

January 16, 2007

DOCKETED  
USNRC

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

January 16, 2007 (3:17pm)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

ATTN: Rulemakings and Adjudications Staff

Subject: Comment regarding Massachusetts Attorney General's Petition for Rulemaking  
Docket No. PRM-51-10

To Whom It May Concern:

I am an environmental attorney speaking on behalf of myself, writing in support of the Massachusetts Attorney General's petition for rulemaking which urges:

- (a) consider new and significant information showing that NRC's characterization of the environmental impacts of spent fuel storage as insignificant in the 1996 Generic Environmental Impact Statement for Renewal of Nuclear Power Plant Licenses is incorrect;
- (b) revoke regulations codifying the incorrect conclusion eliminating consideration of spent fuel storage impacts in NEPA decision-making documents;
- (c) issue a generic determination that the environmental impacts of high-density spent fuel pool storage are significant; and
- (d) order that any NRC licensing decision that approves high-density spent fuel pool storage at a nuclear power reactor or other facility must require the creation of an environmental impact statement ("EIS") addressing (i) the environmental impacts of high density pool storage of spent fuel at that nuclear reactor and (ii) provide a reasonable array of alternatives for avoiding or mitigating those impacts.

My background is as an attorney who has examined the issue of terrorism post-September 11, 2001, including preparation of a guide on chemical safety for local communities, The Safe Hometowns Guide.

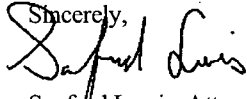
Our understanding of concerns regarding spent fuel storage are altered by the events of September 11, 2001. Before then we needed to be concerned principally about accidental releases; today we cannot consider issues of spent fuel storage without reflecting the concern that spent fuel storage may be a target of intentional action by terrorists. An intensive spent fuel storage site is a hazardous technology which could be deployed by terrorists as a "bomb in place" to inflict grave damage on our communities. Consideration of nuclear plants, licensing and environmental impacts must include these serious risks.

This is such a serious risk that it must be considered in NEPA decisionmaking. At Vermont Yankee, the facility nearest my own home, various maneuvers are underway to attempt to allow an uprate including recirculating cooling water between the spent fuel area and the reactor's own cooling system, which I believe was not intended in the original facility design. This increases the risks of failure, above and beyond the threat of terrorism. This is just one example of why an EIS is needed on this site.

The current safety conditions of Vermont Yankee without an uprate are already tenuous and many call for an independent safety assessment of the plant, which I believe should be required as part of any EIS review. In August 2004, there was a small-scale assessment by a team of engineers that comprised less than ten percent of a typical independent safety assessment. However, in this small assessment alone, 45 components were tested and 8 of them were found to have safety defects, most of the defects in the initial design of the components. It is reasonable to believe that a larger investigation, including an EIS expanded to include review of the high density fuel storage, would bring many more safety concerns to light.

The AG requests the revocation of 10 C.F.R. §§ 51.53(c)(2) and 51.95(c) and Table B-1 of Appendix A to 10 C.F.R. Part 51 to ensure NEPA compliance in the Pilgrim and Vermont Yankee license renewal cases if the ASLB or the Commission interprets those regulations to bar the consideration of significant new information presented by the Attorney General's contentions regarding the environmental impacts of high-density pool storage of spent fuel. I support this revocation.

Feel free to call me if I may provide additional information.

Sincerely,  


Sanford Lewis, Attorney  
PO Box 231  
Amherst, MA 01004

**From:** Sanford Lewis <strategiccounsel@mac.com>  
**To:** <SECY@nrc.gov>  
**Date:** Mon, Jan 15, 2007 2:09 PM  
**Subject:** Comments on Docket No. PRM-51-10

January 16, 2007

Secretary  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

ATTN: Rulemakings and Adjudications Staff

Subject: Comment regarding Massachusetts Attorney General's Petition for  
Rulemaking  
Docket No. PRM-51-10

To Whom It May Concern:

I am an environmental attorney speaking on behalf of myself, writing in support of the Massachusetts Attorney General's petition for rulemaking which urges:

(a) consider new and significant information showing that NRC's characterization of the environmental impacts of spent fuel storage as insignificant in the 1996 Generic Environmental Impact Statement for Renewal of Nuclear Power Plant Licenses is incorrect;

(b) revoke regulations codifying the incorrect conclusion eliminating consideration of spent fuel storage impacts in NEPA decision-making documents;

(c) issue a generic determination that the environmental impacts of high-density spent fuel pool storage are significant; and

(d) order that any NRC licensing decision that approves high-density spent fuel pool storage at a nuclear power reactor or other facility must require the creation of an environmental impact statement (<sup>3</sup>EIS<sup>2</sup>) addressing (i) the environmental impacts of high density pool storage of spent fuel at that nuclear reactor and (ii) provide a reasonable array of alternatives for avoiding or mitigating those impacts.

My background is as an attorney who has examined the issue of terrorism post-September 11, 2001, including preparation of a guide on chemical safety for local communities, The Safe Hometowns Guide.

Our understanding of concerns regarding spent fuel storage are altered by the events of September 11, 2001. Before then we needed to be concerned principally about accidental releases; today we cannot consider issues of spent fuel storage without reflecting the concern that spent fuel storage may be a target of intentional action by terrorists. An intensive spent fuel storage site is a hazardous technology which could be deployed by terrorists as a <sup>3</sup>bomb in place<sup>2</sup> to inflict grave damage on our communities. Consideration of nuclear plants, licensing and environmental impacts must include these serious risks.

This is such a serious risk that it must be considered in NEPA decisionmaking. At Vermont Yankee, the facility nearest my own home, various maneuvers are underway to attempt to allow an uprate including recirculating cooling water between the spent fuel area and the reactor's own cooling system, which I believe was not intended in the original facility design. This increases the risks of failure, above and beyond the threat of terrorism. This is just one example of why an EIS is needed on this site.

The current safety conditions of Vermont Yankee without an uprate are already tenuous and many call for an independent safety assessment of the plant, which I believe should be required as part of any EIS review. In August 2004, there was a small-scale assessment by a team of engineers that comprised less than ten percent of a typical independent safety assessment. However, in this small assessment alone, 45 components were tested and 8 of them were found to have safety defects, most of the defects in the initial design of the components. It is reasonable to believe that a larger investigation, including an EIS expanded to include review of the high density fuel storage, would bring many more safety concerns to light.

The AG requests the revocation of 10 C.F.R. §§ 51.53(c)(2) and 51.95(c) and Table B-1 of Appendix A to 10 C.F.R. Part 51 to ensure NEPA compliance in the Pilgrim and Vermont Yankee license renewal cases if the ASLB or the Commission interprets those regulations to bar the consideration of significant new information presented by the Attorney General's contentions regarding the environmental impacts of high-density pool storage of spent fuel. I support this revocation.

Feel free to call me if I may provide additional information.

Sincerely,

Sanford Lewis, Attorney  
PO Box 231  
Amherst, MA 01004  
413 549-7333

CC: <ago@ago.state.ma.us>

**Mail Envelope Properties** (45ABD175.BF2 : 9 : 3058)

**Subject:** Comments on Docket No. PRM-51-10  
**Creation Date** Mon, Jan 15, 2007 2:10 PM  
**From:** Sanford Lewis <[strategiccounsel@mac.com](mailto:strategiccounsel@mac.com)>

**Created By:** [strategiccounsel@mac.com](mailto:strategiccounsel@mac.com)

**Recipients**

nrc.gov

TWGWPO02.HQGWDO01

SECY (SECY)

ago.state.ma.us

ago CC

**Post Office**

TWGWPO02.HQGWDO01

**Route**

nrc.gov

ago.state.ma.us

<b>Files</b>	<b>Size</b>	<b>Date &amp; Time</b>
MESSAGE	4100	Monday, January 15, 2007 2:10 PM
nrcletter_sanfordlewis.pdf	95580	
Mime.822	137141	

**Options**

**Expiration Date:** None  
**Priority:** Standard  
**ReplyRequested:** No  
**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard

**Junk Mail Handling Evaluation Results**

Message is eligible for Junk Mail handling  
This message was not classified as Junk Mail

**Junk Mail settings when this message was delivered**

Junk Mail handling disabled by User  
Junk Mail handling disabled by Administrator  
Junk List is not enabled  
Junk Mail using personal address books is not enabled  
Block List is not enabled