, and 70 licensees have done since 1989.

<u>Issue 38</u>. At a minimum, NRC should revise the term "protective actions" to "protective measures." The term "protective actions," as used by operating reactors, connotes the need for an offsite emergency response plan. In the case of an ISFSI, there is no need for an offsite emergency response plan because the consequences of potential accidents which can occur will not exceed the EPA Protective Action Guidelines. Furthermore, the term "protective measures" is now commonly used by Possession Only License holders to distinguish between onsite and offsite needs. Therefore, to preclude misinterpretation, we recommend that the term "protective measures" be used.

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<u>Response</u>. The Commission disagrees. There is nothing in the emergency planning licensing regulations for ISFSI that requires, implies, specifies or connotes the need for a formal offsite emergency response plan.

Issue 39. Changing the proposed 10 CFR Part 72 to require local involvement in the creation of the emergency response plan and require funding of local emergency planning and preparedness activities directly attributable to the additional and above ordinary risk of Spent Fuel Storage Facilities and Monitored Retrievable Storage Facilities is appropriate, given the above ordinary risk such facilities present to the local government units in their vicinity.

<u>Response</u>. In view of the requirements in this rule, regarding the potential involvement by local governments, a licensee may have an incentive based on its own self-interest to assist in providing manpower, items of equipment, or other resources that the local governments may need but are themselves unable to provide. The Commission believes that the question of whether the NRC should or could require a licensee to contribute to the expenses incurred by local governments in assisting in emergency planning and preparedness is beyond the scope of the rule.

Issue 40. Provisions should be included in the proposed rule to exempt Independent Spent Fuel Storage Installations (ISFSI) with very limited radionuclide inventories from the emergency planning requirements. This is best accomplished by establishing certain threshold values for the radiological consequences of potential accidents below which exemption can be granted.

<u>Response</u>. The Commission does not agree. An ISFSI is licensed to store specific inventories of radionuclides. The requirements focus on the emergency planning licensing requirements of an ISFSI, not the amount of fuel that may or may not be stored in an individual ISFSI during a specific time period.

<u>Issue 41</u>. 10 CFR 72.32(a)(12)(ii) specifies that the licensee critique each exercise using individuals not having direct responsibility for the plan. This regulation, while well intentioned, is burdensome, costly, and does not allow the personnel with emergency preparedness knowledge to identify and correct potential weaknesses. This statement seems to satisfy the requirements for independent review, not exercise performance [i.e., similar to § 50.54(t)]

<u>Response</u>. See Commission Response to Issue 30.

<u>Issue 42</u>. 10 CFR 72.32(a) does not define the term, "site of a nuclear power reactor." Does the term mean the owner controlled area, the site boundary, or protected area? Based on the definition of the term, the regulations could require some licensees that build ISFSI near their nuclear power plants but not on the site to have two emergency plans established. Consideration should be given to clarifying terms in order to avoid this problem especially since nuclear power plant emergency plans are substantially more extensive than ISFSI emergency plans.

<u>Response</u>. The Commission agrees. The final regulations states "not located within the exclusion areas as defined in 10 CFR Part 100 of a nuclear power reactor."

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<u>Issue 43</u>. The 10 CFR Part 70 emergency planning requirements (§ 70.22), which served as the model for the proposed rule, includes a provision for relief based on potential radioactive consequences. It contains the option of demonstrating that the consequences of an accidental release are below certain levels and thereby eliminated the need for emergency preparedness. We, recommend that a parallel provision be included in the proposed rule for the ISFSI. This would enable ISFSI with minimal radioactive sources to avoid the substantial costs associated with emergency preparedness which would far outweigh the negligible benefit to the safety of the public.

Response. See Commission Response to Issue 40.

<u>Issue 44</u>. Unfortunately, the public is not very reassured by the idea that the only offsite emergency planning that the discussion on the MRS cites is that the operators of the facility should have current phone numbers of offsite emergency services. Nor is the public very reassured that the NRC

asserts that the maximum off-site exposure from an MRS would be 1 rem. If this were true, there is a legitimate concern about being subjected to radiation equivalent to 50 additional chest x-rays--presumably without any notification or disclosure, let alone opportunity to avoid such irradiation. However, it does not seem credible that one could gather together the highest concentration of radioactivity on the planet and assert that there will be virtually no risk of exposure. This overlooks, at the very least, the potential for malicious attack on the facility from the air, such as the United States has engaged in wiping out "strategic targets" in other countries.

Response. A more accurate characterization of the offsite emergency planning component for an MRS is as follows: "(7) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC;" and "(9) Information to be communicated. A brief description of the types of information on facility status; radioactive release; and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC." and "(10)...special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel;" and "(12)... The licensee shall invite offsite response organizations to participate in the annual exercises."

Additionally, the offsite emergency planning component for an MRS includes:

"(i) Arrangements for requesting and effectively using offsite assistance on site have been made."
"(ii) Provisions exist for prompt communications among principal response organizations to offsite emergency personnel who would be responding onsite."

"(iv) Adequate methods, systems, and equipment for assessing and monitoring actual potential consequence of a radiological emergency condition are available."

"(vi) Radiological Emergency Response Training has been made available to those offsite who may be called to assist in an emergency onsite."

"(16) Arrangements made to provide information to the public."

Also, see the Commission's response to Issue 46.

<u>Issue 45</u>. The discussion of MRS emergency planning indicates the dependence upon offsite emergency responders. The fact that individuals would be called upon to respond to radiological crises without any special training, without protective gear and equipment is deeply disturbing to local community officials with whom we have reviewed this proposal. The full liability for dealing with emergency situations should reside with the operators of such a facility and those who are specially trained and understand that they are at risk, and are compensated on that basis. Dependence upon untrained local responders in a true emergency would amount to human sacrifice, and is not acceptable.

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<u>Response</u>. The regulations allow for extensive coordination, communication, and training of offsite response organizations. (See Commission Response to Issue 19.)

<u>Issue 46</u> Although the MRS will represent the largest concentration of irradiated fuel, to date, in one location, the U.S. Nuclear Regulatory Commission has recently proposed a rule that would waive any offsite emergency

planning or evacuation, in direct contradiction to the promises of safety to prospective host communities.

<u>Response</u>. In the final NRC Generic Environmental Impact Statement on the handling and storage of light water reactor fuel⁵, it is stated that

"...To be a potential radiological hazard to the general public, radioactive materials must be released from a facility and dispersed offsite. For this to happen:

- The radioactive material must be in a dispersible form
- There must be a mechanism available for the release of such materials from the facility, and
- There must be a mechanism available for offsite dispersion of such released material.

Although the inventory of radioactive material contained in 1000 MTHM of aged spent fuel may be on the order of a billion curies or more, very little is available in a dispersible form; there is no mechanism available for the release of radioactive materials in significant quantities from facility; and the only mechanism available for offsite dispersion is atmosphere dispersion....."

Furthermore, NRC has conducted Safety Evaluations on many different storage systems. Those studies included evaluations of the effects of corrosion, handling accidents such as cask drops and tipovers, explosions,

⁵NUREG-0575 Vol. 1 sec. 4.2.2 Safety and Accident Considerations.

fires, floods, earthquakes, and severe weather conditions. As documented in each of those Safety Evaluation Reports (SER), NRC was not able to identify any design basis accident that would result in the failure of a confinement boundary. However, to provide a conservative bounding analysis of the threat to the public health and safety, the failure of the confinement barrier was postulated. As discussed in each of the SERs and again in the response to Issue 48 the consequences of this postulated failure do not result in an increased risk to the public health and safety.

In the environmental assessment for 10 CFR Part 72⁶, the accident judged the most severe was the failure of a packaged fuel element. In this analysis, the accident involves the failure of a storage system containing 1.7 MTHM. The postulated individual doses are presented in Table 1⁷.

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Table 1 Total Dose to an Individual as a Result of a Fuel Canister Failure Accident at a Surface Storage Installation (mrem)				
<u>Pathway</u>	<u>Skin</u>	<u>Total Body</u>	<u>Thyroid</u>	Lung
Air Submersion	1.0 x 10 ⁻¹	1.1 x 10 ⁻³	1.1 x 10 ⁻³	1.1 x 10 ⁻³
Inhalation		1.2 x 10 ⁻⁵	1.1 x 10 ⁻²	7.3 x 10 ⁻⁵
Total	1.0 x 10 ⁻¹	1.1 x 10 ⁻³	1.2 x 10 ⁻²	1.1 x 10 ⁻³

Note: The maximum individual is defined as a permanent resident at a location 1600 meters southeast of the stack with a time-integrated atmospheric dispersion coefficient (E/Q of $1.5 \times 10^{-4} \text{ sec/m}^3$). The accident involves failure of a fuel canister containing approximately 1.7 MTHM.

⁷NUREG-1092 Table 2.2.4-2

⁶NUREG-1092 Environmental Assessment for Part 72 "Licensing Requirements for Independent Spent Fuel and High-Level Radioactive Waste."

Since the time these calculations were performed, the storage canisters have increased in capacity, and today the capacity of the largest approved design is approximately 9 MTHM. However, because dose varies directly with inventory, when the totals are increased by a factor of ten, they are still a very small fraction of the 300 mrem/yr^e an individual receives from natural background radiation, and is below the EPA protective action guides.

Also see the Commission's response to Issues 19 and 48.

<u>Issue 47</u>. It is premature for the Commission to make a rule with regard to emergency planning for an MRS. We also agree with others who point out that the MRS is a significantly different facility than an ISFSI--for two reasons. The first is the difference in the amount of irradiated fuel that would be present at the site: it is four orders of magnitude greater at an MRS than a single reactor site's load. The second is the fact that the MRS, according to the most common model described, would be a repackaging center for the waste. This industrial scale handling of high-level waste and irradiated fuel raises many safety and release concerns.

<u>Response</u>. See the Commission's response to Issues 18 and 48.

Issue 48. The commenter believes that the massive concentration of irradiated fuel at the reactor sites should have been the occasion for revisiting the emergency planning for each nuclear power plant. The irradiated fuel inventory on site far exceeds the amount of radioactive material contained within the reactor core at any one time. The fact that irradiated fuel has been forced to accumulate at reactor sites is no reason to now dismiss that greater radiological hazard that it poses to the populace and

⁸NRCP Report No. 94.

the environment. A rulemaking on the ISFSI in our view should include; "at reactor site facilities" and examine the current emergency planning with regard to the potential for much greater releases in the event of sabotage or natural disaster.

Response. For there to be a significant environmental impact resulting from an accident involving the dry storage of spent nuclear fuel, a significant amount of the radioactive material contained within a cask must escape its packaging and enter the biosphere. There are two primary factors that protect the public health and safety from this event. The first is the design requirements for the cask that are imposed by regulation. The regulatory requirements, as codified in the 10 CFR Part 72, have sufficient safety margins so that, during normal storage cask handling operations, offnormal events, adverse environmental conditions, and severe natural phenomena, the casks will not release a significant part of its inventory to the biosphere. Furthermore, the cask must be designed to provide confinement safety functions during the unlikely but credible design basis events, as required in § 72.122(b). In addition, § 72.122(h)(i) requires that the fuel clad be protected against degradation that leads to gross rupture, and § 72.122(1) requires that the fuel be retrievable. During the design evaluation process, these provisions received careful consideration. These general design criteria place an upper bound on the energy a cask can absorb before the fuel is damaged. No credible dynamic events have been identified that could impart such significant amounts of energy to a storage cask after that cask is placed at the ISFSI.

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Additionally, there is a second factor which does not rely upon the cask itself but considers the age of the spent fuel and the lack of dispersal

mechanisms. There exists no significant dispersal mechanism for the radioactive material contained within a storage cask. In the case of an operating nuclear power plant, the dispersal mechanism for radioactive material in the spent fuel is either derived from the heat produced during the fission process or the decay heat which exists in the short period immediately following shutdown. During these times, the potential exists for an accident that could cause the fuel cladding to fail. However, emergency systems exist at every power plant to protect against just such an occurrence. On the other hand, spent fuel stored in an ISFSI is required to be cooled for at least 1 year. Based on the design limitations, the majority of spent fuel is cooled greater than 5 years. At this age, spent fuel has a heat generation rate that is too low to cause significant particulate dispersal in the unlikely event of a cask confinement boundary failure. Therefore, the consequences of worstcase accidents involving an ISFSI located on a reactor site would be significantly less than those accidents involving the reactor. Therefore, current reactor emergency plans adequately provide for the protection of the public from the ISFSI located at or near reactor sites.

<u>Issue 49</u>. An ISFSI not at a reactor warrants site-specific emergency planning that includes evacuation of surrounding population at least as stringent as nuclear reactor licensing. For example, specific provisions should be included requiring: (1) coordination of the on-site plan with the off-site local and state emergency management agencies; (2) training of the potential off-site responders; and (3) public information/education for local populations.

<u>Response</u>. The Commission does not agree that as a general matter emergency plans for an ISFSI must include evacuation planning. Nonetheless

the Commission agrees that the specific provisions mentioned in the comment should be and are specifically included in the proposed and final emergency planning licensing requirements for ISFSI and MRS. See 10 CFR 72.32 (a)(10), (12), (14), and (16) and 10 CFR 72.32 (b) $(10)^{\frac{1}{2}}$, (12), (14), (15), and (16).

<u>Issue 50</u>. There is no mention of financing the affected jurisdictions to provide the requisite resources to support the planning, operations, response, exercises, recovery and equipment requirements defined as necessary in the plan for off-site agency response.

<u>Response</u>. See the Commission's response to Issue 39.

<u>Issue 51</u>. The NRC should defer as premature the proposed Part 72.32(b), which would establish emergency planning requirements for MRS's, until a final MRS design has been selected. Until it is decided whether such facilities would be equivalent, in the Commission's words, to "a large industrial facility" or merely to "a warehouse operation," there is no rational basis to determine the appropriate level of emergency planning requirements.

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<u>Response</u>. See Commission Response to Issue 18.

<u>Issue 52</u>. NRC should prepare a full environmental impact statement before issuing any emergency response guidelines. The potential for environmental damage from accidents during the transportation, storage and repackaging of spent fuel rods cannot even be calculated until DOE determines whether to develop a universal cask or a dual purpose cask for transportation/storage/disposal of spent fuel rods. Until this very preliminary decision is made, there is no way of determining what level of aćtivity (or the dangers from that activity) will actually take place at an MRS facility. NRC's response to this uncertainty, "to mandate a minimum level

of offsite response capability" does not address potential and very real risks to the public.

<u>Response</u>. The Commission disagrees. The Commission stated the following in the preamble to the proposed rule:

"The Commission has determined under the National Environmental Policy Act of 1969, as amended, the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment; and therefore, an environmental impact statement is not required. The rule would not affect the probability or the size of accidental radioactive releases. It might in some cases reduce the doses people near the facility site could receive. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. The environmental assessment and finding of no significant impact are contained in Section 4.3 of NUREG-1140, "A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees."⁹ Single copies are available upon written

⁹Copies of NUREGs may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, DC 20402-9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for inspection and copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555-0001.

request from NRC Distribution Section, Office of Administration, USNRC, Washington, DC 20555."

<u>Issue 53</u>. An MRS facility poses far greater potential risk to the public than even a nuclear power plant simply by virtue of the quantity of spent fuel rods to be stored. For example, a nuclear power plant stores no more than 1 metric ton of spent fuel while the MRS facility is authorized to store from 10,000 to 15,000 metric tons of spent fuel. Therefore, licensing procedures and requirements for an MRS facility must be more strict than even those required for a nuclear power plant.

<u>Response</u>. See the Commission's Response to Issue 48.

<u>Issue 54</u>. The NRC must require off-site evacuation planning for MRS facilities. NRC estimates that "the maximum dose to a member of the public offsite due to an accidental release of radioactive materials would likely not exceed 1 rem effective dose equivalent" cannot be defended because of the uncertainties. Without an EIS, NRC must at a minimum assume that an MRS facility poses an equal danger to the public as a nuclear reactor does. CCNS therefore recommends that NRC minimally require a 10-mile radius evacuation plan for MRS facilities.

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<u>Response</u>. See the Commission's Response to Issue 48.

<u>Issue 55</u>. The NRC's requirement to "notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers" is completely unrealistic. The current applicants for MRS facilities are all Indian Nations whose reservations are located in rural areas with no emergency response training, equipment or expertise for handling nuclear emergencies. At a

minimum, NRC's proposed rule must require training and equipment for both emergency response personnel as well as hospital facilities.

<u>Response</u>. See the Commission's Response to Issue 19.

Additionally, the Commission received 21 suggested editorial changes to the wording of the proposed regulations. Those changes that improved or clarified the proposed regulations were incorporated into the final regulations. Those suggested changes in wording that departed from the Commission's original intent were not incorporated into the final regulations.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore, an environmental impact statement is not required. The rule does not affect the probability or the size of accidental radioactive releases. It might in some cases reduce the doses people near the facility site could receive. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. The environmental assessment and finding of no significant impact are contained in 4.3 of NUREG-1140, "A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees."

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Action 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150-0132.

Public reporting burden for this collection of information is estimated to average 625 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for further reducing reporting burden to the Information and Records Management Branch, T-6F33, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0132), Office of Management and Budget, Washington, DC 20503.

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Regulatory Analysis

The Commission has prepared a regulatory analysis on this final regulation. The analysis examines the accident scenarios considered by the Commission as well as the costs and benefits of actions considered. The analysis is available by contacting Michael T. Jamgochian, Office of Nuclear Regulatory Research, U. S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301-415-6534).

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, (5 U.S.C. 6059b), the Commission certifies that this rule does not have a significant economic impact upon a substantial number of small entities.

The final rule requires the development and implementation of emergency plans by licensees who are authorized to possess significant amounts of radioactive material. These companies do not fall within the definition of a small business found in the Small Business Act, 15 U.S.C. 632, or within the small business size standards set forth in 13 CFR Part 121. The final rule will affect three (3) licensees. Two licensees hold 10 CFR Part 50 licenses and are required to comply with the provisions respecting emergency plans set out in Part 50. Thus, the final rule does not impose a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act of 1980.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109 and 10 CFR 72.62, do not apply to this rule change because these amendments do not involve any provisions which would impose backfits as defined in § 50.109 (a)(1) or in 10 CFR 72.62. The final rule does not change or impose additional requirements on any ISFSI currently licensed under 10 CFR Part 72. For existing ISFSIs at reactor sites, the final rule continues the current option to comply with 10 CFR 50.47. For G. E. Morris, the only ISFSI licensed under 10 CFR Part 72 for operation away from a reactor site, the licensee

currently is required to have emergency response capabilities that will comply with this rule. Therefore, inasmuch as the rule imposes no requirements on any Part 50 facility and imposes no new or different requirements on any Part 72 facility after a license has been issued, a backfit analysis is, therefore, not required for this final rule.

List of Subjects in 10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble, and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C 552, and 553, the NRC is adopting the following amendments to 10 CFR Part 72:

PART 72 - LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as

amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 295 as amended by Pub. L 102-486, sec 7902, 106 Stat. 3123 (42 U.S.W. 5851); sec. 102, Pub. L. 91-190, 83 Stat. (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162(b), 10168(c), (d). Section 72.46 also issued under sec. 189, 68 Stat. 935 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203; 101 Stat. 1330-235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222. 2244 (42 U.S.C. 10101, 10137(a), 10161(h). Subparts K and L are also issued under sec. 133, 96 Stat. 2230 (42 U.S.C. 10153) and 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

Section 72.32 is revised to read as follows:
§ 72.32 Emergency Plan.

(a) Each application for an ISFSI that is licensed under this Part which is: not located on the site of a nuclear power reactor, or not located within the exclusion area as defined in 10 CFR Part 100 of a nuclear power reactor, or located on the site of a nuclear power reactor which does not have an operating license, or located on the site of a nuclear power reactor that is not

authorized to operate must be accompanied by an Emergency Plan that includes the following information:

(1) Facility description. A brief description of the licensee's facility and area near the site.

(2) Types of accidents. An identification of each type of radioactive materials accident.

(3) Classification of accidents. A classification system for classifying accidents as "alerts."

(4) Detection of accidents. Identification of the means of detecting an accident condition. $\frac{1}{3}$

(5) Mitigation of consequences. A brief description of the means of mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

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(6) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(7) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC; also responsibilities for developing, maintaining, and updating the plan.

(8) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be

established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the NRC operations center immediately after notifications of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.¹⁰

(9) Information to be communicated. A brief description of the types of information on facility status; radioactive releases; and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC.

(10) Training. A brief description of the training the licensee will provide workers on how to respond to an emergency and any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel.

(11) Safe Condition. A brief description of the means of restoring the facility to a safe condition after an accident.

(12) Exercises.

(i) Provisions for conducting semiannual communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Radiological/Health Physics, Medical, and Fire drills shall be conducted annually. Semiannual communications checks with offsite response organizations must include the check and update of all

¹⁰These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other State or Federal reporting requirements.

necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercise.

(ii) Participation of offsite response organizations in biennial exercises, although recommended, is not required. Exercises must use scenarios not known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for conducting the exercise. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(13) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Public Law 99-499, with respect to hazardous materials at the facility.

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(14) Comments on Plan. The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the initial submittal of the licensee's emergency plan before submitting it to NRC. Subsequent plan changes need not have the offsite comment period unless the plan changes affect the offsite response organizations. The licensee shall provide any comments received within the 60 days to the NRC with the emergency plan.

(15) Offsite assistance. The applicant's emergency plans shall include a brief description of the arrangements made for requesting and effectively using offsite assistance on site and provisions that exist for using other organizations capable of augmenting the planned onsite response.

(16) Arrangements made for providing information to the public.

(b) Each application for an MRS that is licensed under this part and each application for an ISFSI that is licensed under this part and that may process and/or repackage spent fuel, must be accompanied by an Emergency Plan that includes the following information:

(1) Facility description. A brief description of the licensee facility and area near the site.

(2) Types of accidents. An identification of each type of radioactive materials accident.

(3) Classification of accidents. A classification system for classifying accidents as "alerts" or "site area emergencies."

(4) Detection of accidents. Identification of the means of detecting an accident condition.

(5) Mitigation of consequences. A brief description of the means of mitigating the consequences of each type of accident, including those provided to protect workers on site, and a description of the program for maintaining the equipment.

(6) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(7) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC; also responsibilities for developing, maintaining, and updating the plan.

(8) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of

contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment · will not prevent the notification and coordination. The licensee shall also commit to notify the NRC operations center immediately after notifications of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.¹¹

(9) Information to be communicated. A brief description of the types of information on facility status; radioactive releases; and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC.

(10) Training. A brief description of the training the licensee will provide workers on how to respond to an emergency and any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel.

(11) Safe Condition. A brief description of the means of restoring the facility to a safe condition after an accident.

(12) Exercises.

(i) Provisions for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Radiological/Health Physics, Medical, and Fire Drills shall be held semiannually. Quarterly communications checks with offsite response organizations must include the check and update of all

¹¹These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other State or Federal reporting requirements.

necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises.

(ii) Participation of offsite response organizations in the biennial exercises, although recommended, is not required. Exercises must use scenarios not known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for conducting the exercise. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(13) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Public Law 99-499, with respect to hazardous materials at the facility.

(14) Comments on Plan. The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the initial submittal of the licensee's emergency plan before submitting it to NRC. Subsequent plan changes need not have the offsite comment period unless the plan changes affect the offsite response organizations. The licensee shall provide any comments received within the 60 days to the NRC with the emergency plan.

(15) Offsite assistance. The applicant's emergency plans shall include the following:

(i) A brief description of the arrangements made for requesting and effectively using offsite assistance on site and provisions that exist for using other organizations capable of augmenting the planned onsite response.

(ii) Provisions that exist for prompt communications among principal response organizations to offsite emergency personnel who would be responding onsite.

(iii) Adequate emergency facilities and equipment to support the emergency response onsite are provided and maintained.

(iv) Adequate methods, systems, and equipment for assessing and monitoring actual or potential consequences of a radiological emergency condition are available.

(v) Arrangements are made for medical services for contaminated and injured onsite individuals.

(vi) Radiological Emergency Response Training has been made available to those offsite who may be called to assist in an emergency onsite.

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(16) Arrangements made for providing information to the public.

(c) For an ISFSI that is (i) located on the site, or (ii) located within the exclusion area as defined in 10 CFR Part 100, of a nuclear power reactor licensed for operation by the Commission, the emergency plan required by 10 CFR 50.47 shall be deemed to satisfy the requirements of this section.

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(d) A licensee with a license issued under this part may take reasonable action that departs from a license condition or a technical specification (contained in a license issued under this part) in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent.

Dated at Rockville, Maryland, this $\frac{7l}{6}$ day of $\frac{7l}{5}$ unce, 1995.

For the U.S. Nuclear Regulatory Commission.

Andrew L. Bates

Acting Secretary of the Commission

OKLAHOMA TOXICS CAMPAIGN INC.

3000 United Founders Blvd. Suite 125 Oklahoma City, OK 73112 (405) 843-1873 DOCKETED



PROPOSED RULE PR 72

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USNRC

(58FR 29795)

July 11, 1994

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

SEP 2 8 1994

Secretary U.S. Nuclear Regulatory Commission Washington, D.C. 20555 ATTN: Docketing and Service Branch

Dear Secretary:

This letter is to constitute public comment of the Oklahoma Toxics Campaign Inc., a state-wide environmental organization with over 15,000 members, on the Nuclear Regulatory Commission's proposal that would not require off-site emergency planning around the proposed Monitored Retrievable Storage site or along the waste transportation routes.

The NRC plans to rely on local emergency response providers who are <u>not</u> required to be trained <u>specifically</u> to address radiological hazards and who may not even be aware of radioactive waste shipments being transported through their area. The NRC plan unnecessarily burdens local emergency response providers, placing Americans at risk. It is conceivable that local emergency responders could act improperly in regards to the special hazards of radiological material and inadvertently endanger emergency crews and communities. The NRC's lack of interest in the public health of Americans raises serious questions about the presumed safety of NRC-licensed operations.

To fail to absolutely <u>require</u> emergency response plans developed specifically to address radiological hazards possible in a nuclear waste transportation or storage accident is to fail to protect the health of communities nationwide. It is a gross example of negligence and endangerment of America's communities and our environment by the NRC.

It is the position of the Oklahoma Toxics Campaign, Inc. that every community hosting a nuclear facility, as well as every community along rail and highway transportation routes be trained and equipped to meaningfully respond to a worst-case radiological accident scenario at the expense of the NRC and/or the nuclear industry.

Many local communities lack the funding and equipment to provide the needed response without substantial help. To fail to

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S. NUCLEAR PERSON SCAMPOSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

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Secretary Nuclear Regulatory Commission July 11, 1994 Page 2 of 2

provide emergency response funding for all communities is to endanger poorer communities for the convenience of the NRC and the multi-billion dollar nuclear industry-- a situation that is ethically and morally reprehensible.

In addition, we find the NRC's estimates of 1 rem <u>maximum</u> exposure from a "worst-case" scenario accident too high to be deemed an insignificant exposure to the public, since it exceeds by ten times the NRC's annual exposure limit for "routine" exposures and fails to account for the effects of radiation on more susceptible members of the population such as children and the elderly.

Further, the NRC's 1 rem estimate is unrealistically optimistic. It is likely that a storage or transportation accident could expose the public to doses many times higher than 1 rem given the levels of radioactivity of the waste. Estimating a <u>maximum</u> exposure of 1 rem in order to justify their failure to require emergency response plans and training unnecessarily endangers public health and the environment for the convenience of the NRC and the nuclear industry.

The Nuclear Regulatory Commission has a responsibility to protect Americans from the hazards of man-made radioactive substances. Meaningful emergency response in at-risk communities is a crucial area of responsibility when the NRC sanctions crosscountry truck and rail shipments of highly radioactive material. The NRC and the nuclear industry should embrace this aspect of their responsibility with the same enthusiasm and financial commitment that they have given to siting disposal facilities.

Sincerely,

Earl L. Hatley Executive Director

on behalf of the Board of Directors and the membership of the Oklahoma Toxics Campaign, Inc. (58 FR 29795) Environmental Coalition on Nuclear Power Greenpeace National Environmental Coalition of Native Americans Native Americans for a Clean Environment Nuclear Free America Nuclear Information and Resource Service Public Citizen, Critical Mass Energy Project Safe Energy Communication Council Southwest Research and Information Center Water Information Network

DOCKET NUMBER PROPOSED RULE

P.2/4

94 MAY -5 P6:40

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

August 16, 1993

President Bill Clinton The White House 1600 Pennsylvania Avenue, NW Washington, DC 20036

Dear Mr. President,

We urge you not to nominate anyone for the position of U.S. Nuclear Negotiator. We also ask you to take decisive action to end the Monitored Retrievable Storage (MRS) program.

The primary job of the Nuclear Waste Negotiator has been to site a "temporary" dump for high-level radioactive waste from nuclear power reactors. The Negotiator's Office, established in 1987, has made promises of schools, hospitals, roads, cash, and more to any community willing to host the "temporary" nuclear dump, called the MRS facility. The Minnesota Supreme Court has upheld a ruling that an MRS cannot be considered a temporary facility.

Of 24 Counties and Tribal Governments that applied for grants to consider hosting the MRS, eight Tribal Governments remain in the process and all four counties that were considering the dump have dropped out. Thus, the national debate about the MRS now has unique relevance to Native Americans. This impact is not new, in that the high-level waste from an MRS is destined to go to Yucca Mountain - land legally owned by the Western Shoshone Nation -- who oppose the facility.

This issue has a broader context than that of radioactive waste management, as Senator Ben Nighthorse Campbell told the Denver Post in May of last year: "It's like the old treaties. The government is playing the same game. If you're hurting bad enough, you'll sign anything."

THE MRS FACILITY IS NOT NEEDED

We oppose the MRS, and ask you to act to stop it, not only because it unfairly targets low-income communities, but also because the program is unnecessary.

DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

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Letter 8/16/93 page--2

Various analyses of our nation's radioactive waste management programs have concluded that the MRS facility is not needed. For example, the House Interior and Insular Affairs Committee reported last year that, "(T)he Monitored Retrievable Storage Program no longer represents a useful or necessary interim step in the high level waste program." The Monitored Retrievable Storage Commission, members of which were appointed by Congress, arrived at a similar conclusion in 1989. (See "Nuclear Waste: Is There A Need for Federal Interim Storage?" Report of the Monitored Retrievable Storage Review Commission, November 1, 1989.) The General Accounting Office has also criticized the MRS program, concluding that an MRS facility would provide no safety or economic advantages. (See "Operation of Monitored Retrievable Storage Facility is Unlikely by 1998" GAO/RCED-91-194.)

In addition, the Western Governors' Association, comprised of twenty governors, issued a 1991 policy statement reading: "The western governors oppose the location of an MRS only in a western state for waste not generated in the West, because such location would fail to minimize the system-wide impacts of transportation of spent fuel from nuclear power reactors to an MRS." This position is particularly relevant today because the Tribal Governments considering the MRS represent tribes in the western U.S.

THE FEDERAL GOVERNMENT DOES NOT NEED THE MRS TO FULFILL AN OBLIGATION TO ACCEPT IKRADIATED FUEL FROM POWER COMPANIES BY 1998

Some MRS supporters have argued that the facility is needed because the federal government is required by law and subsequent contracts to accept irradiated fuel by 1998 -- or face lawsuits from power companies. The Energy Department does not believe it is under such legal obligation.

Former Secretary James Watkins wrote in May, 1992: "If, contrary to our current expectations, we are not able to begin spent fuel receipt at an MRS facility by Jan. 31, 1998, the Department has determined that it is not legally obligated to accept SNF." (Letter from former Energy Secretary James Watkins to Allen Keesler, May 27, 1992.)

THE ILLUSION OF DISPOSAL

If the MRS is not needed to improve our nation's radioactive waste management program, why is the Energy Department (under your Administration) backing it? Under pressure from the nuclear power industry, the Energy Department hopes that by dumping radioactive waste in a large, "temporary" facility, it will create the illusion that such waste is disposable. In so doing, the Department hopes to placate the concerns of an increasing number of citizens who are alarmed at the growing amount of high-level radioactive waste which -- in fact -- is non-disposable.

Although the MRS will represent the largest concentration of irradiated fuel, to date, in one location, the U.S. Nuclear Regulatory Commission has recently proposed a rule that would waive any off-site emergency planning or evacuation, in direct contradiction to the promises of safety to prospective host communities.

AUG 31 '29 10:53AM

Letter 8/16/93 page--3

A NEGOTIATOR IS NOT NEEDED

By refraining from nominating a new Nuclear Waste Negotiator, you would take a step towards stopping the wasteful MRS program. It is certainly within the President's power not to make this nomination. After all, former President Ronald Reagan chose not to nominate a Negotiator. leaving the position empty for about two years.

It is clear to us that wasteful and dangerous federal programs, like the MRS, should be stopped. We ask you to help us. Leaving the Nuclear Waste Negotiator position vacant is a first step in ending the MRS program.

In addition to cutting the MRS program we call upon you to take the lead in initiating a full-scale review of all the radioactive waste policies and programs that federal and state governments are currently pursuing, before costly implementation continues.

Representatives from our groups are willing to meet with you or your staff at your convenience to discuss this in more detail (contact list attached). We look forward to hearing from you.

Sincerely,

Dr. Judith Johnsrud Director Environmental Coalition on Nuclear Power Jennifer Blomstrom Nuclear Campaigner Greenpeace

Grace Thorpe President National Environmental Coalition of Native Americans

Lance Hughes Director Native Americans for a Clean Environment

William Magavern Executive Director Public Citizen, Critical Mass

Don Hancock Administrator Southwest Research and Information Center Charles K. Johnson Executive Director Nuclear Free America

Michael Mariotte Executive Director Nuclear Information and Resource Service

Martin Gelfand Research Director Safe Energy Communication Council

Lila Bird Executive Director Water Information Network V

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CEA-FYJ. Pls. call me if you have any goestimes 504-2598

OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

1823 JEFFERSON PLACE, NW WASHINGTON, DC 20036 PHONE: (202) 634-6244 FAX: (202) 634-6251

DATE <u>8.31-93</u> TO <u>Rovethe Virgitio</u> PHONE <u>FAX</u> MESSAGE <u>FYT</u> <u>NRC</u> is newtoned in last <u>porcegragh</u> <u>and</u> <u>page</u> <u>porcegragh</u> <u>and</u> <u>page</u> FROM <u>Recal Hooghen</u> Y NUMBER OF PAGES INCLUDING COVER State of New Mexico ENERGY, MINERALS and NATURAL RESOURCES DEPARTMENT

Santa Fe, New Mexico 87505



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BRUCE KING GOVERNOR ANITA LOCKWOOD CABINET SECRETARY

November 3, 1993

Secretary U.S. Nuclear Regulatory Commission Washington, D.C. 20555

ATTN: Docketing and Service Branch

Following are the State of New Mexico's comments on the proposed rulemaking on "Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Installations (ISFSI) and Monitored Retrievable Storage (MRS) Facilities." This proposed rulemaking was published for comment in the *Federal Register* of May 24, 1993, Vol. 58, No. 98, p. 29795. An extension of the public comment period, from August 9 to November 9, was noticed in the *Federal Register* of August 30, 1993 (58 *FR* 29795).

GENERAL COMMENTS

The State of New Mexico supports, with those modifications specified below, the proposed amendments to Part 72 of Title 10 of the Code of Federal Regulations (10 CFR 72). The amendments provide the emergency planning licensing requirements for ISFSI and MRS facilities, including the preparation of emergency plans and the notification of offsite response organizations. We believe compliance with these requirements will better ensure a level of preparedness at these facilities that is consistent with the NRC's defense-in-depth philosophy--a philosophy the State of New Mexico endorses.

The State commends the NRC for recognizing the need to establish unique provisions in the emergency planning requirements for ISFSI facilities versus MRS facilities. We concur there is a potential need for enhanced emergency planning requirements appropriate to the entire range of operations which may be conducted at a MRS facility. Given the current uncertainties in the design, engineering, and operation of the MRS, it is prudent to raise the level of emergency planning to include requirements for offsite preparedness.

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P.O. Box 2088 87504-2088 827-5800

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SPECIFIC COMMENTS

The following comments and recommendations pertain to proposed new paragraphs (a) and (b) to **Section 72.32 Emergency plan.**, Title 10, Code of Federal Regulations.

Paragraphs (a) (1) & (b) (1) Facility description.--This description is to address the licensee's facility and the "...area near the site." However, no guidance is provided by NRC with respect to the size and extent of the area to be described. Moreover, the type of description sought by NRC is unclear. Specific guidance should be provided in the preamble to the final rule or in the final rule itself.

At a minimum, the description of the area should include general information on population distribution and density; surface waters/watercourses; special facilities which may be difficult to evacuate (e.g., schools, hospitals, nursing homes, stadiums); climatological conditions; land use, including identification of environmentally sensitive lands; and site access routes. In addition, it is recommended the phrase "area near the site" be interpreted to encompass all lands potentially impacted by an accident and at least those lands within ten (10) miles of the site boundary. Submittal of a corresponding map by the licensee is also recommended.

- & (b)(2) Types of accidents.--These two Paragraphs (a)(2) subparagraphs require "...identification of each type of radioactive materials accident for which protective actions may be needed." It is important the licensee be instructed to address both man-made and natural causes of accidents (e.g., fires, earthquakes, tornadoes). The licensee should also be required to identify each type of "hazardous" materials accident for which protective actions may be required. Broadening the scope of these subparagraphs to include hazardous materials accidents is both prudent and warranted, given the fact a hazardous materials accident may cause or in a radioactive materials result accident onsite. Furthermore, it simply makes more sense for radioactive and hazardous materials accidents to be addressed in a single emergency plan.
- Paragraphs (a)(3) & (b)(3) Classification of accidents.--Clarification is required to ensure a thorough understanding of all of the various classes of accidents to which the NRC refers. For example, the term "alert" is used in this proposed rulemaking, but is not defined in 10 CFR part 72 where the regulations will be codified. It is recommended a reference to Section 30.4 Definitions., Title 10, Code of Federal Regulations (where such terms are defined) be included in both of these subparagraphs.

- Paragraphs (a)(4) & (b)(4) **Detection of accidents.**--Integral to accurately detecting an accident condition in a timely manner is ensuring proper maintenance and calibration of the detection equipment. The licensee should be required to specify procedures and time frames for such maintenance and calibration, particularly for radiation monitors and similar types of equipment.
- Paragraphs (a)(5) & (b)(5) Mitigation of consequences.--This section of the plan must include "...a description of the means of mitigating the consequences of each type of accident." Are the expected "consequences" to be spelled out in the emergency plan? If not, where can they be found? In the approved license application? Clarification is required in the final rule.

In the case of a MRS facility, where the U.S. Department of Energy is the licensee, it is important to describe in detail how the Federal radiological emergency response system will be deployed. The availability of human and physical resources at the Federal level must be addressed in this section of the emergency plan.

- Paragraphs (a) (6) & (b) (6) Assessment of releases.--The information resulting from this section of the plan is critical for developing appropriate emergency response guidance for offsite response organizations. For this reason, it is important the licensee be encouraged to estimate the various quantities of radioactive and hazardous materials that could be released for each type of accident and, based on those estimates, develop preliminary recommendations on necessary protective actions.
- Paragraphs (a)(8) & (b)(8) Notification and coordination.--This section is the emergency plan's linchpin with respect to the participation of State and local governments. It is of paramount importance in mounting an effective response to most accidents at a ISFSI or MRS facility. In light of this consideration, the licensee should be required to provide more than "...a commitment to and a brief description of the means to promptly notify offsite response organizations." For example, the plan should include a listing of the names, addresses, and phone numbers of offsite response organizations which may be involved in responding to an accident. Fire protection, enforcement, and law emergency medical organizations at both the State and local levels must be identified, as well as those entities with expertise in the field of radiological health protection. The inclusion of contingency notification procedures should also be required in the event accident conditions preclude the use of established channels of communication.

- Paragraphs (a) (9) & (b) (9) Information to be communicated.--At a minimum, the licensee should be required to communicate the following types of information: Time and Date of Accident; Location of Accident (i.e., specific location at the site); Status of Facility; Type and Amount of Radioactive and/or Hazardous Materials Involved; Release of Radioactive and/or Hazardous Materials; Accident Class (e.g., alert or site area emergency); Injuries/Fatalities; Fire (present or imminent); Special Resources Requested; Recommended Protective Actions.
- Paragraph (a)(10) & (b)(10) Training.--The training to be provided workers and offsite response organizations by the licensee must include specific guidance and procedures for effectively handling the full range of potential accidents at its facility. The training and re-training of emergency personnel over the facility's operational life should be mandatory.
- Paragraph (a)(11) & (b)(11) **Safe Condition.**--This section of the plan would require the licensee to provide "...a brief description of the means of restoring the facility to a safe condition" after an accident. It is recommended the licensee be required to specify how it proposes to coordinate with the NRC and the affected State in determining what constitutes "a safe condition."
- Paragraph (a)(12) & (b)(12) **Exercises.**--The State of New Mexico supports NRC's proposal for the licensee to conduct: 1) for ISFSI facilities, semiannual communications checks with offsite response organizations and biennial onsite exercises; and 2) for MRS facilities, quarterly communications checks with offsite response organizations and annual onsite exercises. We believe the greater frequency of communications checks and onsite exercises proposed for MRS facilities is justified owing to the broader range of activities which may occur there.
- Paragraphs (a) (14) & (b) (14).--It is recommended the language in these subparagraphs be revised as follows to require the licensee to provide a copy of its emergency plan to offsite response organizations for review and comment:

"The licensee shall provide a copy of its draft emergency plan to offsite response organizations expected to respond in case of an accident. The licensee shall allow those offsite response organizations 60 days to comment on the emergency plan before submitting it to NRC. The licensee shall provide any comments received to the NRC with the emergency plan."

Any proposed amendments to the plan should also be provided to offsite response organizations for review and comment prior to submittal to the NRC.

- Paragraph (a)(15).--This subparagraph needs to be reworked to better convey NRC's intent. Its purpose appears to be "...to assure for potential offsite assistance." However, the requirements as proposed may not be adequate, particularly in terms of specificity, to achieve the desired result.
- Paragraph (b) (15).--The immediately preceding comments also apply to this subparagraph. An example of why clarification is needed is found in the first part of this section, which refers to a "review" of an applicant's emergency plan. Does this refer to a review by offsite response organizations? By the NRC? Similarly, how can a "review" include "arrangements for requesting and effectively using offsite assistance?" Does the NRC mean that the plan must provide an indication such arrangements have been made? If so, this must be stated more clearly.
- Paragraphs (a)(16) & (b)(16).--The State supports requiring the licensee to outline its strategy for providing information to the public. What is not clear from the proposed rulemaking is the types of information to be made available. It is recommended the licensee be required to provide general information on operation of the facility and its potential impacts, particularly with respect to public health and safety; and specific information on emergency preparedness capabilities and activities.

Finally, the NRC requests in its proposal that comments specifically address whether an offsite component to emergency preparedness at an MRS is reasonable, appropriate or premature at this time. The State of New Mexico believes the inclusion of such an offsite component is both reasonable and appropriate now because of the long lead times associated with the planning, development and implementation of an effective radiological emergency preparedness system. Our experience with the Waste Isolation Pilot Plant (WIPP) indicates this to be the case.

Thank you for the opportunity to comment on this important rulemaking.

Sincerely,

ANITA LOCKWOOD Chairman Radioactive Waste Consultation Task Force State of New Mexico

c: Task Force Cabinet Secretaries
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BOCKETING V SERVICE BRANCH

September 28, 1993 P2-S2-021

Secretary U. S. Nuclear Regulatory Commission Washington, D. C. 20555

- Attn: Docketing and Service Branch FR Doc 93-12095 Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)
- Reference: Letter from Frederick Peso to Secretary, P2-S1-086, dated August 6, 1993

Dear Secretary:

When the Mescalero Tribal Council initiated studies to determine the feasibility of hosting an MRS on Tribal lands, protection of the health and safety of those working and living near such a facility was our primary concern. As I indicated on August 6, we wish to express ourselves more fully on this issue, as we proceed with our inquiries, and we appreciate the decision to extend the public comment period with respect to emergency planning requirements. I want to restate clearly the Tribal Council's commitment to a philosophy of extraordinary protection of public and employee health and safety at an MRS.

We have concluded that minimum requirements, such as those currently proposed by the NRC rulemaking process, should serve as guidance for the starting point from which Emergency Planning and Licensing Requirements can be fully developed. Through the voluntary MRS negotiation process, and in consultation with affected jurisdictions, we expect to establish requirements that will considerably exceed those set forth as minimums by the NRC. Public concerns regarding nuclear facilities can only be allayed if confidence exists that the emergency preparedness and response capacity of nearby communities is capable of coping with even the most unlikely events. Without this extra margin of safety, public acceptance will be virtually impossible to achieve for an MRS.

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Consequently, the Mescalero Tribal Council will take no shortcuts in protecting the health, safety and environmental integrity of our lands, our people and our neighbors.

Sincerely,

eso Frederick Peso

Mescalero Tribal Council Member and MRS Project Manager



BRUCE KING GOVERNOR State of New Mexico SED HULE ENVIRONMENT DEPARTMENT (58 Harold Runnels Building 1190 St. Francis Drive, P.O. Box 26110 Santa Fe, New Mexico 87502 (505) 827-2850

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R 29795

September 29, 1993

Mr. Richard L. Bangart, Director Office of State Programs U.S. Nuclear Regulatory Commission Washington, DC 20555-001

Dear Mr. Bangart:

This is in answer to your invitation for comments on 10CFR72, Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS), SP-93-131.

The time extended by Proposed Rule 58 FR 45463, dated August 10, 1993, for 90 days allows the State Environment Department time to study and prepare comments in a timely manner.

Since the NRC has published proposed amendments to 10 CFR parts 30, 40 and 70 that would require certain fuel cycle and other radioactive materials licensees, engaging in activities that have a "potential for accidental release of NRC licensed materials" to prepare plans for responding to such accidents, these same rules could be used to establish the pattern for an Emergency Plan under 10CFR Part 72. The many similarities contained in parts 30, 40 and 70 that would exist as a requirement in Part 72 all carry the connotations of protecting the public against "similar radiological hazards".

Other comments and questions follow:

On page 29797 of the proposed rules, first column, the statement is made; "As a result of the above evaluation, the commission is proposing that the emergency planning licensing requirements for Part 72 licenses be similar to those requirements already codified in 10 CFR 70.22 for other part of 70 licensees." Should this statement also include 10CFR Part 70.24 (Criticality Accident requirements)? Since the racking arrangement of spent fuel storage is changing in a manner that places spent fuel assemblies closer than in the past because of storage space needs, criticality accidents possibilities might increase especially in the dry cell storage.

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Letter to Richard Bangart September 29, 1993 Page 2

In the same column "NUREG-1140 concluded that the postulated worstcase accident involving an ISFSI has insignificant consequences to the public health and safety. Therefore, the proposed requirements to be imposed on ISFSI licensees reflect this fact, and do not mandate formal offsite components to their on-site emergency plans."

Although this statement might be true to a point, it must be born in mind that any radiological accident is not "inconsequential," since an accident is not something that is foreseen and done deliberately. This could be true especially in the spent fuel dry storage scenario. Also, are the workers at the storage site a part of the public? Is their safety to be addressed in the Emergency Plan only or should they be considered as part of NUREG-1140?

In the proposed rule making discussed in page 29797, middle and last column, the commission is wise in its considerations of enhanced offsite emergency planning for MRS facilities. Given that no formal application for an MRS exists, pre-planning of the rule making deserves a consideration that is more detailed than the ISFSI because of the broad scope of activities that could be performed at these sites. The use of 10CFR50.47(d) as a model should, at this time, aid in preparing at least a generic emergency component to start allaying public criticism.

In preparing for commenting on the proposed rule much studying of the references contained in the proposal was done. One question arose that may or may not have an impact. Part 72.22 (Contents of application: General and financial information), should Native American Tribal Governing Councils be listed? Partnerships, Corporations and Agents are mentioned but not the Sovereign Tribal Nations. The Proposed Rules extension of public comment period mentions the Native American Tribal Councils as if the extension period is enacted for their benefit.

Thanking you again for the opportunity to comment.

Sincerely,

Benito J. Garcia, Bureau Chief Hazardous and Radioactive Materials Bureau

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NUCLEAR REGULATORY COMMISSION 10 CFR Part 72 RIN 3150 AE17

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Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Extension of public comment period. SUMMARY: On May 24, 1993 (58 FR 29795), the NRC published for public comment a proposed rule to provide Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS). The comment period for this proposed rule was to have expired on August 9, 1993.

The Commission has received two requests to extend the public comment period. The consideration to extend the comment period is based on the fact that the proposed rule presents difficult issues requiring thoughtful and careful analysis if the comments are to be of maximum value to the Commission. In particular, "... the eight remaining applicants for Federal grants to consider hosting the MRS facility are Native American Tribal Governing Councils. These Councils represent rural, generally poor citizens who are difficult to contact quickly. Frequently, members of these communities take more time than usual to discuss and evaluate complex issues such as those relating to the MRS."



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The Commission therefore finds that it is reasonable to extend the public comment period 90 days to November 9, 1993, in order to allow all interested persons adequate time for such consideration.

DATE: The comment period has been extended and now expires November 9, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm, Federal workdays.

Copies of the environmental assessment and finding of no significant environmental impact, and comments received may be examined at the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Michael T. Jamgochian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3918.

Dated at Rockville, Maryland, this 24th day of August 1993

For the Nuclear Regulatory Commission. S'amuel J. Chilk Secretary of the Commission

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ROBERT E. DENTON VICE PRESIDENT NUCLEAR ENERGY (410) 260-4455

August 26, 1993

U. S. Nuclear Regulatory Commission Washington, DC 20555

ATTENTION: Docketing and Services Branch

 SUBJECT:
 Baltimore Gas and Electric Company Comments on the Proposed Rule -Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities and Monitored Retrievable Storage Facilities

The Baltimore Gas and Electric Company submits the following comments in response to the Federal Register Notice of May 24, 1993, concerning the subject proposed rule.

We are generally pleased with the rule as proposed. We do, however, have the following two suggestions:

- 1. At 10 CFR 72.32(a)(12)(ii), the proposed rule states that the licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. We disagree with this provision since it excludes our emergency planning (EP) staff from the critique. The individuals who develop the plans are EP experts. These are exactly the individuals that should be critiquing the exercises. As the rule is written, we would have to maintain an EP expert on staff whose only EP job function would be to critique exercises. At all other times, this individual would have to remain at arms length from the EP program. A better use of resources would be to allow individuals from the EP staff to be a part of the team that critiques exercises.
- 2. Since 10 CFR Part 72 contains no language that parallels 10 CFR 50.54(x), we recommend that something similar to it be considered as part of this rulemaking. During the operating life of an Independent Spent Fuel Storage Facility or Monitored Retrievable Storage Facility, it is possible that an unanticipated situation may arise where the most correct action would be one that is not allowed by the license or technical specifications. The writers of 10 CFR Part 50 foresaw this eventuality and allowed a licensee to:

"take reasonable action that departs from a license condition or a technical specification (contained in a license issued under this part [i.e., 10 CFR 50]) in an emergency when this action is immediately needed to protect the public health and safety and no action consistent with license conditions and technical specifications that can provide adequate or equivalent protection is immediately apparent."

While we never expect to invoke this option, prudence dictates that we should thoughtfully plan and develop procedures that allow for the possibility of low probability events where deviating from a technical specification or any other license condition is the most correct



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Document Control Desk August 26, 1993 Page 2

action. Adding this provision to the Part 72 rule gives us a legal basis to include it in our procedures. As a licensee under both 10 CFR Parts 50 and 72, we feel that similar language has been useful under 10 CFR Part 50 for developing procedures, and that it would be equally useful under 10 CFR Part 72.

Should you have any further questions regarding this matter, we will be pleased to discuss them with you.

Very truly yours,

RED/JMO/dlm

cc:

D. A. Brune, Esquire J. E. Silberg, Esquire R. A. Capra, NRC D. G. McDonald, Jr., NRC T. T. Martin, NRC F. C. Sturz, NRC P. R. Wilson, NRC R. I. McLean, DNR J. H. Walter, PSC





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OFFICE OF SECRETARY DUCKETING & SERVICE BRANCH

August 19, 1993

Secretary Nuclear Regulatory Commission ATTN: Docketing and Service Branch Washington, D.C. 20555

Dear Sir:

This letter responds to "Proposed Rules" of Federal Register Volume 56, Number 98, dated May 24, 1993, concerning amendments to 10 CFR 72. This proposed amendment requires notification of local authorities in the event of an accident at an Independent Spent Fuel Storage Facility (ISFSI) or Monitored Retrievable Storage Facility (MRS). The proposed amendment addresses emergency response to these events in terms of coordination and communication with off-site authorities.

The state of Washington, including the most likely affected jurisdiction, Benton County, agrees with the language of the proposed rule as written. It is our opinion that the affected local jurisdictions will receive timely notification of hazards if the procedures indicated are followed. It is our opinion that off-site authorities should establish emergency response protocols to manage the ISFSI / MRS event.

Washington State's only concern is that there is no mention of financing the affected jurisdictions to provide the requisite resources to support the planning, operations, response, exercises, recovery and equipment requirements defined as necessary in the plan for off-site agency response.

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Please contact Diane R. Offord at (206) 923-4965 for additional information.

Sincerely, Joseph W. Murray Assistant Director

JWM:JS:sab

Acknowledged by card

U.S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

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Secretary, U.S. Nuclear Regulatory Commission Washington, DC 20555

Attn: Subject:

Docketing and Service Branch FR Doc 93-12095 Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)

Dear Secretary:

I am responding on behalf of the Mescalero Apache Tribal Council, which is currently studying the feasibility of hosting an MRS facility. We were pleased to see the Commission issue minimum guidance to achieve the level of offsite protection required in communities surrounding an MRS facility.

If the Mescalero Apache Tribe agrees to host an MRS facility, any agreement submitted to the Congress will include specific provisions relating to our expectations for an Emergency Plan. Emergency Planning actions are directly related to the kinds of events that are possible because of activities being conducted at an MRS facility. We are still completing our studies to determine the complete character of the type of MRS facility we might host. We fully expect that we will include provisions which do not allow any reprocessing activities, and minimize handling. In this way, we hope to reduce the potential range of emergency events and necessary responses. When we have competed these activities we will be able to comment more specifically on the Commission's proposed regulations. We share your view that these regulations document minimum guidance and will retain that philosophy if and when we proceed to the next phase of MRS consideration.

Sincerel

Frederick Peso

Mescalero Tribal Council Member & MRS Program Manager

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cc: Office of the Nuclear Waste Negotiator Office of Civilian Radioactive Waste Management - Lake Barrett MRS Project Office - R. Bowser



NUCLEAR MANAGEMENT AND RESOURCES COUNCIL

1776 Eye Street, N.W. • Suite 300 • Washington, DC 20006-3706 (202) 872-1280

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Thomas E. Tipton Vice President & Director Operations, Management and Support Services Division

August 9, 1993

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Mr. Samuel J. Chilk Secretary U.S. Nuclear Regulatory Commission Washington, DC 20555

ATTENTION: Docketing and Service Branch

RE: U.S. Nuclear Regulatory Commission Proposed Rule, Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS) 58 Fed. Reg. 29795 (May 24, 1993) Request for Comments

Dear Mr. Chilk:

These comments are submitted by the Nuclear Management and Resources Council, Inc. (NUMARC)¹ in response to the request of the U.S. Nuclear Regulatory Commission (NRC) for comments (58 Fed. Reg. 29795, May 24, 1993) on 10 CFR Part 72, *Emergency Planning Licensing Requirements for Independent Spent Fuel* Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS).

Considerable experience has been obtained since the inception of emergency planning regulation in the commercial nuclear industry. With this experience as a baseline, this proposed regulation provides an opportunity to apply some reasonableness to emergency planning as it applies to these facilities. The emergency plans for ISFSIs and MRSs should address the level of hazard involved.

¹ NUMARC is the organization of the nuclear power industry that is responsible for coordinating the combined efforts of all utilities licensed by the NRC to construct or operate nuclear power plants, and of other nuclear industry organizations, in all matters involving generic regulatory policy issues and on the regulatory aspects of generic operational and technical issues affecting the nuclear power industry. Every utility responsible for constructing or operating a commercial nuclear power plant in the United States is a member of NUMARC. In addition, NUMARC's members include major architect/engineering firms and all of the major nuclear steam supply system vendors.

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The Commission has stated that the operations and processes to be conducted at an MRS are undefined, and questions whether an offsite component to Emergency Preparedness at an MRS is reasonable, appropriate or premature at this time (Page 29797). On the basis of this information, it is premature because the extent of the MRS's operation has not been well defined. It is more appropriate that NRC consider previously established criteria in determining whether or not an emergency plan is required for the MRS. For example, 10 CFR Part 30.72 Schedule C, contains a table of isotopic concentrations for the releases resulting from accident scenarios, above which a facility application for permit must present an emergency plan. Utilizing the threshold approach would be more appropriate given the uncertainties as to the functional requirements of the MRS.

Review of the proposed rule has identified a number of inconsistencies requiring clarification. For example: rule application if the ISFSI license extends beyond the site license; application of an ISFSI that is contiguous to a Part 50 licensed site; and inappropriate testing and review requirements. The following suggestions and comments are provided along with recommended modifications to the draft rule for NRC consideration.

The following provides examples of where the proposed regulatory requirements exceed reasonable emergency preparedness application:

10 CFR 72.32(3), Classification Requirements: The implementation guidance for the rule should provide for the simplest and easiest understood classification, notification and reporting system for non-emergency events. NUREG-1140 "A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licenses," August 1991 Section 2.2.7 Spent Fuel Storage supports the discussion that EPA's protective action guides would not be exceeded during an accident. Therefore, both classifications for a site and general emergency should not be considered. Redundant classifications, notifications and reports for non-emergency events, such as Notifications of Unusual Events (NOUEs), one-hour non-emergency event reports, and four-hour non-emergency event reports used for operating reactors, should not apply to ISFSIs and MRSs. These conclusions are based on the magnitude, duration and energy involved in an incident involving spent fuel storage facilities. These analyses have been docketed as part of submittals to the NRC to license

individual ISFSIs. For actual ISFSI and MRS emergencies, the emergency classification, "Alert," should be sufficient. A "NOUE" classification for ISFSI and MRS emergency planning should not be necessary.

- 10 CFR 72.32(a)(6), Assessment of Releases: Extensive dose assessment methodology is not necessary to implement their plans.
- 10 CFR 72.32(a)(8), Notification and Coordination: The means to promptly notify offsite response organizations should be limited to using commercial telephones. Ring down systems should not be necessary to meet this requirement.
- 10 CFR 72.32(a)(8), Notification and Coordination: The Emergency Response Data System (ERDS) provides for the automated transmission of a limited data set of selected onsite parameters (e.g., system pressure, temperature, radiation monitoring). The activation of the ERDS does not apply to nuclear power facilities that are shut down permanently or indefinitely (10 CFR Part 50, Appendix E, VI, ERDS. Using and activation of ERDS should not apply to ISFSI incidents even located at operating plant sites. The final rule also notes that "when selected plant data are not available on the licensee's onsite computer system retrofitting of data points is not required."
- **10 CFR 72.32(a)(12)(i)**, *Exercises*: Semi-annual fire drills may not be appropriate since there are no flammable materials associated with the facility.
- 10 CFR 72.32(a)(12)(i), *Exercises*: The listed drills are capitalized creating the impression that they are specific types of drills, such as those described in NUREG-0654. The use of the word "should" introduces confusion as to the intent of the rule -- whether it is a preferred practice or a requirement of conduct. The semiannual frequency generally exceeds that called for in NUREG-0654 for the conduct of similar type drills for operating power reactors. ISFSIs, in view of their relatively passive nature of the facility and the potential consequence of a release as compared to operating power reactors, do not warrant this frequency. Drills should be held biennially.

> It is recommended that the existing wording, "...Radiological/Health Physics, Medical, and Fire Drills should be conducted semiannually...," be reworded in a manner similar to 10 CFR 50.47(b)(14) as follows: "Periodic drills shall be conducted to develop and maintain key skills."

- **10 CFR 72.32(a)(12)ii**, *Offsite Participation*: "Participation of offsite response organizations in biennial exercises, although recommended, is not required," sends a message to state and local agencies that they may need extensive planning to accommodate the facility. There is nothing unique to a potential release from an ISFSI that is not enveloped by the utility and associated State and local emergency plans to support an operating plant or one with a possession only license. State and local agencies should be provided a copy of the facility's plan and be asked to take part in "table-top" exercises to help them understand their role.
- 10 CFR 72.32(a)(13), *Hazardous Chemicals*: The certification deals with hazardous materials at the facility. The last phrase of the statement does not clearly convey this message. To clarify, suggest replacing the phase, "if applicable to the applicant's activities at the proposed place of use of special nuclear material," with "with respect to hazardous materials at the facility."
- 10 CFR 72.32(a)(14), Offsite Review: The proposed rule should only require the 60 day comment period for offsite response organizations prior to the <u>initial</u> plan submittal to the NRC. Subsequent plan changes should not have this 60 day time restriction built into the submittal process unless the plan changes involve offsite response organizations.
- 10 CFR 72.32(b)(14), Offsite Review: The request for the offsite response organization to comment as to whether an offsite component to emergency preparedness at an MRS is reasonable, appropriate or premature at this time, we believe that it is, in fact, premature at this time. The analyses that have already been done undoubtedly contain a considerable amount of conservatism. It is far easier to add requirements later, should they be found to be recommended, than to remove them when they are confirmed to be excessive later.

10 CFR 72.32(a)(15), Offsite Arrangements: The wording
"...arrangements to accommodate State and local staff at the licensee's nearsite emergency facility have been made, ...", should be deleted from Section 72.32(a)(15). The nature of potential emergency events at ISFSIs do not require personnel from State and local governments to respond in a staff capacity, and do not require near-site emergency facilities to be available. The proposed rule already requires that the emergency facilities at the site, and the emergency response staff for the facility, be adequate for emergency planning purposes.

The following areas of the proposed rule introduce inconsistencies that require clarification:

Subsections (a)(1) through (a)(13) list specific information to be included in the emergency plan. Subsection (a)(16) also appears to list specific information to be included. However, it is unclear whether subsections (a)(14) and (a)(15) are intended to be specific information included in the emergency plan or review and comment requirements related to the submittal of the emergency plan which do not have to be included as specific information in the plan. The discussion contained in the supplemental information in the *Federal Register* notice implies that these subsections are review and comment requirements only: "...the proposed requirements to be imposed on ISFSI licensees...do not mandate formal offsite components to their onsite emergency plans." (58 FR 29797 column 2, first sentence)

We recommend restructuring of the numbering of 10 CFR 72.32(a) in a manner similar to 10 CFR 70.22(i)(3) as follows:

- (a) Each application for an ISFSI...must be accompanied by an emergency plan for responding to the radiological hazards of an accidental release of radiological material and to any associated chemical hazards directly incident thereto.
 - (1) Emergency plans must include the following information:
 - (i) Facility description. A brief description of the licensee's facility and area near the site.
 - (ii) Types of accidents...

- (xiii) Hazardous chemicals...
- (xiv) Arrangements made for providing information to the public.
- (2) The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment...
- It is not clear that, if the ISFSI license extends beyond the site license, the licensee may readily return to the requirements of proposed 72.32(a). Recommend adding, "10 CFR 72.32(c)" to read: "Upon termination of the operating license, the requirements of paragraph (a) of the section shall apply."
- At a site where the affected ISFSI site could be contiguous to a Part 50 licensed site, the 10 CFR 50.47 emergency plans should apply automatically. This would preclude the unnecessary expenditure of limited utility, State, local and Federal resources, avoid duplication in emergency preparedness and minimize confusion offsite. In order to limit confusion, change the existing proposed 10 CFR 72.32(a), first sentence, to read: "For an ISFSI that is located on (or immediately adjacent to) the site of a nuclear power reactor ... "
- The discussion section and the proposed rule regarding the frequency of communications checks should be consistent. The discussion section indicates quarterly checks (page 29796, Section xii) and the proposed rule 10 CFR 72.32(a)(12)(i) indicates semi-annual checks. Semi-annual checks are appropriate.
- The frequency for conducting offsite communication checks (quarterly) and onsite exercises (annually) for MRS should not be more conservative then for ISFSI communications checks (semi-annually) and onsite exercises (biennially). The increase in frequency is not justified by experience or analysis.
- The rule, 10 CFR Section 72.32(a)(15), states that the review shall include certain "arrangements" and "other organizations." Those items are not listed as specific elements to be included in the plan. It is inferred that they do not need to be addressed other than in the information regarding offsite interface activities required by subsections (a)(7), (a)(8), (a)(9), (a)(10),

(a)(12), and (a)(14). As written, the subsection imposes a review requirement upon the NRC and is merely informational to the applicant. Therefore subsection (a)(15) should be deleted from the proposed rule.

NUMARC appreciates the opportunity to provide these comments. If you have any questions regarding this information, please contact Alan Nelson, John Schmitt, or me.

Sincerely,

Homas E. Tipton

TET/APN:plg



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OFFICE OF DOCKETIN BR.

August 4, 1993

Samuel J. Chilk, Secretary U.S. Nuclear Regulatory Commission Washington, D.C. 20555

Dear Mr. Chilk,

Concerned Citizens for Nuclear Safety is pleased to submit the following comments on NRC's Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS), [Federal Register Vol. 58, No. 98, 29795-29800.

Thank you for your consideration.

Very truly yours,

Margret Carde Nuclear Waste Project Director



U.S. NUCLEAR BEGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

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Comments on NRC's Proposed Rule Regarding

Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)

58 Fed. Reg. 29795-29800 May 24, 1993

Submitted by

Margret Carde, Nuclear Waste Project Director for Concerned Citizens for Nuclear Safety

Concerned Citizens for Nuclear Safety (CCNS) is a nonprofit public education organization based in Santa Fe, New Mexico, representing over 7,000 citizens and 300 New Mexico businesses. CCNS concerns itself with the environmental effects from the production, transportation, storage and disposal of nuclear materials. We are pleased to submit the following comments to NRC.

CCNS believes that the MRS facility is categorically different from an ISFSI facility because of 1. the shear volume of waste to be handled; 2. the likelihood that an MRS facility will be separate from a nuclear power plant, employing people totally unfamiliar with spent fuel rods, and; 3. the potential at an MRS for substantially more handling of spent fuel rods. Therefore, we believe that NRC must deal individually with the rules for MRS facilities.

NRC's proposed rule regarding Emergency Planning Licensing Requirements for MRS facilities is premature and fails to adequately address foreseeable future problems. CCNS believes that this proposed rule is not protective and does not adhere to NRC's "defense-in-depth" philosophy:

An MRS facility poses far greater potential for risk to the public than

Concerned Citizens for Nuclear Safety 8/6/93

even a nuclear power plant simply by virtue of the quantity of spent fuel rods to be stored. For example, a nuclear power plant stores no more than 1 metric ton of spent fuel while the MRS facility is authorized to store from 10,000 to 15,000 metric tons of spent fuel. **Therefore**, **licensing procedures and requirements for an MRS facility must be more strict than even those required for a nuclear power plant**.

Particularly for an MRS facility, NRC should prepare a full environmental impact statement before issuing any emergency response guidelines. The potential for environmental damage from accidents during the transportation, storage and repackaging of spent fuel rods cannot even be calculated until DOE determines whether to develop a universal cask or a dual purpose cask for transportation/storage/disposal of spent fuel rods. Until this very preliminary decision is made, there is no way of determining what level of activity (or the dangers from that activity) will actually take place at an MRS facility. NRC's response to this uncertainty, "to mandate a minimum level of offsite response capability" does not address potential and very real risks to the public.

NRC's requirement to "notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers" is completely unrealistic. The current applicants for MRS facilities are all Indian Nations whose reservations are located in rural areas with no emergency response training, equipment or expertise for handling nuclear emergencies. At a minimum, NRC's proposed rule must require training and equipment for both emergency response personnel as well as hospital facilities.

NRC must require off-site evacuation planning for MRS facilities. NRC estimates that "the maximum dose to a member of the public offsite due to an accidental release of radioactive materials would likely not exceed 1 rem effective dose equivalent" cannot be defended because of the uncertainties cited above. Without an EIS, NRC must at a minimum assume that an MRS facility poses an equal danger to the public to a nuclear reactor. CCNS therefore recommends that NRC minimally require a ten mile radius evacuation plan for MRS facilities.

CCNS believes that throughout this proposed rule, the word "detailed" should be substituted wherever "brief" is written.

Concerned Citizens for Nuclear Safety 8/6/93

701 Pennsylvania Avenue, N.W. Washington D.C. 20004-2696 Telephone 202-508-5000

(58FR 29795) DOCKETED

PROPOSED RULE PR 72

(15)

'93 AUG 10 P3:43



60th Anniversary 1933-1993

August 9, 1993

Mr. Samuel J. Chilk Secretary U.S. Nuclear Regulatory Commission Washington, DC 20555

- To: Docketing and Service Branch
- Subject: Edison Electric Institute/Utility Nuclear Waste and Transportation Program Comments on Proposed Rule "Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Installations (ISFSI) and Monitored Retrievable Storage Facilities (MRS)," 58 Fed. Reg. 29,795 (May 24, 1993)

Dear Mr. Chilk:

The Edison Electric Institute (EEI) and its Utility Nuclear Waste and Transportation Program (EEI/UWASTE) are pleased to submit comments on the Nuclear Regulatory Commission's (NRC) proposed rule entitled "Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Installations (ISFSI) and Monitored Retrievable Storage Facilities (MRS)."

EEI is the association of the nation's investor-owned utilities. Its members generate approximately 78% of the nation's electricity. EEI/UWASTE is a separately funded activity within EEI and represents the vast majority of electric utilities with nuclear energy programs. EEI/UWASTE takes actions necessary to ensure that safe, environmentally sound, publicly acceptable, cost effective radioactive waste management and disposal, and nuclear materials transportation systems are maintained and developed in a timely manner.

EEI/UWASTE strongly endorses proposed Part 72.32(a), which would establish emergency planning requirements for ISFSI's. EEI/UWASTE recommends the NRC defer as premature proposed Part 72.32(b), which would establish

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Docketing and Service Branch August 9, 1993 Page 2

emergency planning requirements for MRS's, until a final MRS design has been selected. Until it is decided whether such facilities would be equivalent, in the Commission's words, to "a large industrial facility" or merely to "a warehouse operation," there is no rationale basis to determine the appropriate level of emergency planning requirements.

If you have any questions concerning our comments, please do not hesitate to contact us.

fordan/for Sincerely,

Steven P. Kraft Director, Nuclear Waste and Transportation

Attachment

4110:068NJF.93

Edison Electric Institute Utility Nuclear Waste and Transportation Program Comments on Proposed Rule "Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Installations (ISFSI) and Monitored Retrievable Storage Facilities (MRS)" 58 Fed. Reg. 29,795 (May 24, 1993)

Provided below are the comments of the Edison Electric Institute (EEI) and its Utility Nuclear Waste and Transportation Program (EEI/UWASTE) on the Nuclear Regulatory Commission's (NRC) proposed rule entitled "Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Installations (ISFSI) and Monitored Retrievable Storage Facilities (MRS)."¹

EEI is the association of the nation's investor-owned utilities. Its members generate approximately 78% of the nation's electricity. EEI/UWASTE is a separately funded activity within EEI and represents the vast majority of electric utilities with nuclear energy programs. EEI/UWASTE takes actions necessary to ensure that safe, environmentally sound, publicly acceptable, cost effective radioactive waste management and disposal, and nuclear materials transportation systems are maintained and developed in a timely manner.

I. Introduction

EEI/UWASTE supports adoption of proposed Part 72.32(a) which would establish emergency planning requirements for ISFSIs. EEI/UWASTE recommends the NRC defer proposed Part 72.32(b) which would establish emergency planning requirements for MRSs. Because no final design for MRS facilities has been selected, there is no rational basis to determine the level of radiological hazards for which emergency planning requirements are designed. It is therefore premature for the NRC to establish emergency planning requirements for such facilities.

¹ 58 Fed. Reg. 29,795 (1993).

II. Proposed Part 72.32(a) Establishing Emergency Planning Requirements for ISFSIs Should be Adopted

The Notice proposes adding to 10 CFR a new Part 72.32(a), which establishes emergency planning requirements for ISFSIs. EEI/UWASTE supports adoption of Part 72.32(a) as proposed.

Dry storage technologies have been proven safe by extensive research and experience in storing spent nuclear fuel. The Idaho Nuclear Engineering Laboratories began extensive testing of such technologies in 1964 and have since 1971 safely stored spent fuel using a variety of dry storage technologies.² Similar extensive testing and experience in other countries reinforces the U.S. conclusion that dry storage technologies are extremely safe and reliable.³ Growing experience with safe storage of spent fuel at ISFSIs on the site of five commercial power reactors further supports that conclusion.⁴ Close scrutiny of dry storage technologies demonstrates they are extremely safe and benign, and due to the simplicity of their passive design and operation, they can be expected to function with an extremely low probability of incident.⁵

The Statement of Consideration accompanying the proposed rule cites with approval NUREG-1092's analysis that the postulated worst-case accident at an ISFSI would have negligible impact on public health and safety offsite, and, that if the ISFSI were located on a reactor site, it would be insignificant in comparison to postulated reactor accidents analyzed during licensing of the reactor itself.⁶ EEI/UWASTE concurs with the NRC's conclusion that no additional emergency planning is required for ISFSIs co-located with reactors and that emergency planning for stand-alone ISFSIs should be limited to onsite considerations.

³ U.S. Department of Energy, Office of Civilian Radioactive Waste Management, <u>DOE/RW-0220, Final Version Dry Cask Storage Study</u> I-72 to I-75 (1989).

⁴ <u>See</u> List of Approved Spent Fuel Casks, Additions, Final Rule, 58 Fed. Reg. 17,498, 17,494 (1993).

⁵ Congress of the United States, Office of Technology Assessment, <u>Managing the</u> <u>Nation's Commercial High-Level Radioactive Waste</u> 59 (1985).

⁶ <u>See</u> 58 Fed. Reg. at 29,797.

² U.S. Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, <u>NUREG-1092, Environmental Assessment for 10 CFR Part 72, "Licensing Requirements</u> for the Independent Storage of Spent Fuel and High-Level Radioactive Waste II-3 (1984).

III. Proposed Part 72.32(b) Establishing Emergency Planning Requirements for MRSs Should be Abandoned as Premature

The NRC acknowledges in the Notice of Proposed Rulemaking that a final MRS design has not been selected, and that current design options range from a mere warehousing operation (limited to storage and transshipment of universal container systems) to a major industrial facility involving significant handling and repackaging of the spent fuel itself.⁷ The proposed rule would impose on all MRS facilities, regardless of their scope, offsite emergency planning requirements that the NRC "anticipates" might be a "potential need" at the largest contemplated MRS.⁸ The proposed rule assumes all MRS facilities would conduct large scale complex operations such as fuel rod disassembly and consolidation, liquid high-level waste solidification, and transfer of fuel rod assemblies from transportation containers to storage containers in anticipation of subsequent geologic disposal.⁹

The NRC's assumption as to the "potential need" for emergency planning does not provide a rational basis for rulemaking.¹⁰ The NRC should limit its rulemaking to establishing emergency planning requirements for ISFSIs, which it has already studied¹¹ and defer as premature rulemaking relating to MRS facilities, which have not yet been designed.

In proposing new Part 72.32(b), the NRC assumes that all MRS facilities (whether storage-only facilities or full industrial facilities) present public health and safety risks of such magnitude as to require an offsite emergency planning component. This assumption is to the scientific evidence the NRC carefully developed in NUREG-1140, which clearly indicates that a storage-only MRS facility presents negligible public health and safety risks offsite.¹²

The risks associated with use of interim dry storage (see supra Part I) are similar, whether the technology is employed at an ISFSI or at a storage-only MRS. In

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ <u>United States v. Nova Scotia Food Prod. Corp.</u>, 486 F.2d 375, 393 (2d Cir. 1977).

¹¹ See generally NURGEG-1092.

¹² <u>See</u> NUREG-1140 at 59-63.

previous rulemakings involving 10 CFR Part 72, the Commission has explicitly recognized the similarity of ISFSI and MRS storage facilities.¹³ The public health and safety impacts of MRS storage have been repeatedly and extensively studied and determined to be negligible, and the NRC has explicitly accepted the findings of those technical analyses.¹⁴ Accordingly, there is no present factual basis for the NRC to establish disparate emergency planning requirements for ISFSIs and MRSs. If future studies establish such a factual basis after a design for an MRS has been selected, rulemaking will then be appropriate. For now, however, EEI/UWASTE recommends the NRC defer as premature proposed Part 72.32(b).

IV. Conclusion

EEI/UWASTE urges the NRC to adopt proposed Part 72.32(a) which would establish emergency planning requirements for ISFSIs, but to abandon as premature proposed Part 72.32(b) because no final MRS design has been adopted.

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¹³ <u>See</u> Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Waste, 53 Fed. Reg. 31,652, 31,652-53 (1988)(rejecting a two-step licensing procedure for MRS facilities in part due to the similarity of MRS and ISFSI operations and rejecting the need for reactor-type emergency plans due to the similarity of the "relatively [with respect to power reactors] passive nature of [ISFSI and MRS] facilities").

¹⁴ <u>See id.</u> at 31,654 (accepting <u>NUREG-1140</u> analysis) and Licensing Requirements for the Independent Storage of Spent Nuclear Fuel and High-Level Radioactive Waste, Notice of Proposed Rulemaking, 51 Fed. Reg. 19,106, 19,108 (1986) (accepting <u>NUREG-1092</u> analysis).


August 8, 1993

Comments on NRC's Proposed Rule Regarding Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)

58 FR 29795-29800 May 24, 1993

Mary Olson Radioactive Waste Project Nuclear Information and Resource Service

Nuclear Information and Resource Service is the National arm for over 1000 grassroots citizens organizations that are concerned with nuclear power and its commercial radioactive waste, nationwide. This proposed rule directly affects a large number of our members, both as community members that surround existing and future independent irradiated (spent) fuel storage facilities--dry casks-- and those who are deeply concerned about the proposed MRS facility.

We have made efforts to notify our members and the public about this proposal. Because a significant number of individuals and organizations have contacted us recently for more information on this proposal, we sincerely hope that our request for extension has been honored. None the less, we submit these comments within the original comment period. If the opportunity exists for more time, this will enable a more careful consideration of some of the points touched on below.

Comments on MRS Emergency Planning

First: It is premature for the Commission to make a rule with regard to emergency planning for an MRS. We also agree with others who point out that the MRS is a significantly different facility than an ISFSI--for two reasons. The first is the difference in the amount of irradiated fuel that would be present at the site: it is 4 orders of magnitude greater at an MRS than a single reactor site's load. The second is the fact that the MRS, according to the most common model described, would be a repackaging center for the waste. This industrial scale handling of high-level waste and irradiated fuel raises many safety and release concerns. The very fact that a new model is being



15 years of service to the grassroots environmental movement

Acknowledged by card

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NIRS comment page-2

actively discussed--the multi-purpose canister--which would reduce or completely eliminate the waste handling aspect of an MRS, gives emphasis to the fact that rulemaking on MRS emergency planning is premature.

We see it a inappropriate to promulgate regulations for the MRS in the same frame as an ISFSI. It is worthy of not only separate, but *site specific* planning. Therefore, any plan that is outside of a full-scale site-specific environmental impact statement--and made before the actual size, scope of activity and location of the facility is known, is surely simply an attempt to placate the public.

Unfortunately, the public is not very reassured by the idea that the only off-site emergency planning that the discussion on the MRS cites is that the operators of the facility should have the current phone numbers of off-site emergency services. Nor is the public very reassured that the NRC asserts that the maximum off-site exposure from an MRS would be 1 rem. If this were true, there is a legitimate concern about being subjected to radiation equivalent to 50 additional chest x-rays--presumabley without any notification or disclosure, let alone opportunity to avoid such irradiation. However, it does not seem credible that one could gather together the highest concentration of radioactivity on the planet and assert that there will be virtually no risk of exposure. This overlooks, at the very least, the potential for malicious attack on the facility from the air, such as the United States has engaged in wiping out "strategic targets" in other countries.

The licensing requirement s for and MRS should be **more strict** than those for a nuclear power plant, commensurate with this far greater burden of radioactivity. An emergency plan must consider the worst case scenario and the maximally exposed persons in order to address the legitimate concerns of those who live in the region.

The discussion of MRS emergency planning indicates the dependence upon off-site emergency responders. The fact that individuals would be called upon to respond to radiological crises without any special training, without protective gear and equipment is deeply disturbing to local community officials with whom we have reviewed this proposal. The full liability for dealing with emergency situations should reside with the operators of such a facility and those who are specially trained and understand that they are at risk, and are compensated on that basis. Dependence upon untrained local responders in a true emergency would amount to human sacrifice, and is not acceptable.

NRC should wait until there is a specific MRS siting process. At that time, a complete, site-specific environmental impact statement should be required. Based on the EIS, a site-specific emergency plan should be required that would include off-site emergency evacuation -- at the very least in a 20 mile radius, though this is really "token"--given that a fire plume may jeopardize a much greater area.

Comments on ISFSI Emergency Planning

All mentions of "brief" with regard to written plans should be reworded to say "detailed."

NIRS comment page-3

It is our belief that the massive concentration of irradiated fuel at the reactor sites should have been the occasion for revisiting the emergency planning for each nuclear power plant. The Irradiated fuel inventory on site far exceeds the amount of radioactive material contained within the reactor core at any one time. The fact that irradiated fuel has been forced to accumulate at reactor sites is no reason to now dismiss the greater radiological hazard that it poses to the populus and the environment. A rulemaking on the ISFSI in our view should include at reactor site facilities and examine the current emergency planning with regard to the potential for much greater releases in the event of sabotage or natural disaster. In 1993 alone, we have seen nuclear facilities challenged by hurricanes, floods and earthquakes of record proportions.

Similarly, an ISFSI not at a reactor warrants site-specific emergency planning that includes evacuation of surrounding population, at least as stringent as nuclear reactor licensing. The comments made above about off-site exposures and off-site emergency responders apply to some extent to this situation as well. P. O. DRAWER 69 PHONE (505) 258-4014 RUIDOSO, NEW MEXICO 88345

DOCKET NUMBER

August 2, 1993

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USNRC

(58 FR 29795)

OFFICE OF SECILE LARY DOCKETING & SERVICE BRANCH

Secretary Attention: Docketing and Service Branch U.S. Nuclear Regulatory Commission Washington, DC 20555

Dear Honorable Secretary and Commissioners:

The Village of Ruidoso Governing Body voted on July 27, 1993, to oppose a ruling that would license MRS facilities without any off-site plans for emergencies and no evacuation plans for surrounding communities. The Village of Ruidoso petition the Commission to act responsibly to protect the public health and write rules that provide protection.

The public is concerned that the proposed rule does not require MRS operators to notify local resident of any increased exposure, nor developed a plan for evacuation. This rule is an unfair burden on local emergency responders with little or no training for these type emergencies. There is specialize training and equipment for radiation accidents and exposure; therefore, the proposed rules should provide for the training and obtaining equipment for the local responders. Careful consideration should be given to the transportation of the nuclear waste and the possibility of accidents along the transport route. Responders should be trained and equipped along the routes for possible emergencies.

Local governments, such as the Village of Ruidoso, are very concerned for the safety, health, and welfare of the citizens and call on you to consider and respond to the needs of the people. Thanking you in advance for the time and consideration given to the people's safety and health.

Sincerely,

Jerry D. Shaw

Jerry G. Shaw, Mayor Village of Ruidoso

JGS/tjm

S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

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August 8, 1993

COMMENTS OF OHIO CITIZENS FOR RESPONSIBLE ENERGY, INC. (OCRE) ON PROPOSED RULE, "EMERGENCY PLANNING LICENSING REQUIREMENTS FOR INDEPENDENT SPENT FUEL STORAGE FACILITIES (ISFSI) AND MONIFORED RETRIEVABLE STORAGE FACILITIES (MRS)," 58 FED. REG. 29795 (MAY 24, 1993)

DOCKET NUMBER PROPOSED RULE PR 72 (58 FR 29195)

OCRE supports the general purpose of the proposed rule requiring ISFSI and MRS facilities to have emergency plans. However, OCRE believes that an offsite component of emergency planning is needed for both the ISFSI and MRS facilities.

While it is true that emergency plans for ISFSI and MRS need not be equivalent to emergency plans for reactors, due to the relatively passive natures of the ISFSI and MRS, offsite emergency planning should not be eliminated for either type of facility. The Federal Register notice indicates that the maximum offsite dose due to an accidental release of radioactive material from either type of facility would probably not exceed 1 rem. However, 1 rem is within the EPA Protective Action Guides of 1-5 rem whole body, and it is the lower limit of these guides which is to be used as the basis for taking protective actions in emergency response. OCRE would also question whether worst-case scenarios have been considered in the evaluation of potential offsite doses. Such worst-case scenarios would include acts of radiological sabotage, such as terrorist attacks employing explosives. Offsite emergency planning is a prudent measure to take against such uncertainties. Offsite plans may not be needed for a 10mile radius, as is the case for power reactors, but they should not be eliminated for ISFSI and MRS. Reducing the radius of the EPZ (perhaps to 1-5 miles, as appropriate) is the proper response to the reduced hazard posed by the ISFSI and MRS. A reduced zone will provide the basis and flexibility for an enhanced offsite response in those events where this is necessary.

There are also significant collateral benefits associated with offsite emergency plans. Offsite plans may increase public confidence in the safety of the facilities, thus making it easier to site them. Offsite emergency plans can also be used to protect the public from non-radiological emergencies, such as tornadoes, hurricanes, floods, or chemical spills. This is often used by nuclear utilities as a "selling point" in their public relations campaigns.

OCRE believes that it is appropriate at this time to require more extensive emergency planning, including an offsite component, for the MRS, even though the exact design and nature of the MRS is still undefined. As is stated in the Federal Register notice, the MRS may include extensive fuel handling operations. Such operations increase the range of potential accidents over those possible in the ISFSI.

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OCRE offers the following specific comments on the text of the proposed rule:

1. Proposed 10 CFR 72.32(a)(3) and (b)(3): these provisions limit the accident classification levels to an alert for the ISFSI and a site area emergency for the MRS. For both facilities, the accident classification system should include the general emergency. This might be necessary in cases of radiological sabotage.

2. Proposed 10 CFR 72.32(a)(8) and (b)(8): time limits ought to be established for notifying offsite response organizations and the NRC. An appropriate time limit is 15 minutes.

3. Proposed 10 CFR 72.32(a)(12)(ii) and (b)(12)(ii): participation of offsite response organizations in exercises should be required.

4. Proposed 10 CFR 72.32(a)(12)(i): for the ISFSI, communications checks with offsite response organizations should be conducted quarterly, not semiannually, and onsite exercises conducted annually, not biennially.

5. Proposed 10 CFR 72.32(a)(15) and (b)(15)(i): the phrase, "and other organizations capable of augmenting the planned onsite response have been identified" should be modified to include the requirement that arrangements should be made (such as letters of agreement) with any organizations so identified.

Respectfully submitted,

L. Shat terso

Susan L. Hiatt Director, OCRE 8275 Munson Road Mentor, OH 44060-2406 (216) 255-3158



BENTON COUNTY

EMERGENCY MANAGEMENT

Kennewick City Hall P.O. Box 6144 Kennewick, Washington 99336-01443

> OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

DOCKETED USNRC

(58 FR 29795)

DOCKET NUMBER PROPOSED RULE

Telephones: Office: (509) 586-1451 Emergency: 911

AUG -9 P2 Fax: (509) 582-9238

August 3, 1993

Secretary US Nuclear Regulatory Commission Washington DC 20555

Attn: Docketing and Service Branch

Dear Secretary Chilk,

This letter is being submitted in response to the request for comments published in the Federal Register Vol 58, No. 98 page 29795, concerning proposed rules to become 10 CFR Part 72.

In general, Emergency Planning should be required prior to the initiation of operations for any facility that presents a risk to members of the public off-site. It is not enough that the plan should be submitted to local government for comment prior to submittal for approval as proposed in 72.32(b)(14). The planning should not proceed without the involvement of the emergency management agencies and off-site response organizations of the local governments that will be at risk in the event of an emergency at the facility.

Businesses that profit from activities that place communities at risk of injury or loss of life or destruction or contamination of property should also be required to provide monetary support to the affected jurisdictions. All businesses and individuals within the taxing authority of local governments support levels of response required for normal day-to-day events. Those businesses and individuals that place members of the community at risk beyond the ordinary should have to supply additional funding to the community in recognition of that additional risk. These funds should be dedicated funds for emergency response planning activities and the purchase of any specialized response equipment and training required by the types of risks presented by the facility. In this context, the funding should be subject to review by the Nuclear Regulatory Commission to assure that there is more than a token funding of local emergency planning and preparedness efforts.

Changing the proposed part 72 to require local involvement in the creation of the emergency

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Comments Re: Proposed 10 CFR Part 72 Page 2

response plan and require funding of local emergency planning and preparedness activities directly attributable to the additional and above ordinary risk of Spent Fuel Storage Facilities and Monitored Retrievable Storage Facilities is appropriate given the above ordinary risk such facilities present to the local government units in their vicinity.

Sincerely,

constructor art

Robert C. Martin, Director Benton County Emergency Management

cc Diane Offord Washington State Emergency Management Division



Shoreham Nuclear Power Statio P.O. Box 628 North Country Road Wading River, N.Y. 11792

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GEFICE OF SECRETARY BUCKETING & SEFVICE BRANCH

August 6, 1993

Secretary, U.S. Nuclear Regulatory Commission ATTN: Docketing and Service Branch Washington, D.C. 20555

Subject: Comments on NRC Proposed Rule - Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS) (58 FR 29795 - May 24, 1993)

The Long Island Power Authority, licensee for the Shoreham Nuclear Power Station, offers the following comments on the proposed rule:

- 1. Section § 72.32(a) does not define the term, "site of a nuclear power reactor." Does the term mean, the owner controlled area, the site boundary, or protected area? Based on the definition of the term, the regulations could require some licensees that build ISFSI's near their nuclear power plants but not on the site to have two emergency plans established. Consideration should be given to clarifying terms in order to avoid this problem especially since nuclear power plant emergency plans are substantially more extensive than ISFSI emergency plans.
- 2. Section § 72.32(a)(12)(ii) specifies that the licensee critique each exercise using individuals not having direct responsibility for the plan. This regulation, while well intentioned, is burdensome, costly, and does not allow the personnel with emergency preparedness knowledge to identify and correct potential weaknesses. This statement seems to satisfy the requirements for independent review, not exercise performance [i.e., similar to § 50.54(t)].
- 3. Provisions should be included in the proposed rule to exempt Independent Spent Fuel Storage Installations (ISFSI) with very limited radionuclide inventories from the emergency planning requirements. This is best accomplished by establishing certain threshold values for the radiological consequences of potential accidents below which exemption can be granted.

U.S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

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Page 2

The Part 70 emergency planning requirements (Section 70.22) which served as the model for the proposed rule includes a provision for relief based on potential radioactive consequences. It contains the option of demonstrating through evaluation that the consequences are below certain levels and thereby eliminate the need for emergency preparedness.

We recommend that a parallel provision be included in the proposed rule for the ISFSI. This would enable ISFSI's with minimal radioactive sources to avoid the substantial costs associated with emergency preparedness which would far outweigh the negligible benefit to the safety of the public.

Sincerely,

S. Schoenwiesner Manager Licensing/Regulatory Compliance Department

RP/RR:ab



Secretary, U.S. Nuclear Regulatory Commission Washington, DC 20555

Attn: Docketing and Service Branch

USNRC

'93 AUG -9 P3:04

OFFICE OF SECRETARY DOCKETING & CLEVICE BRANCH

August 3, 1993

Good Day,

The Nuclear Regulatory Commission is responsible for the safety and health of the public. The radiation exposure from commercial nuclear activities is unsafe!

The MRS emergency planning rule is not protective to the people who live nearby or who live near transport routes. Emergency workers are not protected. I have talked to firefighters, and they are very very concerned about the lack of truthful information. What about protective gear for our firefighters? These people risk their lives to help others; but they must not have to make that decision to commit suicide by helping "clean-up" a disaster that will kill many, and most likely themselves, perhaps give radioactive elements to their families. Are you aware thzat people who have been killed in laboratories from radiation poisoning are labeled "radioactive waste"?

All should look into their hearts when dealing with this nightmare we have created.

The environment is not protected.

A 10-mile emergency evacuation zone is too small. A nuclear reactor core holds only a tiny fraction of the number of irradiated fuel rods that likely will be on a MRS site. A MRS site could handle 10,000 metric tons of spent fuel (much more than a powerplant), therefore MRS emergency planning requirements should be at least as stringent as for nuclear power plants.

Each and every shipment to the MRS will contain millions of curies of radioactive. A serious transport accident, or terrorist action or sabotage at an MRS could lead to sever radiation releases. In a disaster situation, the exposures could be lethal to those at the site, and those in the area could receive doses causing irreversible health effects, including fatal cancer, which is a very painful way to die, or to see a loved one die, don't you agree?

Do not ASSUME 1 rem is the max possible dosage, be realistic please!

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MRS is a place that radioactive waste is transported to. Hauling is the main activity. If a repository opens, there would be two kinds of shipments at the same time: the recontainerized waste leaving the MRS to go to the repository, and additional waste from the power plants coming to the MRS in for storage. Nothing in the NRC's rule for emergency planning covers the transport phases of the operation. The trucking industry clocks one major accident for every 150,000 miles traveled. There will be millions of miles traveled in the MRS operation, if it were to open, which it should not.

Nuclear waste must remain stored and monitored on-site of whomever produces it.

Scientific research must work on a safe way to encapsulate it. Los Alamos and Sandia can certainly give that issue top priority. Until that time no more uranium must be mined. No more uranium must be processed.

Please take time to rethink "convenient-out-of-your-way-just-the-desert" planning. This will affect people all over the country.

Very Sincerely,

Susan Diane, member of APC (All People's Coalition) 2304 Garfield SE, apt E Albuquerque, NM 87106



Post Office Box 727 Mescalero, NM 88340 (505)671 - 4844

L. CHETED USNAC

'93 AUG -9 P3:54

Secretary U.S. Nuclear Regulatory Commission Washington, D. C. 20555

REFEL OF MUNITURY DOT NE CONSTRUCTION CONSTRUCTION

Dear Mr. Secretary:

This communication is in regards to the proposed rule announced by the Nuclear Regulatory Commission (NRC) to no offsite emergency or evacuation planning for the Monitored Retrievable Storage (MRS) nuclear waste facilities.

The Department of Energy's Nuclear Waste Negoiator has promised communities considering hosting the MRS facilities, that they can virtually set their own terms for accepting the MRS plan. Meanwhile, your agency (NRC) is writing the rules that will apply to the license under which the MRS will operate. The NRC has announced a proposal that would require no offsite emergency and evacuation for the MRS facilities.

Presently, at any one time, a nuclear reactor core holds only a tiny fraction of the number of irradiated fuel rods that will be stored on an MRS site. Given that fact, all nuclear power plants have a 10-mile emergency evacuation plan.

小説 パイス 大教会 一般などの知識的 安

The MRS facilities will be the first of its kind ever established. Presently, there are nuclear waste storage sites yet not one of those storage sites can match the magnitude of waste in which the proposed MRS facilities will be accepting. The facilities will be accepting approximately 10,000 metric tons of spent fuel rods. Each spent fuel rod will be fifteen to twenty thousand times more radioactive then when it was initially installed for use at a nuclear power plant. Each shipment received at the MRS facilities will contain millions of curies of radioactivity. Eventually, the MRS facilities will store billions of curies of radioactive waste! For the NRC to plan rules for the MRS facilities which are substandard to the rules by which the nuclear power plants operate under today, is absolutely outrageous!

If an accident were to occur, even a small one, the results would be catastropic. It would create severe economic and technological problems for the host community and its neighbors. The Mescalero Apache Tribe is the leader in the MRS application process yet the community has never had any experience with nuclear power, and would be completely unable to shoulder the responsibility and cost of any type of emergency or evacuation plans for the facilities.

I object to the NRC proposal of no offsite emergency or evacuation planning for the MRS facilities. I am requesting an extention of 90 days for public comment regarding this particular NRC proposal.

Sincerely,

Rufina Marie Laws, M. Ed.

cc: Lila Bird, WIN Lance Hughes, NACE Grace Thorpe, NECONA Elmer Savilla, The EAGLE I am an enrolled member of the Mescalero Apache Tribe in New Mexico.

I have read the letter written by Rufina Marie Laws regarding the NRC proposal of no offsite emergency and evacuation planning of the MRS facilities. I object to the NRC proposal. I support the letter as it is written.

ADDRESS NAME 20 Boy 85, Mes calero When 1. Magdaleuro Fally BOX 85. merelaco of m. Station 7 itig Box 656 MELEARON, N.M. 3. Fileen Daines 4. Eachyn Daines Box 16 micealero, n.m. 5. allon Tule P. U. Box 222 MESCA. N. M. 6. Silly best 101 CHINO COULT MESCAICKO NIM 48340 () (1 7. Mawin Dains box 701 " 2 1 .11 8. Any Randall Box 333 9. Dourd Luna Box 797 Mescalero N.M. 88340 10 Laura Enjady Box 498 Mescalers n. Mey 88340 11. Lora L. Forsum Box 265 Miscalus nm 88340 12. Mirian J. Howhwale POB 786, Mescalero, n.m. 88340 13. Survaene Mende FO. Box 214 Mescalers, NM 88340 14 - Florence Malenthis 5-38 Pena Congou Mescalero, NM. 88340 5. Ermadie Enjady 537 pena mescalero, n.m. 88340 16. Lora Enjady 1105 Penn Scott Mescalero N.M. 17. Mina Hored Artrip 103 Chiquito Mescalero M.M. 88360 18. Sumofine C-z Palmerto op Mescalero MM \$8340 19. Cittarbando 1003. Penn Scott In Juscalero N.M. 20_ Typen C. Hischneh Box 786 MESC. NA 88340

I am a resident of the State of New Mexico.

I have read the letter written by Rufina Marie Laws regarding the NRC proposal of no off-site emergency and evacuation planning of the MRS facilities. I object to the NRC proposal. I support the letter as it is written.

NAME ADDRESS P.OBOX 4428, Rundoso, NM 8838 Jonene Po Box 1832 - Ruidoso Downs - MM- 8834p 2. Rebecca R 3 Sturen K. bourges P.O. BOX 1102 Ruidoso Dawn n. m. 88346 chang P.O. Dox 1041 Ruidoso, NM 88345 4. abel 5. Resident Ralph M. Gonzales R.D. Box 1041 Ruidoso NM 88345 BR 1931 Rubbes 11188345 83-46 RUIDOSO - PO BOX 037 Jano menson This (MELISSA KNIGHT) PO.BOX 1371-MSOT RUIDOSO, NM 88345 " helber Karin STEinhilber Po Box 778, Carrizozo, n.M. 88301 1A4 P.O. Box 797 Ruidoso, N.M. 88346 Darly - III N. WILCOW RD. RUIDOSO NM 88345 Ro. Box wol CAPIFON MIK 86316 Subitesh, POBap 2768 Ruidovo, NM 88345 14 Jany Ven Grady (LARRY VERN BRADY - PO BOX 1767, Ruiboso Downs, NM 883461 Gery (DAVE MCGARY) Box 328 Alto New Metico 88312 Gary (Jerre McGary) Boy 67A Bent Ricky 16. Synellent Box 176 Ruidoso NM, 88345 19. Norma E. Cinert. 30 Dusty In Jularose n.m. 88352 Tonio Derna Candelaria PRO - M.R.S. for Mescalero WITH off-site Smergency and Evacuation Planning of The MRS Facilities My address = Porf 312 Jularosa, n. M. 88352 1-505-585-



DOCKET NUMBER (58FR 29795)

Public Service Company of Colorado 9859 AUG 10 A10:42 °93

BRANCH

16805 WCR 19 1/2; Platteville, Colorado 80651

August 9, 1993 Fort St. Vrain Unit No. 1 P-93082

Secretary U.S. Nuclear Regulatory Commission Washington, D. C. 20555 ATTN: Docketing and Service Branch

Docket No. 50-267

SUBJECT: Comments on Proposed Rule Regarding Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS).

Gentlemen:

The Public Service Company of Colorado (PSC) has the following comments regarding the proposed rule change to 10 CFR Part 72 concerning emergency planning for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS), as requested in 58 FR 29795, dated May 24, 1993.

- 1. Section 72.32(a)(3) of the proposed rule, or the implementation guidance for the rule, should provide for the simplest possible classification, notification and reporting system for non-emergency events. Redundant classifications, notifications and reports for non-emergency events, such as Notifications of Unusual Events (NOUEs), one-hour nonemergency event reports, and four-hour non-emergency event reports used for operating reactors, should be avoided for ISFSIs and MRSs. For actual ISFSI and MRS emergencies, the one emergency classification, "Alert", is sufficient. A "NOUE" classification for ISFSI and MRS emergency planning should not be necessary.
- 2. Section 72.32(a)(14) of the proposed rule should only require the 60 day comment period for offsite response organizations prior to the <u>initial</u> plan submittal to the NRC. Subsequent plan changes should not have this 60 day time restriction built into the submittal process when the plan changes are not likely to even involve offsite response organizations.

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P-93082 August 9, 1993 Page 2

3. The wording "...arrangements to accommodate State and local staff at the licensee's near-site emergency facility have been made,...", should be deleted from Section 72.32(a)(15). The nature of emergency events at ISFSIs do not require personnel from State and local governments to respond in a staff capacity, and do not require near-site emergency facilities to be available. The proposed rule already requires that the emergency facilities at the site, and the emergency response staff for the facility, be adequate for emergency planning purposes.

If you have any questions concerning these PSC comments, please contact Mr. M. H. Holmes at (303) 620-1701.

Sincerely,

Den W Warentrug Don W. Warembourg / Decommissioning Program Director

DWW/JRJ

cc: U.S. Nuclear Regulatory Commission Document Control Desk

> Mr. John H. Austin, Chief Decommissioning and Regulatory Issues Branch

Regional Administrator, Region IV

Mr. Ramon E. Hall, Director Uranium Recovery Field Office

Mr. Robert M. Quillin, Director Radiation Control Division Colorado Department of Health



DOCKET NUMBER PROPOSED RULE DOCKLIED (58FR 29795) **Department of Energy** Washington, DC 20585 1993 AUG 5 '93 NUG -6 P2:57

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

Dear Sir:

The Office of Civilian Radioactive Waste Management (OCRWM) within the U.S. Department of Energy (DOE) is charged with the responsibility of disposing of the Nation's civilian spent nuclear fuel. The Nuclear Waste Policy Act of 1982, as amended in 1987, has given the Nuclear Regulatory Commission (NRC) the responsibility for licensing OCRWM's proposed future sites-the Monitored Retrievable Storage (MRS) and the Mined Geological Disposal System (MGDS). The NRC has proposed amendments to 10 CFR Part 72 (FRN vol. 58, No. 96 dated May 24, 1993) for the emergency planning licensing requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS). As a prospective licensee, OCRWM has reviewed the proposed rule by the NRC and believes the requirements are appropriate.

OCRWM agrees with the Commission's observations under the discussion section concerning the passive nature of a facility for spent fuel receipt, handling and storage, such as an ISFSI or MRS, as compared to an operating power reactor. Further, we concur with your conclusion that emergency plans for an ISFSI or MRS need not be equivalent to emergency plans for reactors. We also concur with the Commission's conclusion that it would be prudent to raise the level of emergency planning at an MRS to include some offsite preparedness.

Therefore, OCRWM intends to work closely with the host community to develop a comprehensive emergency response plan with offsite components that will not only encompass the requirements contained in 10 CFR 72.32(b)(15), but likely will exceed them.

Sincerely,

Dwight E. Shelor Associate Director for Systems and Compliance Office of Civilian Radioactive Waste Management

OCT 1 1993 Acknowledged by card

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YANKEE ATOMIC ELECTRIC COMPANY

Telephone (508) 779-6711 TWX 710-380-7619



DOCKETED USNRC 580 Main Street, Bolton, Massachusetts 01740-1398



DOCKET NUMBER PROPOSED RULE (58FR 29795

OFFICE OF SECHETARY DOCKLEING & SERVICE SPANCH

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July 30, 1993 FYC 93-019 SPS 93-073

Secretary of the Commission U.S. Nuclear Regulatory Commission Washington, DC 20555

Attention: Docketing and Service Branch

Subject: Proposed Rule: "Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)" (58FR29795)

Dear Sir:

Yankee Atomic Electric Company (YAEC) appreciates the opportunity to comment on the subject proposed rule. YAEC is the owner of the Yankee Nuclear Power Station in Rowe, Massachusetts and provides engineering and licensing services to nuclear power plants in New England.

In general, YAEC believes that the proposed rule appears inconsistent with the conclusions of NRC's own studies regarding the risks to public health and safety from a potential ISFSI accident. NRC specifically states in the "Supplementary Information" section to the proposed rule that:

"... in view of the relatively passive nature of facilities for the receipt, handling, and storage of spent fuel and high-level radioactive waste, as compared to operating power reactors, emergency plans for ISFSI and MRS need not be equivalent to emergency plans for reactors ..."

and

"... analysis of potential on-site and off-site consequences of accidental releases associated with the operation of an ISFSI is

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Secretary of the Commission July 30, 1993 Page 2

> contained in NUREG-1140. This evaluation shows that the maximum dose to a member of the public off-site due to an accidental release of radioactive materials would not exceed 1 rem effective dose equivalent which is within the EPA Protective Action Guidelines or an intake of 2 milligrams of soluble uranium (due to chemical toxicity) ... NUREG-1140 concluded that the postulated worst-case accident involving an ISFSI has insignificant consequences to the public health and safety ..."

The foregoing not withstanding, the proposed rule imposes requirements on ISFSI license holders which are (appropriately so) not imposed upon holders of operating licenses nor possession only license holders (permanently defueled, but storing spent fuel on-site). For example, holders of operating licenses are not required to identify, as part of their emergency plans, the "types of accidents" that may occur at their sites. Accident identification and analysis is appropriately contained in the safety analysis report that supports the license.

In another example, holders of possession only licenses are not required to maintain an off-site response component to their emergency plans for the reason that the consequences of an accident at a permanently defueled facility will not exceed the EPA Protective Action Guidelines. Yet, in the proposed rule, ISFSI licensees are required to maintain "near-site" facilities for emergency response by "State and local staff." These requirements are starkly inconsistent with NRC's conclusions regarding the insignificance of consequences to the public health and safety from a postulated worst-case accident involving an ISFSI.

Additionally, the requirements being proposed in this rulemaking are contrary to the NRC's present initiative to identify regulations that impose unnecessary burdens and at the same time do not contribute to safety. The proposed requirements are not at all commensurate with the low risks associated with operation of an ISFSI.

In light of the findings in NUREG-1140 and the discussion of those findings in the "Supplementary Information" accompanying this proposal, we believe that the Staff did not intend for such blatant discrepancies to exist between actual requirements and the bases for them. Nevertheless, they are present and we believe that the proposed requirements must be revised. The fact that the consequences of an accident at an ISFSI are insignificant in terms of public health and safety must control the nature of the requirements. Emergency planning requirements for an ISFSI should be appropriately focused on <u>on-site</u> emergency response. Our specific comments and recommendations are contained in the attachment to this letter. Secretary of the Commission July 30, 1993 Page 3

The staff has done a good job in evaluating the benign nature of the risks from ISFSI facilities. We look forward to revised emergency planning licensing requirements which are truly reflective of the content of the study.

Very truly yours, Elwards

D. W. Edwards Director, Industry Affairs

DWE/dhm

Attachment

ATTACHMENT

COMMENTS ON PROPOSED RULE REGARDING EMERGENCY PLANNING LICENSING REQUIREMENTS FOR INDEPENDENT SPENT FUEL STORAGE FACILITIES (ISFSI)

Types of accidents (72.32(a)(2))

NRC has proposed that the licensee identify the "types of accidents" that could occur at an ISFSI installation "for which protective actions may be needed." This requirement should be deleted as the analysis of potential accidents and their consequences, as documented in NUREG-1140, demonstrates that there are no accidents for which protective actions for the public may be needed. Furthermore, even if there were such accidents, the emergency plan is not the appropriate document for a description of the types of accidents that could occur. As is similarly done for operating reactors, any discussion on types of accidents is contained in the ISFSI Safety Analysis Report that supports the license application. Therefore, the licensee should be required only to identify the classification of accidents in 72.32(a)(3) and, in general, response to those classifications, as is similarly required for operating plants.

At a minimum, NRC should revise the term "protective actions" to "protective measures." The term "protective actions" as used by operating reactors, connotes the need for an offsite emergency response plan. In the case of an ISFSI, there is no need for an offsite emergency response plan because the consequences of potential accidents which can occur will not exceed the EPA Protective Action Guidelines. Furthermore, the term "protective measures" is now commonly used by Possession Only License holders so as to distinguish between onsite and offsite needs; these plants generally do not maintain an offsite emergency response plan due to the substantially reduced risks associated with their facilities (to include storage of spent fuel on site). Therefore, to preclude misinterpretation, we recommend that the term "protective measures" be used.

Mitigation of consequences (72.32(a)(5))

The NRC proposes that the licensee describe those actions which would be taken to mitigate the consequences of each type of accident. In conjunction with the comments on 72.32(a)(2), this requirement should be revised to require that the licensee describe the response actions for each classification of emergency.

Responsibilities (72.32(a)(7))

The term "offsite response organizations" should be revised to "offsite authorities" in recognition of the findings of NUREG-1140, i.e. the consequences of accidental releases associated with the operation of an ISFSI would not exceed the EPA Protective Action Guidelines. The term "offsite response organizations" connotes the need for formal offsite components to the onsite emergency plan and thus, an offsite emergency response plan. Such an interpretation would be inconsistent with the conclusions of NUREG-1140 which postulated the worst case accidents involving an ISFSI and found that the consequences were insignificant in terms of public health and safety. To preclude misinterpretation, the term "offsite authorities" should be used.

Notification and coordination (72.32(a)(8))

As recommended for 72.32(a)(7), the term "offsite response organizations" should be revised to "offsite authorities."

Information to be communicated (72.32(a)(9))

As concluded by the NRC in NUREG-1140, the consequences of the postulated worst-case accident involving an ISFSI are insignificant in terms of public health and safety. Therefore, because no offsite protective actions are needed, this requirement should be revised to require that the licensee communicate only onsite facility status to offsite authorities.

Exercises (72.32(a)(12))

As recommended for 72.32(a)(7), the term "offsite response organizations" should be revised to "offsite authorities" in paragraphs (i) and (ii).

72.32(a)(14)

NRC has proposed that an applicant for an ISFSI submit the proposed emergency plan to offsite response organizations (which are expected to respond in case of an onsite accident) 60 days in advance of submittal to NRC. Comments would then be forwarded to the NRC upon submittal of the ISFSI application. This requirement should be deleted as the current licensing process for review and approval of an ISFSI license affords all parties a sufficient amount of time to review and comment on the licensee's entire application to include the emergency plan. Furthermore, licensees have gained sufficient experience from the operating nuclear power plant environment to recognize the benefits of working with the offsite authorities to ensure the adequacy of an emergency plan and its implementation. A requirement to instruct applicants to do as much is unnecessary.

72.32(a)(15)

NRC proposes to require that the licensee of an ISFSI provide for a "near-site emergency facility" for State and local staff. This requirement should be deleted as it implies that an offsite emergency response facility is needed, when in fact NRC's own studies in NUREG-1140 demonstrate that the consequences of an accident at an ISFSI are insignificant in terms of the public health and safety. Furthermore, NRC has generally affirmed this conclusion through its evaluation of Defueled Emergency Plans for nuclear power plants which are permanently defueled but continue to store spent fuel on site (Possession Only License). The emergency plans for these facilities are appropriately focused on the onsite aspects of emergency response, while maintaining the ability to notify offsite authorities such as the fire, police, and medical personnel who play a role in addressing <u>Onsite</u> emergency response. No licensee-provided "near-site" facility is needed for such offsite authorities to implement their onsite emergency planning responsibilities.



PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY

BOX 3321 HARRISBURG, PENNSYLVANIA 17105-3321



'93 AUG -6 P3:54

August 3, 1993 ICE OF SECRETARY DOCKETING & SERVICE BRANCH

DOCKET NUMBER

Secretary U.S. Nuclear Regulatory Commission ATTN: Docketing and Service Branch Washington, D.C. 20555

Dear Sir or Madam:

The comments which follow respond to the Commission's proposed rule for Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities [Installations] [sic] (ISFSI) and Monitored Retrievable Storage Facilities (MRS) published on pages 29,795-29,800 of the Federal Register, Vol. 58, No. 96, Monday, May 24, 1993.

As indicated in your "Discussion" paragraph, it is not possible to determine the language to be used until the Commission promulgates the Emergency Preparedness rule. In that light, the Commonwealth believes it prudent to err on the conservative side in the interim.

For example, specific provisions should be included requiring: 1) coordination of the on-site plan with the off-site local and state emergency management agencies; 2) training of the potential off-site responders; and 3) public information/education for local populations.

The addition of the above listed requirements would contribute to the attainment of reasonable assurance of the health and safety of the potentially effected populations.

We look forward to favorable consideration by the Commission.

Sincerely, Joseph L. LaFleu Director

JLL/ARS/mjg

cc: Robert J. Adamcik, Chief NTH Div., FEMA III Marie Miller, State Liaison, NRC I
U.S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

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Jim Edgar Governor

July 27, 1993

Secretary of the Commission US Nuclear Regulatory Commission Washington, DC 20555

Attn: Docketing and Service Branch

RE: Proposed Rule on Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)

The Illinois Department of Nuclear Safety (IDNS) hereby submits its comments concerning the above-mentioned proposed rule. IDNS is the lead agency in Illinois for preparing emergency plans for, and in cooperation with the Illinois Emergency Management Agency coordinating emergency responses to, accidents at nuclear facilities.

After review of the proposed rule, we find that the requirements for emergency plans are commensurate with the accident potentials for these facilities. The proposed plan review process outlined in 72.32 (a)14 and (b)15 offers sufficient opportunity for States such as Illinois to exercise their statutory responsibilities for overseeing emergency preparedness for radiological installations within their boundaries.

In the interest of protecting public health and safety, appropriate offsite agencies should be notified immediately of any classifiable accident at an ISFSI or MRS. Section 72.32 (a)8 should specify that the agency(ies) with responsibility to respond to accidents receive the notifications. In Illinois, IDNS should be notified of all such accidents. Consequently, we shall request that any licensee submitting a plan for approval under Part 72 for an ISFSI or MRS in Illinois specifically provide in its emergency plan for timely notifications to IDNS. Such notifications are important to ensure that emergency response actions are not unduly or unnecessarily delayed.

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US Nuclear Regulatory Commission Page 2 July 27, 1993

The requirements for exercises are also appropriate for the facilities involved. We do believe, however, that offsite participation in such exercises should be an integral, not perfunctory, part of the exercise process. Invitations to participate should be both timely and informative, maximizing the opportunity for productive interaction between licensee and offsite personnel. The rule should require that licensees document timely invitations to offsite agencies to participate in annual or biennial exercises, and the offsite participation actually resulting from such invitations.

We appreciate the opportunity to comment on this proposed rule. If you have any concerns or require additional information, please call Andrea Pepper of my staff at (217)785-9890.

incerely Director

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July 29, 1993

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Serial No.

NL&P/RBP

93-341

VIRGINIA POWER

Secretary, U. S. Nuclear Regulatory Commission Washington, D. C. 20555 Attention: Docketing and Service Branch

Gentlemen:

<u>COMMENTS ON PROPOSED RULE</u> <u>EMERGENCY PLANNING LICENSING REQUIREMENTS FOR</u> <u>INDEPENDENT SPENT FUEL STORAGE FACILITIES AND MONITORED</u> <u>RETRIEVABLE STORAGE FACILITIES</u>

In the May 24, 1993 Federal Register, the NRC solicited public comments on the proposed rule to establish emergency planning requirements for Independent Spent Fule Storage facilities (ISFSI) and Monitored Retrievable Storage facilities (MRS).

Based on our review of the proposed rule, it appears that its scope closely follows 10 CFR 50.47 and 10 CFR 50 Appendix E for emergency plans of fixed nuclear facilities. The rule has allowances for the reduced risk factors associated with storage facilities and appears to be consistent with established emergency planning principles. The proposed rule would not immediately affect utilities with storage facilities located on their reactor sites as the existing emergency plans adequately cover radiological emergency preparedness activities. Therefore, we endorse the proposed rule.

The following two points are highlighted for consideration in the rulemaking. First, there is an inconsistency in the discussion section and the proposed rule regarding the frequency of communications checks. The discussion section indicated quarterly checks and the proposed rule indicated semiannual checks. As the proposed rule states, we believe that semiannual checks are adequate to verify the effectiveness of communication abilities.

Second, emergency planning regulations that are applicable in the situation where a utility suspends or ceases operations and continues to use the site as a storage facility should be identified.

Very truly yours,

ML Bunling

M. L. Bowling, Manager Nuclear Licensing and Programs

DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION .

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cc: Mr. Ron Simard Nuclear Management and Resources Council 1776 Eye Street Suite 300 Washington, D. C. 20006-3706

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July 29, 1993

Secretary Samuel J. Chilk US Nuclear Regulatory Commission Washington, DC 20555 UTTIC: UF SECTIONALY DUCKETING & CRAIN GRANCE

Secretary Chilk:

I am writing to urge you to extend the comment period for your proposed rule regarding Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities and Monitored Retrievable Storage Facilities (7590-01-P, 10 CFR Part 72, RIN 3150 - AE17).

As you know, the eight remaining applicants for federal grants to consider hosting the MRS facility are Native American Tribal Governing Councils. These Councils represent rural, generally poor citizens who are difficult to contact quickly. Frequently, members of these communities take more time than usual to discuss and evaluate complex issues such as those relating to the MRS.

Greenpeace works closely with some of these rural tribal citizens who would be affected by the construction and operation of the MRS. We believe they need more time to evaluate your proposed rule (10 CFR Part 72, RIN 3150 -AE17).

We urge you to extend the comment period by six months. This would allow sufficient time for adequate distribution and consideration of your proposal by affected communities.

Thank you for considering this request.

Sincerely,

Jason Salzman Director, Nuclear Waste Campaign



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Nuclear Information and Resource Service

July 25, 1993

Samuel Chilk Secretary U.S. Nuclear Regulatory Commission Washington, DC 20555

Dear Secretary Chilk,

I am writing to request an extension of the comment period on the proposed rule to amend 10 CFR 72: Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage (MRS) that was noticed in the Federal Register with the reference number RIN 3150-AE17.

The waste project at Nuclear Information and Resource Service (NIRS) has made a particular effort to inform potentially affected citizens of this proposed action. This was in part because the proposed rule was one of the first that was of significant interest to our members and others after we began to receive Commission documents on computer disk. It would be inaccurate to imply that we would extend any less effort if we received the document in any other manner. It is only to say that it was particularly opportune since this gave us a little bit more time to get the proposal into the hands of people who should be aware of it. We had also just made contact with a new resource for how to reach the most likely to be affected communities in this case: Native Americans who live near proposed MRS sites.

It is however, again a little unusual since many of the potentially affected persons live in extremely rural situations where postal service is often very slow and sometimes inconsistent. Further, many of the affected people are part of communities where it is important for the whole community to meet and discuss the concerns and arrive at a position or plan of action together. This takes time.

I am just today hearing from people who are very concerned about the NRC's proposal. They have never commented to NRC before, but indicated their determination to do so. They also expressed concern that they need to spread this word farther than NIRS could--because of the finite nature of our database. Again, this takes time, especially where other resources are limited.

Therefore I respectfully request on behalf of the individuals I have heard from in New Mexico and $\frac{1978}{1973}$



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Oklahoma, that the Commission extend the comment period on this issue for an additional 90 days. I am asking for this additional time in part so that the autumn gatherings of these rural communities may become an opportunity for discussion and comment on the vital issues raised by the NRC proposal with respect to emergency planning.

We believe that *any* issue regarding radioactive waste should be open for public comment, but *certainly* a rule that will by definition directly affect the immediate surrounding community such as emergency planning must allow for fair access to comment by the potentially affected parties.

Thank you for your consideration in this matter.

In Cooperation,

Mary Olson Radioactive Waste Project



COMMONWEALTH of VIRGINIA '93 JUN 28 A10:10

Department of Emergency Services

June 23, 1993

GFFICE OF SEC1310 Turner Road DOCK Richmond; Virginia 23225-6491 BRANCH (804) 674-2499 (TDD) 674-2417

Mr. Samuel J. Chilk Secretary U. S. Nuclear Regulatory Commission Washington, DC 20555

Attention: Docketing and Services Branch

Dear Mr. Chilk:

This letter is in response to the <u>Federal Register</u> notice which describes the NRC's proposed amendments to 10 CFR Part 72 to provide for emergency planning licensing requirements for independent spent fuel storage installations (ISFSI).

I believe the proposed amendments are necessary to ensure that state and local authorities will be adequately notified in the event of an accident.

In addition, I support efforts to ensure that a classification of incidents will be consistent with off-site local emergency response planning requirements under NUREG 0654.

Thank you for giving me an opportunity to comment on this important proposed change in the NRC rules.

Sincerely, . Slayton, Jr.

AESjr/ASW/bgm

c: Ed Collins Jim Surratt George Urquhart

A. E. SLAYTON, JR. State Coordinator

Keith R. Keister Deputy Coordinator

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NUCLEAR REGULATORY COMMISSION 10 CFR Part 72

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

Emergency Planning Licensing Requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS)

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

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SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to provide, as directed by the Nuclear Waste Policy Act of 1982, for the emergency planning licensing requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage Facilities (MRS). The proposed amendments are necessary to ensure that local authorities will be notified in the event of an accident so that they may take appropriate action. The proposed rule is intended to provide a level of preparedness at these facilities that is consistent with NRC's defense-in-depth philospophy. 8/9/93DATES: Submit comments by (75 days after publication). Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

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ADDRESSES: Mail written comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch. Deliver comments to One White Flint North, 11555 Rockville Pike, Rockville, MD. between 7:30 a.m. and 4:15 p.m. weekdays. Copies of the environmental assessment and findings of no significant environmental impact, and comments received on the proposed rule are available for inspection and copying- for a fee at the NRC Public Document Room, 2120 L Street, N.W., Washington, D.C., Lower Level.

FOR FURTHER INFORMATION CONTACT: Michael T. Jamgochian, Office of Nuclear Regulatory Research, Washington, D.C. 20555, Telephone (301) 492-3918.

Background

SUPPLEMENTARY INFORMATION: On May 27, 1986 (51 FR 19106), following Commission approval, the proposed revision to 10 CFR Part 72 relating to licensing requirements for Independent Spent Fuel Storage Facilities (ISFSI) and Monitored Retrievable Storage

Facilities (MRS), including requirements for emergency planning, was published in the Federal Register for comment.

I,

On November 30, 1988 (53 FR 31651), the Commission published the final rule outlining the licensing requirements for ISFSI and MRS but reserved the emergency planning licensing requirements for a later date. This rulemaking package provides these requirements.

Discussion

In the Federal Register Notice (53 FR 31651) dated November 30, 1988, which published the final regulations outlining the licensing requirements for ISFSI and MRS, the Commission responded to several comments relating to emergency planning by stating that:

"The basic concept of emergency planning in § 72.32 (§ 72.19) has not been changed. None of the respondents provided any additional information to the staff or questioned the staff analyses such as to change the basis for the staff's approach to emergency planning for an ISFSI or an MRS. Moreover, in view of the relatively passive nature of facilities for the receipt, handling, and storage of spent fuel and high-level radioactive waste, as compared

to operating power reactors, emergency plans for ISFSI and MRS need not be equivalent to emergency plans for reactors.

Since the proposed revision of Part 72 was published for comment on May 27, 1986, the NRC has published proposed amendments to 10 CFR Parts 30, 40, and 70¹ which would require certain NRC fuel cycle and other radioactive materials licensees that engage in activities that may have the potential for a significant accidental release of NRC licensed materials to establish and maintain approved emergency plans for responding to such accidents. Although applicable to persons licensed under different parts of the Commission's regulations, the proposed requirements for emergency plans in Parts 30, 40, and 70 contain similar provisions because they are designed to protect the public against similar radiological hazards. The proposed revision of Part 72 as published for comment also requires applicants for an ISFSI and MRS license to submit an emergency plan (see § 72.32). Although the texts of proposed § 72.32 and the parallel provisions of the proposed Emergency Preparedness rule are not identical, these provisions have the same purpose and use the same approach. In both cases, the proposed regulations require onsite emergency planning with provisions for offsite emergency response in terms of

¹ Proposed rule on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees, 52 FR 12921, April 20, 1987.

coordination and communication with offsite authorities and the public. It is therefore appropriate that in both cases these requirements should be expressed in the same way.

Until the Commission promulgates the Emergency Preparedness rule in final form, it is not possible to ascertain exactly the language that should be used. In view of these circumstances and since there is every expectation that this period of uncertainty will be of relatively short duration, we believe the prudent course of action is to reserve § 72.32 (§ 72.19), Emergency plan, in the final rule with the understanding that the text of this section will be promulgated in final form as a conforming amendment when the Commission adopts and promulgates the final Emergency Preparedness rule or shortly thereafter."

On April 7, 1989 (54 FR 14051), the Commission published in the Federal Register the final regulations relating to Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees (10 CFR Part 70). The requirements for Part 70 licensees state that:

"§ 70.22 (i) (3) Emergency Plans submitted under Paragraph (i) (1) (ii) of this section must include the following information:

(i) Facility description. A brief description of the licensee's facility and area near the site.

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- (ii) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.
- (iii) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.
 - (iv) Detection of accidents. Identification of the means of detecting each type of accident in a timely manner.
 - (v) Mitigation of consequences. A brief description of the means and equipment for mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.
 - (vi) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.
- (vii) Responsibilities. A brief description of the responsibilities of licensee personnel should an

accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC; also responsibilities for developing, maintaining, and updating the plan.

- (viii) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the NRC operations center immediately after notification of the appropriate offsite response organization and not later than one hour after the licensee declares an emergency.²
 - (ix) Information to be communicated. A brief description of the types of information on facility status, radioactive releases, and recommended protective

² These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

actions, if necessary, to be given to offsite response organizations and to the NRC.

- (x) Training. A brief description of the frequency, performance objectives and plans for the training that the licensee will provide workers on how to respond to an emergency including any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel. The training shall familiarize personnel with site-specific emergency procedures. Also, the training shall thoroughly prepare site personnel for their responsibilities in the event of accident scenarios postulated as most probable for the specific site, including the use of team training for such scenarios.
- (xi) Safe shutdown. A brief description of the means of restoring the facility to a safe condition after an accident.
- (xii) Exercises. Provision for conducting quarterly communications checks with offsite response organizations and biennial onsite exercises to test response to simulated emergencies. Quarterly communications checks with offsite response organizations must include the check and update of all

necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises. Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use accident scenarios postulated as most probable for the specific site and the scenarios shall not be known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

- (xiii) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Public Law 99-499, if applicable to the applicant's activities at the proposed place of use of the special nuclear material.
 - (4) The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's

emergency plan before submitting it to NRC. The licensee shall provide any comments received within the 60 days to the NRC with the emergency plan."

Proposed emergency planning regulations for Part 72 licensees were published on May 27 1986 (51 FR 19106), proposing to require the following:

"§ 72.19 Emergency Plan

An application to store spent fuel in an ISFSI or to store spent fuel and high-level radioactive waste in an MRS must include plans for coping with emergencies.

(a) An emergency plan must include the following:

- A brief description of the licensee's facility, site, and area near the site;
- (2) Identification of each type of accident for which an emergency response may be needed;
- (3) Identification of methods for the detection of approaching an accident condition;

- (4) A brief description of methods and equipment for mitigating the consequences of accidents, including those provided to protect workers onsite against radiation hazards, and a description of the program for maintaining the equipment;
- (5) A brief description of the methods and equipment to measure and assess accidental releases of radioactive materials;
- (6) A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC;
- (7) A brief description of the methods for promptly notifying offsite response organizations and requesting assistance, including medical assistance;
- (8) A brief description of the types of information on facility status, radioactive releases, and recommended actions, as appropriate to be given to offsite response organizations and to the NRC;

- (9) A brief description of any special instructions and orientation tours the licensee would offer to fire, police, medical, and other emergency response personnel;
- (10) A brief description of the means of restoring the facility to a safe condition after an accident; and
- (11) Provisions for conducting onsite quarterly communications checks and biennial drills and for identifying and correcting deficiencies in the plan.
- (b) The licensee shall allow the offsite response organizations expected to respond in case of emergency 60 days to comment on the licensee's emergency plan before submitting the plan to NRC for approval. The licensee shall provide any comments that have been received within the 60 days to the NRC with the emergency plan.
- (c) For an ISFSI that is located on the site of a nuclear power reactor licensed for operation by the Commission, the emergency plan required by 10 CFR 50.47 shall be deemed to satisfy the requirements of this section."

After reviewing the proposed emergency planning requirements for Part 72 licensees and comparing them to the final emergency planning requirements for Part 70 licensees published in the Federal Register on April 7, 1989 (54 FR 14051), the Commission has determined that they contain similar provisions because they are designed to protect the public against similar radiological hazards. The Commission finds that, even though these provisions are not entirely identical, they have the same purpose and use the same approach. In both cases, they require onsite emergency planning with provisions for offsite emergency response in terms of coordination and communication with offsite authorities and the public.

As a result of the above evaluation, the Commission is proposing that the emergency planning licensing requirements for Part 72 licensees be similar to those requirements already codified in 10 CFR 70.22 for other Part 70 licensees. Nonetheless, the Commission wishes to establish unique provisions in the emergency planning requirements for ISFSI facilities versus MRS facilities. The Commission anticipates a potential need for enhanced emergency planning requirements appropriate to the entire range of operations which may be conducted at an MRS facility. The Commission acknowledges that, to date, accidents that have been postulated and analyzed for either an ISFSI or MRS would result in similar offsite doses. The analysis of potential onsite and offsite consequences of accidental releases

associated with the operation of an ISFSI is contained in NUREG-1140. This evaluation shows that the maximum dose to a member of the public offsite due to an accidental release of radioactive materials would not exceed 1 rem effective dose equivalent which is within the EPA Protective Action Guides or an intake of 2 milligrams of soluble uranium (due to chemical toxicity).

Thus the consequences of worst-case accidents involving an ISFSI located on a reactor site would be inconsequential when compared to those involving the reactor itself. Therefore, current reactor emergency plans cover all at-reactor ISFSI's. An ISFSI that is to be licensed for a stand-alone operation will need an emergency plan established in accordance with the proposed requirement in this rulemaking. NUREG-1140 concluded that the postulated worst-case accident involving an ISFSI has insignificant consequences to the public health and safety. Therefore, the proposed requirements to be imposed on ISFSI licensees reflect this fact, and do not mandate formal offsite components to their onsite emergency plans.

Similarly, the Commission has conducted an analysis of potential onsite and offsite consequences of accidental releases associated with the operation of an MRS. The analysis is contained in NUREG-1092. This evaluation shows that the maximum dose to a member of the public offsite due to an accidental release of radioactive materials would likely not exceed 1 rem

effective dose equivalent which is within the EPA Protective Action Guides or an intake of 2 milligrams of soluble uranium (due to chemical toxicity). Nonetheless, the Commission believes it appropriate to require enhanced offsite emergency planning at an MRS because of the broader scope of activities which could be performed at such a facility. In addition to the handling and repackaging for storage of large numbers of individual fuel bundles (15,000 Metric Tons Heavy Metal (MTHM)) which involves the receipt, inspection, and transfer of several thousand transport casks, MRS operations may also encompass the consolidation of the stored fuel into casks for subsequent geological disposal after interim storage. At this time a final MRS design has not been selected. The MRS may be a large industrial facility equipped to handle the loading, unloading, and decontaminating a large number of spent fuel shipping containers arriving by both truck and rail. It could also include facilities to disassemble the fuel bundles and consolidate that fuel into special storage/transport containers, and facilities to handle solidified high-level waste. Such facilities would require the equipment necessary to treat low-and high-level waste generated by the above operations. It is also possible, however, for an MRS facility to serve primarily as a warehouse operation, limited solely to accepting, storing and later tran-shipping a large number of universal container systems (UCS) of the type proposed by Virginia Power. Given the uncertainties in the design and operation of the MRS, (no formal

application exists) the Commission believes it prudent to raise the level of emergency planning to include some offsite preparedness should operation of an MRS present accident risks in excess of those analyzed in NUREGS 1140 and 1092. Because the level of threat to the public health and safety from the MRS may exceed that from an ISFSI the emergency planning requirements for the MRS include an offsite component, codified within that section of the proposed rule.

To achieve this goal, the proposed MRS emergency plan requirements are modeled after 10 CFR 50.47(d). The intent of this section was to mandate a minimum level of offsite response capability during initial reactor licensing and low power operations. This same minimum level of response is considered appropriate to MRS operations.

Because much of the language needed to achieve this level of offsite protection has already been codified in 10 CFR Part 50, similar language is included within the proposed emergency plan requirements for an MRS, [10 CFR 72.32(b)(15)(i-vi)].

The Commission notes that for both types of facilities this rulemaking is not required in order to provide adequate safety and may not be justified based solely on a comparison of the costs of implementing these regulations to the increase in public health and safety. Rather, the Commission believes that it is

justified in terms of safety enhancement such as the intangible benefit of being able to assure the public that local authorities will be notified in the event of an accident so that they may take appropriate actions. The NRC feels that such preparedness is prudent and consistent with the NRC's philosophy of defensein-depth.

Nonetheless, the Commission wishes to note that because the full nature and extent of operations and processes that will be conducted at an MRS are yet undefined, the public is requested to comment as to whether an offsite component to emergency preparedness at an MRS is reasonable, appropriate or premature at this time.

It is the Commission's intention that the enclosed proposed Part 72 Emergency Planning requirements supersede the proposed Emergency Planning requirements published on May 27, 1986, (51 FR 19106); therefore, the 1986 proposed amendments are hereby withdrawn.

Submission of Comments on Electronic Format

Commenters are encouraged to submit, in addition to the original paper copy, a copy of the comment letter in electronic format on 5.25 or 3.5 inch computer diskette; IBM PC/DOS or MS/DOS format. Data files should be provided in WordPerfect format or

unformatted ASCII code. The format and version should be identified on the diskette external label.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment; and therefore, an environmental impact statement is not required. The rule would not affect the probability or the size of accidental radioactive releases. It might in some cases reduce the doses people near the facility site could receive. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, N.W., Washington, D.C. lower level. The environmental assessment and finding of no significant impact are contained in Section 4.3 of NUREG-1140, "A Regulatory Analysis on Emergency Preparedness for Fuel Cycle and Other Radioactive Material Licensees." Single copies are available without charge upon written request from NRC Distribution Section, Office of Administration, USNRC, Washington, DC 20555.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Public reporting burden for this collection of information is estimated to average 625 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for further reducing reporting burden, to the Information and Records Management Branch (MNBB-7714), U.S. Nuclear Regulatory Commission, Washington D.C. 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-3019, (3150-0132), Office of Management and Budget, Washington, D.C. 20503.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this proposed regulation. The analysis examines the accident scenarios considered by the Commission as well as the costs and

benefits of actions considered. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street, N.W., Washington, DC. Single copies of the analysis may be obtained without charge upon written request from: Distribution Section, Office of Administration, USNRC, Washington, DC 20555.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, (5 U.S.C. 6059b), the Commission certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities.

The proposed rule would require the development and implementation of emergency plans by licensees who are authorized to possess significant amounts of radioactive material. These companies do not fall within the definition of a small business found in the Small Business Act, 15 U.S.C. 632, or within the small business size standards set forth in 13 CFR Part 121. The proposed rule will affect three (3) licensees. Two licensees hold Part 50 licenses and are required to comply with the provisions respecting emergency plans set out in Part 50.

Thus, the proposed rule would not impose a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act of 1980.

Any small entity affected by this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact, should notify the Commission of this in a comment that indicates the following:

- (a) The small entity's size in terms of annual income or revenue and number of employees;
- (b) How the proposed regulation would result in a significant economic burden upon the small entity as compared to that on a larger entity;
- (c) How the proposed regulations could be modified to take into account the entity's differing needs or capabilities.

The comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, ATTN: Docketing and Service Branch.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and thus, a backfit analysis is not required for this proposed rule, because these

amendments do not involve any provisions which would impose backfits as defined in § 50.109 (a)(1).

List of Subjects in 10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reason presented in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 72.
PART 72 - LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, # 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86-373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97-425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100-203, 101 Stat. 1330-235 (42 U.S.C. 10151, 10152, 10153, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100-203, 101 Stat. 1330-232, 1330-236 (42 U.S.C. 10162 (b), 10168 (c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100-203; 101 Stat. 1330-235 (42 U.S.C.

10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97-425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h), Subparts K and L are also issued under sec. 133, 96 Stat. 2230 (42 U.S.C. 10153) and 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.32 paragraphs (a) and (b) are added to read as follows:

§ 72.32 Emergency Plan,

(a) Each application for an ISFSI (that is not located on the site of a nuclear power reactor or that is located on the site of a nuclear power reactor which does not have an operating license) that is licensed under this part must be accompanied by an Emergency Plan that includes the following information:

(1) Facility description. A brief description of the licensee's facility and area near the site.

(2) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

(3) Classification of accidents. A classification system for classifying accidents up to an alert.

(4) Detection of accidents. Identification of the means of detecting an accident condition.

(5) Mitigation of consequences. A brief description of the means of mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(6) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(7) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC; also responsibilities for developing, maintaining, and updating the plan.

(8) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility,

and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the NRC operations center immediately after notifications of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.¹

(9) Information to be communicated. A brief description of the types of information on facility status; radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC.

(10) Training. A brief description of the training the licensee will provide workers on how to respond to an emergency and any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel.

(11) Safe Condition. A brief description of the means of restoring the facility to a safe condition after an accident.

(12) Exercises. (i) Provisions for conducting semiannual communications checks with offsite response organizations and biennial onsite exercises to test response to simulated

¹These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state or federal reporting requirements.

emergencies. Radiological/Health Physics, Medical, and Fire Drills should be conducted semiannually. Semiannual communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensee shall invite offsite response organizations to participate in the biennial exercises.

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(ii) Participation of offsite response organizations in biennial exercises although recommended is not required. Exercises must use scenarios not known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(13) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Public Law 99-499, if applicable to the applicant's activities at the proposed place of use of the special nuclear material.

(14) The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days

to comment on the licensee's emergency plan before submitting it to NRC. The licensee shall provide any comments received within the 60 days to the NRC with the emergency plan.

(15) In order to assure for potential offsite assistance the review of an applicant's emergency plans shall include arrangements for requesting and effectively using offsite assistance on site have been made, arrangements to accomodate State and local staff at the licensee's near-site emergency facility have been made, and other organizations capable of augmenting the planned onsite response have been identified.

(16) Arrangements made for providing information to the public.

(b) Each application for an MRS that is licensed under this part must be accompanied by an Emergency Plan that includes the following information:

(1) Facility description. A brief description of the licensee's facility and area near the site.

(2) Types of accidents. An identification of each type of radioactive materials accident for which protective actions may be needed.

(3) Classification of accidents. A classification system for classifying accidents as alerts or site area emergencies.²

(4) Detection of accidents. Identification of the means of detecting an accident condition.

(5) Mitigation of consequences. A brief description of the means of mitigating the consequences of each type of accident, including those provided to protect workers onsite, and a description of the program for maintaining the equipment.

(6) Assessment of releases. A brief description of the methods and equipment to assess releases of radioactive materials.

(7) Responsibilities. A brief description of the responsibilities of licensee personnel should an accident occur, including identification of personnel responsible for promptly notifying offsite response organizations and the NRC; also responsibilities for developing, maintaining, and updating the plan.

² Site Area emergency means events may occur, are in progress, or have occurred that could lead to significant release of radioactive material and that could require a response by offsite response organizations to protect persons offsite.

(8) Notification and coordination. A commitment to and a brief description of the means to promptly notify offsite response organizations and request offsite assistance, including medical assistance for the treatment of contaminated injured onsite workers when appropriate. A control point must be established. The notification and coordination must be planned so that unavailability of some personnel, parts of the facility, and some equipment will not prevent the notification and coordination. The licensee shall also commit to notify the NRC operations center immediately after notifications of the appropriate offsite response organizations and not later than one hour after the licensee declares an emergency.³

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(9) Information to be communicated. A brief description of the types of information on facility status; radioactive releases, and recommended protective actions, if necessary, to be given to offsite response organizations and to the NRC.

(10) Training. A brief description of the training the licensee will provide workers on how to respond to an emergency and any special instructions and orientation tours the licensee would offer to fire, police, medical and other emergency personnel.

³ These reporting requirements do not supersede or release licensees of complying with the requirements under the Emergency Planning and Community Right-to-Know Act of 1986, Title III, Pub. L. 99-499 or other state of federal reporting requirements.

(11) Safe Condition. A brief description of the means of restoring the facility to a safe condition after an accident.

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(12) Exercises. (i) Provisions for conducting quarterly communications checks with offsite response organizations and annual onsite exercises to test response to simulated emergencies. Radiological/Health Physics, Medical, and Fire Drills should be held semiannually. Quarterly communications checks with offsite response organizations must include the check and update of all necessary telephone numbers. The licensce shall invite offsite response organizations to participate in the annual exercises.

(ii) Participation of offsite response organizations in annual exercises although recommended is not required. Exercises must use scenarios not known to most exercise participants. The licensee shall critique each exercise using individuals not having direct implementation responsibility for the plan. Critiques of exercises must evaluate the appropriateness of the plan, emergency procedures, facilities, equipment, training of personnel, and overall effectiveness of the response. Deficiencies found by the critiques must be corrected.

(13) Hazardous chemicals. A certification that the applicant has met its responsibilities under the Emergency Planning and Community Right-to-Know Act of 1986, Title III,

Public Law 99-499, if applicable to the applicant's activities at the proposed place of use of the special nuclear material.

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(14) The licensee shall allow the offsite response organizations expected to respond in case of an accident 60 days to comment on the licensee's emergency plan before submitting it to NRC. The licensee shall provide any comments received within the 60 days to the NRC with the emergency plan.

(15) Review of applicant's emergency plans shall include the following for potential offsite assistance:

(i) Arrangements for requesting and effectively using offsite assistance on site have been made, arrangements to accommodate State and local staff at the licensee's near-site emergency facility have been made, and other organizations capable of augmenting the planned onsite response have been identified.

(ii) Provisions exist for prompt communications among principal response organizations to offsite emergency personnel who would be responding onsite.

(iii) Adequate emergency facilities and equipment to support the emergency response onsite are provided and maintained.

(iv) Adequate methods, systems, and equipment for assessing and monitoring actual or potential consequences of a radiological emergency condition are available.

(v) Arrangements are made for medical services for contaminated and injured onsite individuals.

(vi) Radiological Emergency Response Training has been made available to those offsite who may be called to assist in an emergency onsite.

(16) Arrangements made to provide information to the public.

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Dated at Rockville, Maryland, this 12 day of May, 1993. For the U.S. Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission