

WCO outreachCEM Resource

From: Katrina McMurrian [katrina@thenwsc.org]
Sent: Friday, February 17, 2012 3:55 PM
To: WCO outreach Resource
Cc: david.wright@psc.sc.gov; David Boyd; Greg White; bcapstick@3yankees.com; hoeksemar@dteenergy.com
Subject: Comments by NWSC on NRC Draft Report, "Background and Preliminary Assumptions For an Environmental Impact Statement - Long-Term Waste Confidence Update"
Attachments: NWSC Comments to NRC re Assumptions for EIS WC 021712.pdf

Please see the attached comments of the Nuclear Waste Strategy Coalition (NWSC) regarding the NRC's December 2011 Draft Report, "Background and Preliminary Assumptions For an Environmental Impact Statement – Long-Term Waste Confidence Update."

Sincerely,

Katrina J. McMurrian
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Subject: Comments by NWSC on NRC Draft Report, "Background and Preliminary Assumptions For an Environmental Impact Statement - Long-Term Waste Confidence Update"
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February 17, 2012

Ms. Christine Pineda, Project Manager
Mailstop EBB-2B2
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Ms. Pineda:

The Nuclear Waste Strategy Coalition (NWSC), an ad hoc group of state utility regulators, state attorneys general, state consumer advocates, nuclear-generating electric utilities and associate members, appreciates the opportunity to offer comments on the December 2011 draft report, *Background and Preliminary Assumptions For an Environmental Impact Statement – Long-Term Waste Confidence Update*.

The NWSC believes it is premature for the NRC to be developing an EIS for a potential long-term Waste Confidence update. There is no reasonable justification for the NRC to deviate from reviewing Waste Confidence every 5 to 10 years, particularly with a number of relevant initiatives underway but incomplete. At a minimum, the Waste Confidence process should be put on hold pending the outcomes of:

- Congressional deliberations on the recommendations of the Blue Ribbon Commission on America's Nuclear Future (BRC) report;
- the Department of Energy's (DOE) development of a nuclear waste management strategy;
- technical evaluation of the effects of extended long-term storage on spent nuclear fuel (SNF) and storage and transportation systems; and
- the U.S. Court of Appeals case regarding the NRC's review of the Yucca Mountain License Application.

Additionally, we are concerned that the development of an EIS will indirectly reduce pressure on the DOE to remove SNF from commercial nuclear power plant sites as required by the Nuclear

Waste Policy Act (NWPA), thus making the prospect of indefinite on-site storage all the greater. The NRC in its 2010 Waste Confidence update made clear its ruling on the safety of extended storage should not be interpreted as an endorsement to leave SNF stranded indefinitely in 35 states.¹ However, in our view the current discussion of SNF storage for nearly 300 years diverts attention from the real objective: DOE must fulfill its obligations under the law of the land to remove SNF and high-level waste from commercial nuclear power plant sites. This was to have begun in 1998. The NWSC repeats its call for the federal government to carry out its NWPA obligations by disposing of SNF, thereby obviating the need for extended long-term storage, the related Waste Confidence activities at issue, and the significant costs of both to the public.

In its January 2012 report, the BRC highlights the need for the United States to establish a geologic repository for SNF. Other countries are doing just that – Finland and Sweden have selected sites and are moving forward toward that goal. The situation here is absurd; small countries with limited repository options are proceeding responsibly to manage their used fuel, while the United States, with its vast land mass, varied host environments for a repository, and close to a \$30 billion balance in its Nuclear Waste Fund, does nothing. Despite the billions previously paid into this fund and continuing payments that total approximately \$750 million each year by electric consumers who have met their obligation to pay for the disposal of this material, the DOE is now 14 years behind schedule.

Unfortunately, the proposed EIS process has the effect of subtly shifting the focus away from *expecting compliance* with the law and toward *accepting failure* of the federal government to remove SNF from both shutdown and operating plants as required. It sends exactly the wrong signal, even if not so intended by the NRC, and reinforces a widely held perception that this material will remain where it is indefinitely. While framed as a proactive regulatory action, we are concerned that the proposed action may be used tactically to delay the federal government's legal obligation to accept SNF and dispose of it in a national repository. Rather than developing the EIS and trying to justify inaction for another 200 years or more, the government should focus on doing what needs to be done. Specifically, the NRC should make clear to the DOE its expectations that the DOE will demonstrate near-term progress toward fulfilling its obligations and that the status quo is unacceptable.

Not only is the initiation of an EIS process procedurally premature based on the normal 5 to 10 year review cycle, but it also leapfrogs a number of important and directly relevant endeavors. Developing an EIS on long-term Waste Confidence at the same time the Administration and Congress are considering the BRC Report recommendations and associated far-reaching changes to the nation's SNF management program, while the Yucca Mountain license application remains unsettled, and in advance of completion of extended storage research, is not a wise use of agency resources and presupposes outcomes.

¹ See NRC's 2011–2012 Information Digest: "Protecting People and the Environment," page 76 (<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1350/v23/sr1350v23-sec-5.pdf>).

BRC Report Storage & Disposal Recommendations

Among other recommendations, the BRC calls both for prompt efforts to develop one or more deep geologic facilities for the disposal of SNF and high-level waste and prompt efforts to develop one or more consolidated interim storage (CIS) facilities, with SNF from the 9 decommissioned reactor sites “first in line” for transfer. Both the storage and disposal recommendations call for a process that results in one or more volunteer host communities that would receive incentives for hosting these facilities. The report recommends storage and disposal efforts proceed in parallel to, in part, give confidence to a potential volunteer host community for CIS that the facility will not become a de facto permanent storage site.

If these and the other BRC recommendations, such as making the Nuclear Waste Fund available for its intended purpose, are implemented by Congress, CIS and the repository could move forward with new energy. In fact, it is conceivable that a CIS site could be established within a decade, and unless officially ruled out by scientific review or a future action of Congress or the courts, Yucca Mountain remains an option for permanent disposal. We were heartened by Commission Co-Chair and General Brent Scowcroft’s remarks at the February 8th House Science, Space and Technology Committee hearing on the BRC report when he noted that Yucca Mountain could still be an option as a repository if the State of Nevada were to change its mind and join Nye County, Nevada and communities near Yucca Mountain in support of the Yucca Mountain site. Recall the State of Nevada was for the repository before it was against it,² and it is not exempt from the consent-based approach and potential incentives addressed in the BRC report.

Yucca Mountain License Application

Another factor regarding the timing of the proposed EIS process is the status of the Yucca Mountain License Application. The NWSC continues to urge the NRC to resume its review of the license application submitted by DOE. In addition, the U.S. Court of Appeals may rule later this year on whether the NRC *must* continue that review.

Extended Storage Research

Additionally, it makes no sense to perform the EIS on the effects of long-term storage before the results of the technical work are known. The technical program to examine long-term dry storage is just now getting underway, and much research needs to be done to more fully understand the effects of storage up to 300 years on SNF and dry cask storage system components. It will involve a substantial amount of experimental and analytical work. Some of the experiments will take years to conduct. Rather than doing an EIS now, the NRC should gather data, analyze and refine it, develop and validate models, and use those models to make predictions of long-term storage performance. Only at that point will NRC be in a position to assess the environmental impacts.

² In 1975, the Nevada Legislature adopted Assembly Joint Resolution No. 15 (File Number 184), which strongly urged the U.S. Energy Research & Development Administration to choose the Nevada Test Site for the storage and processing of nuclear material provided acceptance of 5 conditions.

While pleased that NRC, DOE, EPRI and others are embarking on this important research effort, we believe that such research work should proceed separately from an EIS process. The NRC should dispense with the pre-scoping and wait at least 5 years to allow the extended storage technical program to mature, as well as (hopefully) the national policy on SNF. Following the normal course of revisiting Waste Confidence every 5 to 10 years, the NRC should then take the appropriate action, whether it be an EIS or something else, based on the conditions at the time.

* * *

The NRC's recent approval of the first new license for a nuclear power plant since 1978 is worth noting. Consistent with its charge by the Administration to review policies for managing the back end of the nuclear fuel cycle and recommend a new plan, the BRC report offers a number of recommendations that, if implemented, will go a long way toward providing this important and growing industry with needed certainty regarding used fuel management. Instead, the draft report issued by the NRC, which begins an evaluation of on-site storage for hundreds of years, reflects acquiescence to the present situation. Clearly, these initiatives are not in sync, and the NWSC calls for the NRC to rectify this by dispensing with the pre-scoping and continue on its normal course of reviewing Waste Confidence for updates every 5 to 10 years. Furthermore, we ask the NRC to hold DOE accountable for meeting its unambiguous obligations under the law so that extended on-site storage is not needed, we seek NRC's support of the Administration's implementation of the BRC recommendations in a timely manner, and we continue to urge the NRC to resume its review of the Yucca Mountain license application. In short, we ask the NRC to do everything in its power to advance, and at a minimum to not hinder, a sound national used fuel management policy.

Finally, the NWSC respectfully requests that the NRC make a concerted effort to consult with affected stakeholders, including licensees as well as states, tribes, and local communities, *in advance* of undertaking significant shifts in its longstanding Waste Confidence review processes. While finding the matter at hand premature, we thank you for the opportunity to provide our input on behalf of our members and the consumers and citizens that they collectively serve.

Sincerely,

A handwritten signature in black ink, appearing to read "D. A. Wright". The signature is fluid and cursive, with a large initial "D" and a long, sweeping underline.

David A. Wright
Chairman, Nuclear Waste Strategy Coalition
Vice-Chairman, South Carolina Public Service Commission

The [Nuclear Waste Strategy Coalition](#) is an ad hoc organization representing the collective interests of state utility regulators, state attorneys general, consumer advocates, electric utilities, and associate members, on nuclear waste policy matters. NWSC's primary focus is to protect ratepayer payments into the Nuclear Waste Fund and to support the removal and ultimate disposal of spent nuclear fuel and high-level radioactive waste currently stranded at some 125 commercial, defense, research, and decommissioned sites in 39 states.