STATE OF SOUTH CAROLINA

Governor's Nuclear Advisory Council

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November 22, 2013

Secretary
U.S. Nuclear Regulatory Commission
Washington DC 20555-0001
ATTN: Rulemaking and Adjudications Staff

RE: RIN 3150-AJ20; NRC-2012-0246
Proposed Rule: Waste Confidence – Continued Storage Spent Nuclear Fuel

Dear Secretary Vietti-Cook:

The South Carolina Governor's Nuclear Advisory Council (GNAC) was formed by statute to advise the Governor on issues relating to nuclear materials and activities in South Carolina. South Carolina hosts seven power reactors, with used fuel in pools and dry casks, and the Savannah River Site, which stores vitrified defense waste waiting permanent disposal. We provide the following comments on the subject rule and its supporting EIS for your consideration.

The GNAC agrees with the conclusions in the Waste Confidence Draft GEIS and with the proposed revisions to the Waste Confidence – Continued Storage of Spent Nuclear Fuel rule.

The draft GEIS is a National Environmental Policy Act (NEPA) document and its conclusions support the proposed rulemaking. In the GEIS, the NRC concludes that, regardless of the location, the adverse environmental impacts of continued storage of spent fuel in fuel pools or dry casks would be small for most resources, and manageable.

We understand that the purpose of a NEPA analysis is to draw conclusions regarding environmental impacts, and that other analyses support safety assessments, however, the safety of spent fuel storage is a concern of the public. Notwithstanding the NRC's request for comments only on the conclusions in the GEIS, the GNAC also notes that used fuel has been stored safely for decades. Storage system designs and operations have become more robust over time; the GNAC expects that spent fuel storage will continue to evolve in the future as it has in the past, enhancing an already safe system. At the same time, the GNAC encourages the NRC to evaluate and validate the sufficiency of the design life of individual used fuel storage systems and facilities in a comprehensive, programmatic manner.

Regarding Issue 1 to remove the timeline for the availability of a disposal repository from the rule – <u>We believe that the timeline for the availability of a repository should be removed from the rule</u>.

The draft GEIS analyzed several scenarios including never developing a repository, and concluded that the environmental impacts of spent fuel storage would be the same regardless of the length of storage.

The obligation and responsibility to develop and implement a plan to site, construct, and operate a repository does not reside with the NRC. Indeed, the Department of Energy has the statutory obligation to develop a national spent nuclear fuel/high level waste disposal program. Although the likelihood of the federal government foregoing this obligation may be considered remote, an expansive NEPA analysis should consider (as this one does) the highly improbable scenario of no repository. Moreover, for NRC to include a time table for repository development could be imprecise or misleading to the public as the time tables in the Nuclear Waste Policy Act and others have demonstrated. As an aside, we question the conclusion that storing used fuel essentially forever would necessarily have "small" environmental impacts in the aggregate. Centuries of storage at multiple sites would surely have measurable effects on dedicated land use and terrestrial resources, if nothing else. We hasten to add that the NRC's short-term and long-term timeframes appear founded on reasonable assumptions and information in the record.

Regarding Issue 2 to include a statement in the rule related to the safety of continued spent fuel storage – We believe that such a validated statement related to the safety of continued spent fuel storage should be included.

In 2012, the U.S. District Court for the District of Columbia ruled that the waste confidence rulemaking is a major federal action requiring an EIS or an EA, and that the NEPA document should address specifically the impacts of potential fires and leaks in fuel pools. The NRC broadened its analyses to include additional considerations. The advantage of the larger scope in the EIS is that the expanded analyses validate the previous findings of the Commission regarding spent fuel storage and allow the Commission to conclude that used/spent fuel storage as practiced in this country is without significant adverse effects on the environment. We believe that the record of previous spent fuel storage also leaves little room to argue that spent fuel storage is not safe. Because safety, more than environmental, considerations may drive spent fuel decisions, and are of the greatest concern to the public, we believe it is appropriate to summarize the NRC's views on the safety of interim and extended spent fuel storage. In other words, the GEIS is an environmental assessment under NEPA that examines the environmental impacts of continued spent fuel storage. While its primary purpose is NEPA-driven and therefore environmentally focused, the public should have the benefit of the NRC's determination that spent fuel may be stored for extended periods with reasonable assurance of safety.

Regarding Issue 3 to remove information that is redundant with information provided in the GEIS from the Discussion portion of the Statement of Consideration that will accompany the final rule's publication in the Federal Register – We believe the information should be published with the rule, thus ensuring that supporting information for the NRC's decision to amend the rule is maintained with the rule. Furthermore, the Discussion portion of the Statement of Considerations has "plain language" content that should increase public understanding of NRC's basis for its conclusions.

Regarding Issue 4 on the title of the rule – We provide no comment.

The GNAC typically comments only on the technical aspects of a proposed action. However, the public opposition to consolidated or interim spent fuel storage compels us to comment on the societal considerations at play. The predominant problem with spent fuel storage is one of public relations. One of the unintended consequences of the Nuclear Waste Policy Act is that it fomented the perception that nuclear waste, which by law must be permanently disposed underground, is so dangerous and unmanageable that it must be buried underground or otherwise permanently removed from the human environment. Unfortunately a comprehensive, accessible public education/information campaign to effectively address these fears, does not exist. Unchallenged and uncorrected, the public's misunderstanding of the risks and benefits of spent fuel will impede the country's ability to develop

nuclear energy, and as a result, prolong our reliance on carbon-based fuels. The fact that some members of the public fear a technology that has time and again been proven safe is no reason to banish the technology. We suggest to the NRC that the technical basis for the conclusions in the GEIS, and the numerous studies supporting the safety of spent fuel storage systems, drive the rulemaking and that the NRC expansively address in lay terms the evaluated risks associated with spent fuel storage.

Sincerely,

Karen Patterson, Chair
South Carolina Governors Nuclear Advisory Council

cc: Members of Council
Gov. Haley