

**ORAL ARGUMENT NOT YET SCHEDULED**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

D.C. Cir. No. 14-1210 (consolidated with D.C. Cir. Nos. 14-1212, 14-1216,  
14-1217)

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STATE OF NEW YORK, *et al.*,  
Petitioners,

v.

UNITED STATES NUCLEAR REGULATORY COMMISSION and the UNITED  
STATES OF AMERICA,  
Respondents

COMMONWEALTH OF MASSACHUSETTS, *et al.*,  
Intervenors.

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Petition for Review of Final Administrative Action of the United States Nuclear  
Regulatory Commission

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**INITIAL OPENING BRIEF FOR PETITIONERS  
NATURAL RESOURCES DEFENSE COUNCIL, INC., BEYOND  
NUCLEAR, BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE,  
MISSOURI COALITION FOR THE ENVIRONMENT, NEW ENGLAND  
COALITION, NUCLEAR INFORMATION & RESOURCE SERVICE,  
RIVERKEEPER, INC., SAN LUIS OBISPO MOTHERS FOR PEACE AND  
SOUTHERN ALLIANCE FOR CLEAN ENERGY, INC.**

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June 29, 2015

**CERTIFICATE AS TO PARTIES, RULINGS AND RELATED CASES**

Pursuant to D.C. Circuit Rules 15(c)(3) and 28(a)(1), counsel for Petitioners Natural Resources Defense Council, Beyond Nuclear, Blue Ridge Environmental Defense League, Missouri Coalition for the Environment, New England Coalition, Nuclear Information and Resource Service, Riverkeeper, San Luis Obispo Mothers for Peace, Southern Alliance for Clean Energy, and Sustainable Energy and Economic Development Coalition certify as follows:

**1. Parties, Intervenors and *Amici Curiae*.**

The parties to this case are petitioners Natural Resources Defense Council, Beyond Nuclear, Blue Ridge Environmental Defense League, Missouri Coalition for the Environment, New England Coalition, Nuclear Information and Resource Service, Riverkeeper, San Luis Obispo Mothers for Peace, Southern Alliance for Clean Energy, and Sustainable Energy and Economic Development Coalition on behalf of their members; and respondents United States Nuclear Regulatory Commission (“NRC”) and the United States of America. Additional Petitioners submitting a separate brief are the State of Connecticut, the State of New York, the State of Vermont, and the Prairie Island Indian Community.

The State of Massachusetts has intervened on behalf of the Petitioners. The Nuclear Energy Institute, Entergy Nuclear Operations, Inc., and Northern States

Power Co. have intervened on behalf of Respondents. The Sierra Club is participating as an *amicus curiae*.

## **2. Rulings Under Review.**

Petitioners Beyond Nuclear et al. seek review of the following NRC final Rule and final Generic Environmental Impact Statement, as set forth below.

a. *Final Rule for Continued Storage of Spent Nuclear Fuel*, 79 Fed. Reg. 56238 (September 19, 2014).

b. *Final Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel*, 79 Fed. Reg. 56263 (September 19, 2014).

## **3. Related Cases.**

The current proceeding consists of four consolidated cases. The lead case is *State of New York, et al. v. United States Nuclear Regulatory Commission and the United States of America*, D.C. Cir. No. 14-1210. The three cases that were consolidated in the aforementioned action are *Prairie Island Indian Community v. United States Nuclear Regulatory Commission and the United States of America*, D.C. Cir. No. 14-1212; *Beyond Nuclear et al. v. United States Nuclear Regulatory Commission and the United States of America*, D.C. Cir. No. 14-1216; and *Natural Resources Defense Council v. United States Nuclear Regulatory Commission and the United States of America*, D.C. Cir. No. 14-1217.



Two other cases are related to the instant case: *Missouri Coalition for the Environment v. United States Nuclear Regulatory Commission and the United States of America*, D.C. Cir. No. 15-1114 (filed Apr. 23, 2015); and *Beyond Nuclear vs. United States Nuclear Regulatory Commission and the United States of America*, D.C. Cir. No. 15-1173 (filed June 19, 2015). Both of these cases appeal individual reactor licensing decisions on the ground that they rely on the Rule and GEIS appealed in this proceeding. By order dated May 22, 2015, the Court held *Missouri Coalition for the Environment* in abeyance. It is Petitioners' understanding that Beyond Nuclear also plans to move the Court to hold a portion of No. 15-1173 in abeyance pending the outcome of this proceeding.

Respectfully submitted,

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**PETITIONERS' RULE 26.1 DISCLOSURE STATEMENT**

Pursuant to Fed. R. App. P. 26.1 and D.C. Cir. Rule 16.1, Petitioners Natural Resources Defense Council, Beyond Nuclear, Blue Ridge Environmental Defense League, Missouri Coalition for the Environment, New England Coalition, Nuclear Information and Resource Service, Riverkeeper, San Luis Obispo Mothers for Peace, Southern Alliance for Clean Energy, and Sustainable Energy and Economic Development Coalition state that they are nonprofit corporations whose general nature and purpose is environmental advocacy. Petitioners have no parent companies, no publicly-traded company has a 10% or greater ownership interest in any of them, and none of them are traded for profit.

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## **GLOSSARY**

Pursuant to Circuit Rule 28(a)(3), the following is a glossary of acronyms and abbreviations used in this brief:

|                |   |
|----------------|---|
| APA            | Administrative Procedure Act                        |
| BREDL          | Blue Ridge Environmental Defense League             |
| C.I.R.         | Certified Index [used for record citations]         |
| EIS            | Environmental impact statement                      |
| EPA            | Environmental Protection Agency                     |
| GEIS           | Generic Environmental Impact Statement              |
| MCE            | Missouri Coalition for the Environment              |
| NEC            | New England Coalition                               |
| NEPA           | National Environmental Policy Act                   |
| NIRS           | Nuclear Information & Resource Service              |
| NRC            | Nuclear Regulatory Commission                       |
| NRDC           | Natural Resources Defense Council                   |
| Rule           | Continued Storage of Spent Fuel Rule                |
| SACE           | Southern Alliance for Clean Energy                  |
| SEED Coalition | Sustainable Energy & Economic Development Coalition |
| SLOMPF         | San Luis Obispo Mothers for Peace                   |

## **STATEMENT OF JURISDICTION**

NRC's GEIS and Rule (defined below) are final orders that are reviewable by this Court under 42 U.S.C. § 2239(b), 28 U.S.C. § 2342(4), and 5 U.S.C. § 702. Pursuant to 28 U.S.C. §2344, Petitioners timely filed their appeal within sixty days of September 19, 2014, when final orders were published in the Federal Register.<sup>1</sup>

## **STATUTES AND REGULATIONS**

Relevant statutes and regulations are included in an addendum.

## **ISSUES PRESENTED FOR REVIEW**

1. Has the U.S. Nuclear Regulatory Commission ("NRC") violated the National Environmental Policy Act ("NEPA") and this Court's directions by proposing to license reactors without considering the environmental impacts of generating spent fuel or alternatives to avoid or mitigate those impacts?

2. Has NRC violated NEPA and this Court's directions by defining its major federal action as a purely administrative decision rather than a predetermined stage of reactor licensing?

3. Has NRC violated NEPA and this Court's directions by basing its conclusions that the environmental impacts of continued spent fuel storage

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<sup>1</sup> NRDC filed a Petition for Review on October 29, 2014, in Docket No. 14-1217. Beyond Nuclear, *et al.* filed a Petition for Review on October 29, 2014, in Docket No. 14-1216. Both cases were consolidated with Docket Nos. 14-1210 and 14-1212 in an order dated October 31, 2014.

are insignificant on impermissible assumptions that adverse impacts will not occur rather than analyzing their probability and consequences?

4. Has NRC violated NEPA by failing to evaluate the cumulative impacts of generating, storing, and disposing of spent fuel?

### **INTRODUCTION**

This consolidated case involves appeals of a generic environmental impact statement and a related regulation issued by the NRC on September 19, 2014: Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (C.I.R.#1052) (the “GEIS”); Continued Storage of Spent Nuclear Fuel Rule (C.I.R.#1) (the “Rule”).<sup>2</sup> The GEIS evaluates the environmental impacts of continued storage of spent fuel after reactor license termination; the Rule codifies the GEIS’ findings for application in individual reactor licensing and re-licensing decisions. The GEIS and Rule were issued by NRC in response to this Court’s decision in *New York v. NRC*, 681 F.3d 471 (D.C. Cir. 2012) (“*New York I*”).

The separate briefs filed by the different Petitioner groups in this case address different aspects of the GEIS and Rule. The States and Tribe argue that the GEIS violates NEPA because it improperly analyzes, among other things, the impacts of fires and leaks in spent-fuel pools. In this brief,

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<sup>2</sup> References to the Certified Index of the Record are cited as “C.I.R.”

Petitioners NRDC, Beyond Nuclear, BREDL, MCE, NEC, NIRS, Riverkeeper, SLOMFP, SEED Coalition, and SACE, challenge the GEIS for its failure to comply with NEPA in conducting analyses of the environmental impacts of storing spent nuclear fuel for an extended period, and its failure to discuss a reasonable range of alternatives to the proposed action. All parties challenge the Rule for codifying the conclusions of the inadequate GEIS.

## **STATUTORY AND REGULATORY FRAMEWORK**

### **I. NEPA**

NEPA, 42 U.S.C. §§ 4321-4370h, requires a federal agency to take a “hard look” at potential environmental consequences of its decisions by preparing an environmental impact statement (“EIS”) prior to any “major Federal action[] significantly affecting the quality of the human environment.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989); 42 U.S.C. §4332(c). “Major federal actions” requiring an EIS include NRC’s issuance or re-issuance of reactor licenses. *New York v. NRC*, 589 F.3d 551, 553 (2d Cir. 2009). Preparing an EIS ensures that the agency “will have available, and will carefully consider, detailed information concerning significant environmental impacts” and that “the relevant information will be made available to the larger audience that may also play

a role in the decision-making process and implementation of that decision.”

*Robertson*, 490 U.S. at 349. The “heart” of an EIS is the requirement that an agency must “‘rigorously explore and objectively evaluate’ the projected environmental impacts of all ‘reasonable alternatives’ for completing a proposed action.” *City of Alexandria, Va. v. Slater*, 198 F.3d 862, 866 (D.C. Cir. 1999) (quoting 40 C.F.R. § 1502.14); *see also* 10 C.F.R. pt. 51, subpart A, app. A, para. (5).

## **II. NUCLEAR WASTE POLICY ACT**

The Nuclear Waste Policy Act, 42 U.S.C. 10101 *et seq.*, establishes a national policy of disposing of spent nuclear fuel in a deep geologic repository. 42 U.S.C. §§ 10101(18), 10131. The Act does not reach any conclusions about the safety, technical feasibility, or capacity of repositories. Instead, it requires the U.S. Environmental Protection Agency (“EPA”) and NRC to establish standards and licensing criteria (42 U.S.C. § 10141), and it gives NRC responsibility for licensing repositories. 42 U.S.C. § 10141(b).

## **FACTUAL BACKGROUND**

### **I. THE PROBLEM OF SPENT NUCLEAR FUEL**

Nuclear waste, “[h]aving the capacity to outlast human civilization as we know it and the potential to devastate public health and the environment,” has “vexed scientists, Congress, and regulatory



agencies for the last half-century.” *Nuclear Energy Inst., Inc. v. Env’tl. Prot. Agency*, 373 F.3d 1251, 1257 (D.C. Cir. 2004). In response to this danger, there is virtually universal agreement among government, industry, and environmental stakeholders that the waste from the nation’s nuclear weapons program and its commercial nuclear power plants must be buried in technically sound, deep geologic repositories, permanently isolated from the human and natural environments. C.I.R.#700 22-24. Yet, despite decades of effort, no repository has been licensed.

Meanwhile, spent reactor fuel continues to accumulate at reactor sites, and NRC continues to license and re-license reactors to produce additional quantities of this toxic, everlasting waste. The inventory of spent fuel is now over 67,500 metric tons and increasing by 2,000 metric tons per year. GEIS 2-11. The President’s Blue Ribbon Commission on America’s Nuclear Future has predicted that under a high-growth scenario that assumes substantial numbers of new reactors coming on line in the next few decades, the nation’s accumulated spent fuel inventory could exceed 200,000 metric tons by mid-century. C.I.R.#992 14. Under the no-growth scenario, which assumes continued operation of existing reactors to the end of their

current licenses only, and no further expansion of the industry, the total inventory of spent fuel could approach 150,000 metric tons. *Id.*

## **II. WASTE CONFIDENCE DECISIONS AND 10 C.F.R. § 51.23**

Consistent with its legal obligation under the Atomic Energy Act to ensure protection of public health and safety in its licensing decisions, *see, e.g.,* 42 U.S.C. § 2133(d), NRC has stated for decades that it “would not continue to license reactors if [it] ‘did not have reasonable confidence that . . . [spent fuel] can and will in due course be disposed of safely.’” *Detroit Edison Co.*, CLI-15-04, slip op. 8 (Feb. 26, 2015) (quoting 42 Fed. Reg. 34,391, 34,393 (July 5, 1977)). *See also id.* at 26; *Natural Res. Def. Council v. NRC*, 582 F.2d 166, 169 (2nd Cir. 1978). Therefore, between 1984 and 2010, NRC issued periodic “Waste Confidence Decisions” containing safety findings regarding the technical feasibility, availability, and timeliness of safe spent fuel disposal in a repository and the safety of spent fuel storage in the meantime; it codified these findings in 10 C.F.R. § 51.23(a). *See* 681 F.3d at 475.

The most recent Waste Confidence Decision was issued in 2010 and vacated by the Court in *New York I*. In 2014, NRC dropped its formal waste confidence findings from the Rule under review, but they are incorporated into the GEIS in Appendix B. In separate NRC licensing proceedings, NRC

recently re-affirmed the conclusion of the waste confidence findings that “it is safe to proceed with reactor licensing because it is ultimately possible to dispose of spent nuclear fuel safely.” *Detroit Edison*, slip op. at 26.

### **III. NEW YORK I**

In *New York I*, the Court held that the 2010 Waste Confidence Decision was a part of individual reactor licensing decisions because its findings “have a preclusive effect in all future licensing decisions.” 681 F.3d at 476. Therefore the Court concluded the Waste Confidence Decision constituted a “major federal action” that was subject to NEPA. *Id.* The Court further held that NRC’s waste confidence findings regarding the feasibility and availability of a repository were a “far cry from finding the likelihood of nonavailability to be ‘remote and speculative.’” *Id.* at 479. Therefore, the Court vacated the Waste Confidence Decision and ordered NRC to evaluate the environmental effects of failure to site a repository, including “the probabilities of potentially harmful events and the consequences if those events come to pass.” *Id.* at 478-79.

### **IV. SUSPENSION OF REACTOR LICENSING DECISIONS**

Following *New York I*, NRC suspended all pending licensing and re-licensing decisions. *Calvert Cliffs 3 Nuclear Power Project, LLC*, 76 N.R.C. 63 (2012). In reaching its decision, the Commission observed that “[w]aste

confidence undergirds certain agency licensing decisions, in particular new reactor licensing and reactor license renewal.” *Id.* (citing 10 C.F.R. § 51.23(b)). In “recognition of [its] duties under the law,” NRC asserted that it would not issue or renew reactor licenses until the issues remanded by the Court of Appeals were resolved. *Id.* at 66-67. Following issuance of the GEIS and Rule, the Commission lifted the suspension. *Calvert Cliffs 3 Nuclear Power Project, LLC*, 80 N.R.C. 71 (2014).

## **V. THE RULE AND GEIS**

In 2013, NRC issued a proposed Rule, C.I.R.#2, and draft GEIS, C.I.R.#1028. Petitioners challenged the Rule and GEIS in detailed legal and technical comments. C.I.R.#700 (NRDC), C.I.R.#1113 (Environmental Organizations). In 2014, NRC issued final versions of the Rule and GEIS that were substantially similar to the drafts. C.I.R.#1, C.I.R.#1052.

### **A. The Rule**

The Rule has three provisions relevant to this appeal. First, § 51.23(a) codifies the environmental impact determinations of the GEIS. Second, § 51.23(b) states that the GEIS’ environmental impact determinations are incorporated into EISs for all prospective reactor licensing decisions. Finally, the Rule’s preamble clarifies that the Rule’s findings “will affect any nuclear power reactor applicant and licensee seeking issuance or

renewal of an operating license or construction permit for a nuclear power reactor under 10 CFR parts 50 or 54.” C.I.R.#1 56,242.<sup>3</sup>

## **B. The GEIS**

Acknowledging the Court’s decision that “the 2010 Waste Confidence rulemaking did not satisfy NRC’s NEPA obligations,” NRC asserts it prepared the GEIS “to satisfy its NEPA obligations regarding the environmental impacts of continued storage of spent fuel in an efficient manner.” GEIS xxiv.

While the Court held in *New York I* that 10 C.F.R. § 51.23 constitutes a major federal action because it enables licensing of reactors, 681 F.3d at 476-77, the GEIS characterizes the proposed action not as licensing, but as the administrative act of codifying the GEIS’ analysis. GEIS 1-6 to 1-8. It therefore compares the environmental impacts (including costs and benefits) of writing a single GEIS, writing many reactor-specific EISs, or writing a policy statement. *Id.*, Ch.7. The GEIS concludes that all of the alternatives would have essentially no impacts, but that preparation of the GEIS is the

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<sup>3</sup> The Rule would affect approximately twenty-five now-pending or recently-issued applications for initial licenses and renewed licenses. See NRC Spotlight Archive, <http://www.nrc.gov/reactors/new-reactors/col.html>; <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html>. (last visited June 26, 2015). It would also affect future applications.

most “efficient” alternative and therefore the “preferred alternative.” GEIS xxiv. The GEIS does not identify any alternatives that would avoid or mitigate the environmental impacts of the spent fuel that would be generated through reactor licensing decisions.

Separately, without explaining how it relates to the agency’s purely administrative construct of the “proposed action,” the GEIS contains a discussion of the environmental impacts of continued spent fuel storage during three time-frames: (1) short-term (sixty years beyond the life of reactor operations), (2) long-term (160 years beyond reactor operation), and (3) indefinite (assuming no repository is available). *Id.* xxx. In both short and long-term timeframes, the GEIS assumes a repository will become available. *Id.* In the indefinite timeframe, the GEIS assumes institutional controls will exist in perpetuity, including replacement every 100 years of canisters, casks, storage facilities, and dry transfer systems. *Id.* xxxi. The GEIS also assumes some necessary safety equipment not now in existence, such as “dry transfer systems,” will be successfully developed. *Id.*; *see also id.* 2-20.

The GEIS acknowledges that if spent fuel storage facilities are not cared for, they could release radioactivity to the environment in a period as short as “decades” and that the consequences of such releases could be

“catastrophic.” *Id.* D-177. Yet, the GEIS provides no data or analysis regarding how or when these impacts could occur or their effects on the human environment. Instead, in response to public comments, the GEIS briefly cites the Yucca Mountain EIS and states that the impacts could be “similar.” *Id.* D-176 - D-177. In spite of the potentially catastrophic consequences of spent fuel storage, the GEIS characterizes the radiological environmental impacts of spent fuel storage as “SMALL” (*i.e.*, insignificant) for all three time-frames. *Id.* xlvii-xlvihi, lix.

The GEIS also contains a cumulative impacts analysis of a range of past and future “activit[ies] or stressor[s]” that may contribute to the environmental impacts of spent fuel storage. *Id.* 6-6. The list of activities and stressors does not include storage of the existing inventory of 67,500 metric tons of spent fuel generated by already-licensed reactors, nor does it include spent fuel disposal.

## **SUMMARY OF ARGUMENT**

In 2012, this Court held that the promulgation of 10 C.F.R. § 51.23 constituted a “major federal action” because it codified “waste confidence” findings about storing and disposing of spent fuel that “enabl[ed]” reactor licensing. 681 F.3d at 476-77. Because § 51.23 was not supported by an environmental analysis, the Court vacated the rule and ordered NRC to evaluate the environmental effects of failure to site a repository, including “the probabilities of potentially harmful events and the consequences if those events come to pass.” *Id.* at 478-79. The version of 10 C.F.R. § 51.23 issued on remand must be vacated for the same reason that § 51.23 was vacated in *New York I*: it would continue to allow the licensing and re-licensing of nuclear reactors without informing those decisions of the impacts or alternatives to continued spent fuel storage after license termination. *Robertson*, 490 U.S. at 349.

In violation of NEPA and *New York I*, the GEIS fails to identify the correct proposed action as the enabling of reactor licensing through adoption of the Rule and codification of the GEIS. Instead, the GEIS characterizes the major federal action as the administrative activity of writing the GEIS, whose impacts (already-incurred) amount to the consumption of paper. GEIS 7-17. The only alternatives to the proposed action of preparing the



GEIS are a set of “different administrative approaches for addressing the environmental impacts of continued storage.” GEIS 1-6 to 1-9. As a result, the GEIS contains no discussion of alternatives for avoiding or mitigating the significant environmental impacts of generating tons of highly radioactive spent fuel, including denial of reactor licenses or setting limits on the radiological characteristics of the fuel used in reactors.

And while the GEIS does contain an unrelated analysis of spent fuel impacts, that analysis is wholly untethered from the action the GEIS purports to address and the alternatives it purports to consider. The only decision informed by the GEIS is the decision of how to write an EIS.

Even if NRC had correctly defined the proposed action as enabling the licensing of reactors to produce spent fuel, the GEIS fails to satisfy the Court’s directive to analyze the environmental impacts of failure to site a repository. 681 F.3d at 478-79. The GEIS lacks any analysis of the probability of such a failure, nor does it analyze the consequences of spent fuel storage if institutional controls are lost and radiation escapes. Finally, the GEIS fails to consider the significant cumulative impacts of storing the existing inventory of spent fuel, the impacts of storing the inventory of spent fuel yet to be generated under existing licenses, and the future impacts of disposing of all spent fuel in a repository.

Because NRC has structured the Rule and GEIS to avoid considering spent fuel storage impacts and alternative actions in reactor licensing decisions, and because the analysis in the GEIS fails to satisfy the Court's instructions to consider the probability and consequences of spent fuel storage, the Rule and GEIS fail to fulfill NEPA's function of ensuring agencies consider the environmental impacts of their proposed actions before undertaking them. *Robertson*, 490 U.S. at 349. Therefore the Rule and GEIS must be vacated.

### **STANDING**

Petitioners satisfy the Article III standing requirements for membership organizations established in *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333, 343 (1977) (an organization has standing where its members would have standing to sue in their own right, the interests in the case are germane to the organization's institutional interests, and the case does not require the participation of individual members).

First, as demonstrated by Petitioners' standing declarations, each Petitioner represents individual members who satisfy the three elements of standing—*injury-in-fact*, causation, and redressability. *Friends of the Earth, Inc. v. Laidlaw Env'tl. Servs., Inc.*, 528 U.S. 167, 180-81 (2000). These

individuals live or work in close proximity to nuclear reactors and are concerned about NRC's failure to consider the environmental impacts of continued storage of spent nuclear fuel. *See, e.g.*, Declaration of Blake Rowe: ¶9 (Addendum Exhibit 4) and other standing declarations attached as Addendum Exhibits 1 through 34. NRC's failure to adequately consider the environmental impacts of spent fuel storage, or to discuss a reasonable range of alternatives to generating spent fuel, constitutes an injury to these individuals' interests. *Nuclear Info. & Res. Serv. v. NRC*, 509 F.3d 562, 567 (D.C. Cir. 2007). *See also Minnesota v. NRC*, 602 F.2d 412, 418-19 (D. C. Cir. 1979) (storage and disposal of nuclear waste are relevant considerations during reactor licensing). If NRC were required to fully consider the intergenerational human health and environmental impacts posed by the storage of nuclear waste, these individuals' concerns would be adequately remedied. *See, e.g.*, Rowe: ¶11. *See also Lujan v. Defenders of Wildlife*, 504 U.S. 555, 572 n. 7 (1992) (redressability requirement relaxed for procedural injuries). Accordingly, these members have standing to sue in their own right.

Second, this case involves interests germane to Petitioners' institutional interests. *See, e.g.*, Declaration of Gina Trujillo: ¶¶5-6

(Addendum Exhibit 7).<sup>4</sup> Petitioners also made statements of interest when commenting on the Draft GEIS. C.I.R. #700 2; C.I.R. #1113 5.

Finally, none of the claims asserted here, nor the relief requested, requires their individual participation in the suit. Accordingly, Petitioners have standing.

### **STANDARD OF REVIEW**

As provided by the Administrative Procedure Act (“APA”), reviewing courts will overturn NEPA decisions that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” *Theodore Roosevelt Conservation P’ship v. Salazar*, 616 F.3d 497, 507 (D.C. Cir. 2010). While the courts will defer to an agency on technical matters within its expertise, the agency nevertheless “must comply with ‘principles of reasoned decisionmaking, NEPA’s policy of public scrutiny, and the Council on Environmental Quality’s regulations.’” *Delaware Riverkeeper Network v.*

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<sup>4</sup> See also statements of organizational purposes at:  
<http://www.nrdc.org/about/mission.asp> (NRDC);  
<http://www.beyondnuclear.org/about/> (Beyond Nuclear);  
<http://www.bredl.org/about.htm> (BREDL);  
<http://www.moenviron.org/index.php/about-us/who-are-we> (MCE);  
<http://necnp.org/about-us/> (NEC);  
<http://www.nirs.org/about/nirs.htm> (NIRS);  
<http://www.riverkeeper.org/about-us/> (Riverkeeper);  
<http://mothersforpeace.org/data/AboutUs> (SLOMP);  
<http://www.cleanenergy.org/about/> (SACE); and  
<http://www.seedcoalition.org/> (SEED Coalition).

*Fed. Energy Reg. Comm.*, 753 F.3d 1304, 1313 (D.C. Cir. 2014). Judicial deference “does not mean obeisance,” *Sierra Club v. Marita*, 46 F.3d 606, 619 (7th Cir. 1995), and will not “shield [an agency] action from a thorough, probing, in-depth review.” *Id.* (quoting *Citizens to Preserve Overton Park v. Volpe*, 401 U.S. 402, 415 (1971)); *see also*, *James Madison Ltd. by Hecht v. Ludwig*, 82 F.3d 1085, 1098 (D.C. Cir. 1996) (APA review involves a “‘thorough, probing, in-depth review’ to determine if the agency has considered the relevant factors or committed a clear error of judgment.”)

## **ARGUMENT**

**I. NRC VIOLATES NEPA AND *NEW YORK I* BY PROPOSING TO LICENSE REACTORS WITHOUT CONSIDERING THE ENVIRONMENTAL IMPACTS OF GENERATING SPENT FUEL OR ALTERNATIVES TO AVOID OR MITIGATE THOSE IMPACTS.**

**A. NRC has Failed to Identify in the GEIS the Correct Proposed Action and Its Purpose and Need in Violation of NEPA and *New York I*.**

NEPA requires agencies to evaluate the environmental impacts of a “proposed action” and alternatives to the proposed actions that would avoid or mitigate those impacts. 42 U.S.C. § 4332; 40 C.F.R. §1502.9; 10 C.F.R. §§ 51.45, 51.71, and 51.90. In order to ensure that the scope of a NEPA analysis is sufficient, an agency must “make sure the proposal which is the subject of an environmental impact statement is properly defined.” 40 C.F.R. § 1502.4.

In *New York I*, this Court held that the promulgation of 10 C.F.R. § 51.23 was a “major federal action” because it codified “waste confidence” findings about the safety and environmental impacts of spent fuel storage and the feasibility of repository siting that “enabl[ed]” reactor licensing. 681 F.3d at 476-77. The new § 51.23(b) also codifies findings about spent fuel storage impacts that have a binding effect in all reactor licensing proceedings. Remarkably, however, NRC states that the act of adopting a

revised 10 C.F.R. § 51.23 is purely administrative, involving no licensing action and no environmental impacts. GEIS 1-10 (explaining that proposed action and no-action alternative are “simply different administrative approaches for addressing the environmental impacts of continued storage.”).<sup>5</sup> In this view of the NRC, its proposed action has nothing to do with operation of nuclear reactors or generation of spent fuel, but instead concerns only its decision about what form its environmental analysis should take.

NRC lacks a lawful basis for its novel characterization of the proposed action as purely administrative. The Rule, 10 C.F.R. § 51.23(b), provides that the GEIS, which includes the waste confidence findings in its appendix (GEIS B-1), will be incorporated into the EIS of every individual reactor licensing proceeding. C.I.R.#1 56,260. Thus, as in *New York I*, the environmental impacts of spent fuel storage contained in the GEIS will have a “preclusive effect in all future licensing decisions,” 681 F.3d at 476, and “NEPA analyses for relevant future reactor and spent fuel storage facility licensing actions *will not need to separately consider the environmental*

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<sup>5</sup> The GEIS similarly characterizes the need for the proposed action as to “provide process” and the purpose of the proposed action as “to preserve efficiency.” GEIS xxv, 1-6.

*impacts of continued storage.*” GEIS 1-5 (emphasis added).<sup>6</sup> Accordingly, just as it was “eminently clear” that the previous version of 10 C.F.R. § 51.23 “would be used to enable licensing decisions based on its findings,” 681 F.3d at 477, so it is also eminently clear that the revised 10 C.F.R. § 51.23 will be used to enable reactor licensing based on the findings of the GEIS and will foreclose any further consideration of the environmental impacts of spent fuel storage or alternatives.

NRC’s failure to identify the proposed action as licensing not only violates its NEPA obligation to ensure the subject of its GEIS is properly defined, but, as further discussed below, it also fatally taints the entire GEIS because “the goals of an action delimit the universe of the action’s reasonable alternatives.” *Citizens Against Burlington v. Busey*, 938 F.2d 190, 195 (D.C. Cir. 1991).

**B. The GEIS Violates NEPA Because it Lacks an Analysis of Alternatives that Would Avoid or Mitigate the Environmental Impacts of Generating Spent Fuel Through Licensing of Reactors.**

NRC has failed to engage in the rigorous exploration and objective evaluation of reasonable alternatives to the proposed action that is at the very “heart” of an EIS and a fundamental requirement of NEPA. *City of*

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<sup>6</sup> If Section 51.23 did *not* enable licensing of reactors, NRC would have had no legal basis to lift the suspension of reactor licensing and re-licensing decisions it imposed following issuance of *New York I*. See *supra* at 8.



*Alexandria, Va. v. Slater*, 198 F.3d 862, 866 (D.C. Cir. 1999) (quoting 40 C.F.R. § 1502.14). Because the proposed major federal action here, as in *New York I*, is licensing nuclear reactors that produce spent fuel, NRC was required to evaluate a reasonable array of alternatives that avoid or mitigate the environmental impacts of spent fuel production. 10 C.F.R. § 51.71(d); 40 C.F.R. §1500.2. Instead, NRC has engaged in a meaningless alternatives analysis of the different administrative mechanisms for writing a GEIS.

Although NRC claims the proposed action is consistent with a “categorical exclusion” from NEPA compliance, GEIS 1-11, the GEIS undertakes the gratuitous exercise of comparing the relative costs and benefits of preparing and publishing an environmental analysis in different ways, *i.e.*, comparing writing a single GEIS, writing multiple site-specific EISs, or preparing a policy statement. GEIS 1-6 to 1-8. Compounding this absurdity, NRC devotes an entire chapter of the GEIS to weighing the comparative costs and benefits of each alternative in terms of drafting hours and the relative number of pages of paper generated. GEIS Ch.7. And it inevitably concludes that:

Only the proposed action – the adoption of a revision to 10 CFR 51.23 to codify the analysis in the GEIS of the environmental impacts of continued storage of spent fuel – satisfies the purpose for the proposed action, which is to preserve the efficiency of the NRC’s licensing processes with regard to the environmental impacts of continued storage.

GEIS 7-1. With this “pre-ordained conclusion,” NRC “fulfills [its] own prophecies” and renders the GEIS a mere “formality.” *Citizens Against Burlington*, 938 F.2d at 196. As a result of defining its objectives “so unreasonably narrowly that only one alternative from among the environmentally benign ones in the agency’s power would accomplish the goals of the agency’s action,” *id.*, none of the alternatives considered has any discernable environmental impact. GEIS 7-1.<sup>7</sup> The GEIS omits consideration of any alternatives that would avoid or mitigate the environmental impacts of generating spent fuel through reactor licensing. *Id.* Instead, such alternatives, including ceasing production of spent fuel, are “[e]liminated” because they “would not meet the NRC’s stated objectives in proposing to adopt the revision to 10 CFR 51.23.” GEIS 1-9. Nor does the GEIS analyze the relative impacts of licensing more reactors and thereby allowing for the production of more spent fuel.

To comply with NEPA, the GEIS should have considered alternatives that are relevant to the proposed action of licensing. Such alternatives

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<sup>7</sup> NRC also admits that these alternatives bear no relationship to the physical impacts of continued spent fuel storage that are discussed elsewhere in the GEIS: “[T]he proposed action and the NRC’s options in case of no action do not alter the NRC’s assessment of environmental impacts from continued storage that the NRC addressed in Chapters 4, 5, and 6.” *Id.*

include the no-action alternative, 40 C.F.R. § 1502.14(d), *i.e.*, denying reactor license applications and thereby avoiding generation of more spent fuel. The GEIS should also consider mitigation alternatives, 40 C.F.R. § 1502.14(f), such as limiting the use of high-burnup fuel, which has potentially greater environmental impacts than low-burnup fuel. C.I.R.#700 52-54. And the GEIS must compare the relative costs and benefits of each alternative. 10 C.F.R. § 51.71(d). Because the GEIS contains none of these analyses, it must be vacated.

**II. TO THE LIMITED EXTENT NRC EVALUATES THE ENVIRONMENTAL IMPACTS OF CONTINUED SPENT FUEL STORAGE, ITS ANALYSIS AND DETERMINATION OF NO SIGNIFICANT IMPACTS VIOLATE NEPA AND NEW YORK I AND ARE ARBITRARY AND CAPRICIOUS.**

Despite mischaracterizing the proposed action as the administrative preparation of the Rule and GEIS rather than licensing reactors that produce spent fuel, the GEIS purports to present an evaluation of spent fuel storage impacts for each of three “time-frames” or scenarios: short-term (sixty years), long-term (160 years), and indefinite. GEIS xxx. While the GEIS acknowledges the consequences of long-term and indefinite spent fuel storage could be “catastrophic,” GEIS B-26, it nevertheless concludes the radiological environmental impacts are “SMALL” (*i.e.*, insignificant) for

both time-frames. *Id.* lix.<sup>8</sup> In reaching this conclusion, NRC relies on the assertedly low probability of repository failure: NRC deems the siting of a repository within sixty years “most likely,” and storage beyond 160 years “highly unlikely.” *Id.* xxx.

NRC’s finding that radiological impacts of spent fuel storage are “SMALL” violates *New York I*, NEPA, and APA requirements for reasoned decision-making in three ways. First, while the GEIS uses the language of probability called for by the Court in *New York I*, 681 F.3d at 478-79, it lacks any analysis of the probability of a failure to site a repository. Second, the GEIS also lacks an analysis of the consequences of spent fuel storage if institutional controls are lost and radiation escapes from storage facilities. Because NRC has not ruled out such an event as “remote and speculative,” its consequences must be evaluated. *Id.* at 479. Third, NRC’s finding is arbitrary and capricious because the GEIS fails to consider the significant cumulative impacts of past and future actions in combination with the incremental impacts of spent fuel to be generated through future licensing decisions.

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<sup>8</sup> Non-radiological impacts are classified as “SMALL to MODERATE.” *Id.*

**A. In Violation of *New York I* and NEPA, NRC Continues to Rely on Hope for a Repository Without Considering the Probability That it Will Not Succeed.**

In *New York I*, this Court held that merely “hoping for a geologic repository” was insufficient to satisfy NEPA and that failure to site a repository may not be ruled out as “remote and speculative.” 681 F.3d at 479. The Court also ruled that NRC could not blindly rely on future regulatory actions. *Id.* at 481. Accordingly, the Court required NRC to evaluate “the probability of a given harm occurring,” *id.* at 482, that is, the probability that a repository will not be sited and built.

The GEIS asserts that repository disposal of spent fuel within sixty years is the “most likely scenario” and that continued storage beyond 160 years is “highly unlikely.” GEIS B-2. As in *New York I*, these assertions are underlain by hope rather than an environmental risk analysis. While the GEIS claims that spent fuel disposal is “technically feasible,” *id.* B-1, a finding of technical feasibility does not equate with an analysis of the probability of failure to successfully site and build a repository.

The GEIS contains no discussion of the factors that affect the probability of failure to site and build a repository. For instance, the GEIS fails to evaluate the probability that NRC will be unable to locate suitable geologic media for a repository that meets EPA standards for protection of

public health and the environment.<sup>9</sup> Nor does NRC evaluate the likelihood of failing to establish sufficient repository capacity to accommodate the spent fuel that will be generated if reactors are licensed or re-licensed under 10 C.F.R. § 51.23(b).<sup>10</sup> The probability that these events will occur contributes to the risk that spent fuel disposal will be prevented or delayed for a significant period. If considered, it could alter decisionmakers' conclusion about the significance of the environmental impacts of storing spent fuel. Therefore it must be evaluated in the GEIS.

**B. NRC Violates *New York I* and NEPA by Failing to Consider the Consequences of Spent Fuel Storage.**

Because NRC has not concluded that the probability of failure to site a repository is “remote and speculative,” it also must evaluate the reasonably foreseeable consequences of such a failure. NRC concedes that the consequences of long-term or indefinite spent fuel storage could be

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<sup>9</sup> As documented in the Rule, EPA has established a radiation dose limit for the proposed Yucca Mountain repository of 15 millirem per year for the first 10,000 years and 1,000 millirem per year for the for the period between 10,000 and a million years. Table B-1, C.I.R.#1 56,263. NRC expects the EPA's standards for Yucca Mountain will apply to other repositories. GEIS D-28.

<sup>10</sup> Presumably, disposal of the spent fuel to be generated as a result of future licensing decisions will await disposal of the already-existing inventory, thus affecting the duration of above-ground storage.

“catastrophic” if institutional controls are lost. GEIS B-26.<sup>11</sup> Yet, contrary to *New York I*, 681 F.3d at 478-79, it fails to evaluate the consequences of spent fuel storage in the event of a loss of institutional controls. Instead, NRC claims to be excused by future legislation; and in any event, it claims the analysis is too difficult. GEIS B-27. Therefore, the GEIS simply assumes that institutional controls will remain effective indefinitely and successfully mitigate the environmental impacts of radiological releases to the environment. GEIS B-28. But NRC’s rationales for refusing to consider the environmental impacts of a failure of institutional controls ignore the directives of this Court in *New York I* and are neither consistent with governing law nor compliant with NEPA’s “rule of reason.” *Citizens Against Burlington*, 938 F.2d at 195.

**1. No law excuses NRC from evaluating the environmental consequences of a loss of institutional controls over spent fuel storage.**

In defense of its failure to evaluate the reasonably foreseeable impacts of extended spent fuel storage caused by loss of institutional control during

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<sup>11</sup> As the National Academy of Sciences observed, “institutional controls will fail.” C.I.R.#700 46 (citing National Academy of Sciences, *Long-Term Institutional Management of the U.S. Department of Energy Legacy Waste Sites* 97 (August 2000) (emphasis added)).

long-term and indefinite spent fuel storage, NRC claims to be excused by unidentified future changes to the Nuclear Waste Policy Act:

NRC believes that, if geologic disposal were not possible, *national spent fuel policy would change* but would not default to relying on the storage facilities as they currently exist – the design of facilities and *the regulations governing those facilities would change to accommodate the new policy*.

GEIS B-26 to B-27 (emphasis added).

Under NEPA, NRC may not rely on unknown future legislation to avoid assessing environmental impacts of its proposed licensing decisions. Compliance with NEPA is required “unless specifically excluded by statute or existing law makes compliance impossible.” *Limerick Ecology Action v. NRC*, 869 F.2d 719, 729 (3rd Cir. 1989) (citing *Public Service Co. of New Hampshire v. NRC*, 582 F.2d 77, 81 (1st Cir. 1978)). Neither the Nuclear Waste Policy Act nor any other existing statute excuses NRC from evaluating the reasonably foreseeable adverse impacts of extended storage of spent fuel, including failure of institutional controls during long-term and indefinite spent fuel storage. Ultimately, the NRC’s reliance on future legislation amounts to the act of “hoping” for a future regulatory solution that was rejected by the Court. 681 F.3d at 479. *See* Section 3, *infra*.



**2. NRC fails to show it is impossible to analyze the environmental consequences of a failure of institutional controls during long-term and indefinite spent fuel storage.**

NRC further justifies its refusal to consider the consequences of the loss of institutional controls by claiming it is impossible to predict how or when they might be lost. GEIS B-28. In making this claim, NRC disregards the Court's clear directive to consider "the effects of a *failure* to secure permanent storage." 681 F.3d at 479 (emphasis in original). NRC also violates the fundamental requirement that NEPA must be complied with to the "fullest extent possible." *Calvert Cliffs Coordinating Comm., Inc. v. U.S. Atomic Energy Comm'n*, 449 F.2d 1109, 1114 (D.C. Cir. 1971).

Regardless of any difficulty NRC may have in predicting why and when government institutions may fail, it is well within NRC's expertise to evaluate the environmental consequences that will occur when they *do* fail. NRC has the means to estimate how much spent fuel will be generated under reactor licenses, and therefore it can estimate the quantity of radioactive material released to the environment when storage equipment fails. It can also evaluate the effects of radiological releases on public health and the environment.<sup>12</sup>

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<sup>12</sup> In responding to comments on the Draft GEIS, NRC claims that the Final GEIS includes "information" from the Yucca Mountain EIS that "describe[s]"

**3. NRC's assumption that institutional controls will not fail amounts to unjustified reliance on the effectiveness of future regulation.**

As discussed above in Section A, the Court ruled in *New York I* that NRC may not blindly rely on future regulatory actions in order to avoid its NEPA responsibilities. 681 F.3d at 481. By assuming that institutional controls will *never* fail, NRC runs afoul of the Court's prohibition. There is no doubt that the spent fuel generated as a result of reactor licensing has, by any measure, significant environmental impacts. *See Nuclear Energy Inst.*, 373 F.3d at 1258 (“[r]adioactive waste and its harmful consequences persist for time spans seemingly beyond human comprehension.”). NRC may not assume away the serious consequences that may occur if a breakdown of institutional controls leads to release of radioactivity from spent fuel storage containers. Given the fundamentally dangerous nature of spent fuel, the

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the relative magnitude of the consequences that might occur should institutional controls be lost.” GEIS D-107. In fact, the only such information in the GEIS is the qualitative statement that the consequences of a loss of institutional controls could be a “catastrophe,” “clearly noticeable,” and “destabilizing.” GEIS D-176 to D-177. These vague qualitative statements are far from as the “hard look” required by NEPA. *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360, 374 (1989); 10 C.F.R. § 51.71 (impacts must be quantified when possible). In fact, as discussed in comments on the Draft EIS, it is possible to evaluate the effects of a loss of containment of spent fuel in both qualitative and quantitative detail. C.I.R.#1115 36-38, C.I.R.#840 18, 22-23.

environmental impacts of a failure of institutional controls must, as a matter of law, be considered by NRC in the GEIS.

**C. NRC Violates NEPA and *New York I* by Failing to Evaluate the Cumulative Impacts of Generating, Storing, and Disposing of Spent Fuel.**

Under NRC regulations implementing NEPA, the GEIS must address the “incremental impacts” of the spent fuel to be generated by prospective licensing decisions “when added to other past, present, and reasonably foreseeable future actions . . .” 40 C.F.R. § 1508.7 (adopted in 10 C.F.R. § 51.14(b)). Storage of the existing inventory of spent fuel, storage of the inventory of spent fuel still to be generated under existing reactor licenses, and the ultimate disposal of spent fuel undoubtedly constitute “past, present, and reasonably foreseeable future actions” whose impacts must be added to the incremental impacts of generating more spent fuel through reactor licensing.<sup>13</sup>

In violation of this requirement, the GEIS fails to identify the incremental impacts of the spent fuel to be generated through future NRC licensing decisions, nor does it add those incremental impacts to the impacts of the inventory of spent fuel that has already been generated or is expected

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<sup>13</sup> As the GEIS repeatedly states, disposal of spent fuel is the national policy, and the “most likely” scenario for disposition of spent fuel. GEIS xxiii, 8-5, B-2.

to be generated under existing licenses. Instead, NRC accepts these existing impacts as a given, stating that “continued storage is an activity that may occur regardless of the process that the NRC selects to consider the environmental impacts of continued storage.” GEIS D-124. And NRC refuses to address the cumulative impacts of spent fuel disposal, stating only that they are beyond the GEIS’ scope. GEIS D-59.

By refusing to evaluate the incremental impacts of future spent fuel generation in light of other past and reasonably foreseeable future spent fuel impacts, NRC frustrates NEPA’s purpose of “‘prevent[ing] agencies from dividing one project into multiple individual actions ‘each of which has an insignificant environmental impact, but which collectively have a substantial impact.’” *Theodore Roosevelt Conservation P’ship*, 616 F.3d at 514 (internal quotations omitted). NRC also violates *New York I* by failing to evaluate all of the reasonably foreseeable impacts of its licensing decisions. 681 F.3d at 477.

As recognized in the GEIS, “[i]t is possible that an impact that may be SMALL by itself could result in a MODERATE or LARGE cumulative impact when considered in combination with the impacts of other actions on the affected resource.” GEIS 6-1 (citing 40 C.F.R. § 1508.7). Here, licensing of new reactors and re-licensing of existing reactors would add tons of

highly radioactive spent fuel to a very large and growing inventory of spent fuel that may need to be stored above-ground for many decades, if not centuries. And under federal policy, all of the spent fuel must be disposed of in a deep geologic repository that will also have significant impacts. Thus, the cumulative impacts of spent fuel storage are, on their face, significant. In order to ensure consideration of these significant cumulative impacts in NRC licensing decisions, the GEIS must address them.

**III. THE RULE SHOULD BE VACATED BECAUSE THE GEIS DOES NOT PROVIDE NRC WITH A LAWFUL BASIS TO LICENSE REACTORS.**

The Rule codifies NRC's determination that reactors may be licensed because the environmental impacts of spent fuel storage following termination of operating licenses have been evaluated in the GEIS. But the NRC's determination is devoid of meaning. As discussed above in Sections I and II, the GEIS is not designed to affect licensing decisions at all; and even if it were, the NRC has not complied with this Court's direction to evaluate the probability and consequences of failure to site a repository. Thus, to apply the Rule for the purpose of licensing reactors would violate NEPA's requirement that agency decisions must be fully informed. *Robertson*, 490 U.S. at 349 ("NEPA ensures that important effects will not be overlooked or underestimated only to be discovered after resources have

been committed or the die otherwise cast.”). NRC lacks a lawful basis under NEPA and *New York I* for relying on the Rule to make reactor licensing decisions, and therefore it should be vacated.

### **CONCLUSION**

For the reasons noted above, the Rule and the GEIS should be vacated and remanded to NRC for further proceedings to comply with NEPA.

Dated: June 29, 2015

Respectfully submitted,

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**CERTIFICATE OF COMPLIANCE**

Pursuant to Federal Rule of Appellate Procedure Rule 32(a)(7)(C) and Circuit Rule 32(a)(2)(C), I certify that the attached Final Opening Brief is proportionately spaced, has a typeface of Times New Roman, 14 points, and contains less than 7,000 words. This figure includes footnotes and citations, but excludes the signature block, the Cover Page, Table of Contents, Table of Authorities, Certificate of Compliance, Certificate of Service, Addendum of Statutes, Rules and Regulations, and Standing Addendum. I have relied on Microsoft Word's calculation feature for this calculation.

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## CERTIFICATE OF SERVICE

I certify that on June 29, 2015, I filed the foregoing “Initial Opening Brief for Petitioners Natural Resources Defense Council, Beyond Nuclear, Blue Ridge Environmental Defense League, Missouri Coalition for the Environment, New England Coalition, Nuclear Information and Resource Service, Riverkeeper, San Luis Obispo Mothers for Peace, Southern Alliance for Clean Energy, and Sustainable Energy and Economic Development Coalition” with the U.S. Court of Appeals for the D.C. Circuit by uploading it to the Court’s CM/ECF system. That method is calculated to serve:

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**ORAL ARGUMENT NOT YET SCHEDULED**  
**IN THE UNITED STATES COURT OF APPEALS**  
**FOR THE DISTRICT OF COLUMBIA CIRCUIT**

D.C. Cir. No. 14-1210 (consolidated with D.C. Cir. Nos. 14-1212, 14-1216,  
14-1217)

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STATE OF NEW YORK, *et al.*,  
Petitioners,

v.

UNITED STATES NUCLEAR REGULATORY COMMISSION and the UNITED  
STATES OF AMERICA,  
Respondents

COMMONWEALTH OF MASSACHUSETTS, *et al.*,  
Intervenors.

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Petition for Review of Final Administrative Action of the United States Nuclear  
Regulatory Commission

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**ADDENDUM OF STATUTES AND REGULATIONS TO OPENING BRIEF  
FOR PETITIONERS NATURAL RESOURCES DEFENSE COUNCIL, INC.,  
BEYOND NUCLEAR, BLUE RIDGE ENVIRONMENTAL DEFENSE  
LEAGUE, MISSOURI COALITION FOR THE ENVIRONMENT, NEW  
ENGLAND COALITION, NUCLEAR INFORMATION & RESOURCE  
SERVICE, RIVERKEEPER, INC., SAN LUIS OBISPO MOTHERS FOR  
PEACE AND SOUTHERN ALLIANCE FOR CLEAN ENERGY, INC.**

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**ADDENDUM OF STATUTES, RULES, AND REGULATIONS****I. STATUTES**

## Administrative Procedure Act

5 U.S.C. § 702.....STAT ADD 2

## Atomic Energy Act

42 U.S.C. § 2133(d).....STAT ADD 4

42 U.S.C. § 2239(b).....STAT ADD 6

## Hobbs Act

28 U.S.C. § 2342.....STAT ADD 10

28 U.S.C. §2344.....STAT ADD 11

## National Environmental Policy Act

42 U.S.C. § 4332.....STAT ADD 13

## Nuclear Waste Policy Act

42 U.S.C. § 10101(18).....STAT ADD 16

42 U.S.C. § 10131.....STAT ADD 19

42 U.S.C. § 10141.....STAT ADD 21

**II. REGULATIONS**

10 C.F.R. § 51.14(b).....STAT ADD 24

10 C.F.R. pt. 51, subpart A, app. A, para. (5).....STAT ADD 27

10 C.F.R. § 51.45.....STAT ADD 30

10 C.F.R. § 51.71.....STAT ADD 34

10 C.F.R. § 51.90.....STAT ADD 37

40 C.F.R. §1500.2.....STAT ADD 39

|                          |             |
|--------------------------|-------------|
| 40 C.F.R. § 1502.4.....  | STAT ADD 41 |
| 40 C.F.R. §1502.9.....   | STAT ADD 43 |
| 40 C.F.R. § 1502.14..... | STAT ADD 46 |
| 40 C.F.R. § 1508.7.....  | STAT ADD 49 |

**Administrative Procedure Act**

**5 U.S.C. § 702**

In subsection (a), the words “This chapter applies, according to the provisions thereof,” are added to avoid the necessity of repeating the introductory clause of former section 1009 in sections 702–706.

Subsection (b) is added on authority of section 2 of the Act of June 11, 1946, ch. 324, 60 Stat. 237, as amended, which is carried into section 551 of this title.

In subsection (b)(1)(G), the words “or naval” are omitted as included in “military”.

In subsection (b)(1)(H), the words “functions which by law expire on the termination of present hostilities, within any fixed period thereafter, or before July 1, 1947” are omitted as executed. Reference to the “Selective Training and Service Act of 1940” is omitted as that Act expired on Mar. 31, 1947. Reference to the “Sugar Control Extension Act of 1947” is omitted as that Act expired on Mar. 31, 1948. References to the “Housing and Rent Act of 1947, as amended” and the “Veterans’ Emergency Housing Act of 1946” have been consolidated as they are related. The reference to former section 1641(b)(2) of title 50, appendix, is retained notwithstanding its repeal by §111(a)(1) of the Act of Sept. 21, 1961, Pub. L. 87–256, 75 Stat. 538, since §111(c) of the Act provides that a reference in other Acts to a provision of law repealed by §111(a) shall be considered to be a reference to the appropriate provisions of Pub. L. 87–256.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### REFERENCES IN TEXT

Sections 1891–1902 of title 50, appendix, referred to in subsec. (b)(1)(H), were omitted from the Code as executed.

#### AMENDMENTS

1994—Subsec. (b)(1)(H). Pub. L. 103–272 substituted “subchapter II of chapter 471 of title 49; or sections” for “or sections 1622.”

### § 702. Right of review

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other than money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party. The United States may be named as a defendant in any such action, and a judgment or decree may be entered against the United States: *Provided*, That any mandatory or injunctive decree shall specify the Federal officer or officers (by name or by title), and their successors in office, personally responsible for compliance. Nothing herein (1) affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground; or (2) confers authority to grant relief if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 392; Pub. L. 94–574, §1, Oct. 21, 1976, 90 Stat. 2721.)

#### HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i>  | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|-------------------|---|
| .....             | 5 U.S.C. 1009(a). | June 11, 1946, ch. 324, §10(a), 60 Stat. 243. |

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### AMENDMENTS

1976—Pub. L. 94–574 removed the defense of sovereign immunity as a bar to judicial review of Federal administrative action otherwise subject to judicial review.

### § 703. Form and venue of proceeding

The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. If no special statutory review proceeding is applicable, the action for judicial review may be brought against the United States, the agency by its official title, or the appropriate officer. Except to the extent that prior, adequate, and exclusive opportunity for judicial review is provided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 392; Pub. L. 94–574, §1, Oct. 21, 1976, 90 Stat. 2721.)

#### HISTORICAL AND REVISION NOTES

| <i>Derivation</i> | <i>U.S. Code</i>  | <i>Revised Statutes and Statutes at Large</i> |
|-------------------|-------------------|---|
| .....             | 5 U.S.C. 1009(b). | June 11, 1946, ch. 324, §10(b), 60 Stat. 243. |

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

#### AMENDMENTS

1976—Pub. L. 94–574 provided that if no special statutory review proceeding is applicable, the action for judicial review may be brought against the United States, the agency by its official title, or the appropriate officer as defendant.

### § 704. Actions reviewable

Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section whether or not there has been presented or determined an application for a declaratory order, for any form of reconsideration, or, unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative, for an appeal to superior agency authority.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 392.)

**Atomic Energy Act**

**42 U.S.C. §§ 2133(d), 2239(b)**



United States to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export any utilization or production facility except under and in accordance with a license issued by the Commission pursuant to section 2133 or 2134 of this title.

(Aug. 1, 1946, ch. 724, title I, § 101, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936; amended Aug. 6, 1956, ch. 1015, § 11, 70 Stat. 1071; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### PRIOR PROVISIONS

Provisions similar to this section were contained in section 1807(a) of this title, prior to the general amendment and renumbering of act Aug. 1, 1946, by act Aug. 30, 1954.

#### AMENDMENTS

1956—Act Aug. 6, 1956, inserted “use,” after “possess,”.

### § 2132. Utilization and production facilities for industrial or commercial purposes

#### (a) Issuance of licenses

Except as provided in subsections (b) and (c) of this section, or otherwise specifically authorized by law, any license hereafter issued for a utilization or production facility for industrial or commercial purposes shall be issued pursuant to section 2133 of this title.

#### (b) Facilities constructed or operated under section 2134(b)

Any license hereafter issued for a utilization or production facility for industrial or commercial purposes, the construction or operation of which was licensed pursuant to section 2134(b) of this title prior to enactment into law of this subsection, shall be issued under section 2134(b) of this title.

#### (c) Cooperative Power Reactor Demonstration facilities

Any license for a utilization or production facility for industrial or commercial purposes constructed or operated under an arrangement with the Commission entered into under the Cooperative Power Reactor Demonstration Program shall, except as otherwise specifically required by applicable law, be issued under section 2134(b) of this title.

(Aug. 1, 1946, ch. 724, title I, § 102, as added Aug. 30, 1954, ch. 1073, § 1, 68 Stat. 936; amended Pub. L. 91-560, § 3, Dec. 19, 1970, 84 Stat. 1472; renumbered title I, Pub. L. 102-486, title IX, § 902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### AMENDMENTS

1970—Pub. L. 91-560 substituted provisions authorizing Commission to issue licenses for a utilization or production facility for industrial or commercial purposes under section 2133, except that license may be issued under section 2134(b), for such utilization or production facility, construction or operation of which was licensed under section 2134(b) before December 19, 1970 or constructed or operated under an arrangement with Commission entered into under Cooperative Power Reactor Demonstration Program, for provisions authorizing Commission to issue licenses pursuant to section 2133 of this title on a determination that such

utilization or production facility has been sufficiently developed to be of practical value for industrial or commercial purposes.

### § 2133. Commercial licenses

#### (a) Conditions

The Commission is authorized to issue licenses to persons applying therefor to transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, possess, use, import, or export under the terms of an agreement for cooperation arranged pursuant to section 2153 of this title, utilization or production facilities for industrial or commercial purposes. Such licenses shall be issued in accordance with the provisions of subchapter XV of this division and subject to such conditions as the Commission may by rule or regulation establish to effectuate the purposes and provisions of this chapter.

#### (b) Nonexclusive basis

The Commission shall issue such licenses on a nonexclusive basis to persons applying therefor (1) whose proposed activities will serve a useful purpose proportionate to the quantities of special nuclear material or source material to be utilized; (2) who are equipped to observe and who agree to observe such safety standards to protect health and to minimize danger to life or property as the Commission may by rule establish; and (3) who agree to make available to the Commission such technical information and data concerning activities under such licenses as the Commission may determine necessary to promote the common defense and security and to protect the health and safety of the public. All such information may be used by the Commission only for the purposes of the common defense and security and to protect the health and safety of the public.

#### (c) License period

Each such license shall be issued for a specified period, as determined by the Commission, depending on the type of activity to be licensed, but not exceeding forty years from the authorization to commence operations, and may be renewed upon the expiration of such period.

#### (d) Limitations

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title, or except under the provisions of section 2139 of this title. No license may be issued to an alien or any any<sup>1</sup> corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

<sup>1</sup> So in original.

**(f)<sup>2</sup> Accident notification condition; license revocation; license amendment to include condition**

Each license issued for a utilization facility under this section or section 2134(b) of this title shall require as a condition thereof that in case of any accident which could result in an unplanned release of quantities of fission products in excess of allowable limits for normal operation established by the Commission, the licensee shall immediately so notify the Commission. Violation of the condition prescribed by this subsection may, in the Commission's discretion, constitute grounds for license revocation. In accordance with section 2237 of this title, the Commission shall promptly amend each license for a utilization facility issued under this section or section 2134(b) of this title which is in effect on June 30, 1980, to include the provisions required under this subsection.

(Aug. 1, 1946, ch. 724, title I, §103, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 936; amended Aug. 6, 1956, ch. 1015, §§12, 13, 70 Stat. 1071; Pub. L. 91-560, §4, Dec. 19, 1970, 84 Stat. 1472; Pub. L. 96-295, title II, §201, June 30, 1980, 94 Stat. 786; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944; Pub. L. 109-58, title VI, §621, Aug. 8, 2005, 119 Stat. 782.)

**AMENDMENTS**

2005—Subsec. (c). Pub. L. 109-58 inserted “from the authorization to commence operations” after “forty years”.

1980—Subsec. (f). Pub. L. 96-295 added subsec. (f).

1970—Subsec. (a). Pub. L. 91-560 struck out requirement of a finding of practical value under section 2132 and substituted “utilization and production facilities for industrial or commercial purposes” for “such type of utilization or production facility”.

1956—Subsec. (a). Act Aug. 6, 1956, §12, inserted “use,” after “possess.”.

Subsec. (d). Act Aug. 6, 1956, §13, inserted “an alien or any” after “issued to”.

**§ 2134. Medical, industrial, and commercial licenses****(a) Medical therapy**

The Commission is authorized to issue licenses to persons applying therefor for utilization facilities for use in medical therapy. In issuing such licenses the Commission is directed to permit the widest amount of effective medical therapy possible with the amount of special nuclear material available for such purposes and to impose the minimum amount of regulation consistent with its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public.

**(b) Industrial and commercial purposes**

As provided for in subsection (b) or (c) of section 2132 of this title, or where specifically authorized by law, the Commission is authorized to issue licenses under this subsection to persons applying therefor for utilization and production facilities for industrial and commercial purposes. In issuing licenses under this subsection, the Commission shall impose the minimum amount of such regulations and terms of

license as will permit the Commission to fulfill its obligations under this chapter.

**(c) Research and development activities**

The Commission is authorized to issue licenses to persons applying therefor for utilization and production facilities useful in the conduct of research and development activities of the types specified in section 2051 of this title and which are not facilities of the type specified in subsection (b) of this section. The Commission is directed to impose only such minimum amount of regulation of the licensee as the Commission finds will permit the Commission to fulfill its obligations under this chapter to promote the common defense and security and to protect the health and safety of the public and will permit the conduct of widespread and diverse research and development.

**(d) Limitations**

No license under this section may be given to any person for activities which are not under or within the jurisdiction of the United States, except for the export of production or utilization facilities under terms of an agreement for cooperation arranged pursuant to section 2153 of this title or except under the provisions of section 2139 of this title. No license may be issued to any corporation or other entity if the Commission knows or has reason to believe it is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government. In any event, no license may be issued to any person within the United States if, in the opinion of the Commission, the issuance of a license to such person would be inimical to the common defense and security or to the health and safety of the public.

(Aug. 1, 1946, ch. 724, title I, §104, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 937; amended Pub. L. 91-560, §5, Dec. 19, 1970, 84 Stat. 1472; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

**AMENDMENTS**

1970—Subsec. (b). Pub. L. 91-560 substituted provisions authorizing the issue of licenses for utilization or production facilities for industrial or commercial purposes (i) where specifically authorized by law or (ii) where the facility was constructed or operated under an arrangement with the Commission entered into under the cooperative power reactor demonstration program, and the applicable statutory authorization does not require licensing under section 2133, or (iii) where the facility was theretofore licensed under section 2134(b), for provisions authorizing the issue of licenses for utilization and production facilities involved in the conduct of research and development activities leading to the demonstration of the practical value of such facilities for industrial and commercial purposes.

**§ 2135. Antitrust provisions governing licenses****(a) Violations of antitrust laws**

Nothing contained in this chapter shall relieve any person from the operation of the following Acts, as amended, “An Act to protect trade and commerce against unlawful restraints and monopolies” approved July second, eighteen hundred and ninety; sections seventy-three to seventy-six, inclusive, of an Act entitled “An Act to reduce taxation, to provide revenue for the

<sup>2</sup> So in original. Probably should be “(e)”.

5 and chapter 7 of title 5. Just compensation shall be paid for the use of the facility.

(Aug. 1, 1946, ch. 724, title I, §186, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 955; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### CODIFICATION

In subsecs. (b) and (c), “section 558(c) of title 5” and “subchapter II of chapter 5 and chapter 7 of title 5” substituted for “section 9(b) of the Administrative Procedure Act [5 U.S.C. 1008(b)]” and “the Administration Procedure Act [5 U.S.C. 1001-1011]”, respectively, on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### § 2237. Modification of license

The terms and conditions of all licenses shall be subject to amendment, revision, or modification, by reason of amendments of this chapter or by reason of rules and regulations issued in accordance with the terms of this chapter.

(Aug. 1, 1946, ch. 724, title I, §187, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 955; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### § 2238. Continued operation of facilities

Whenever the Commission finds that the public convenience and necessity or the production program of the Commission requires continued operation of a production facility or utilization facility the license for which has been revoked pursuant to section 2236 of this title, the Commission may, after consultation with the appropriate regulatory agency, State or Federal, having jurisdiction, order that possession be taken of and such facility be operated for such period of time as the public convenience and necessity or the production program of the Commission may, in the judgment of the Commission, require, or until a license for the operation of the facility shall become effective. Just compensation shall be paid for the use of the facility.

(Aug. 1, 1946, ch. 724, title I, §188, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 955; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### § 2239. Hearings and judicial review

(a)(1)(A) In any proceeding under this chapter, for the granting, suspending, revoking, or amending of any license or construction permit, or application to transfer control, and in any proceeding for the issuance or modification of rules and regulations dealing with the activities of licensees, and in any proceeding for the payment of compensation, an award or royalties under sections<sup>1</sup> 2183, 2187, 2236(c) or 2238 of this title, the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding. The Commission shall hold a hearing after thirty days' notice and publication once in the Federal Register, on each application under section 2133

or 2134(b) of this title for a construction permit for a facility, and on any application under section 2134(c) of this title for a construction permit for a testing facility. In cases where such a construction permit has been issued following the holding of such a hearing, the Commission may, in the absence of a request therefor by any person whose interest may be affected, issue an operating license or an amendment to a construction permit or an amendment to an operating license without a hearing, but upon thirty days' notice and publication once in the Federal Register of its intent to do so. The Commission may dispense with such thirty days' notice and publication with respect to any application for an amendment to a construction permit or an amendment to an operating license upon a determination by the Commission that the amendment involves no significant hazards consideration.

(B)(i) Not less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been issued a combined construction permit and operating license under section 2235(b) of this title, the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within 60 days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

(ii) A request for hearing under clause (i) shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

(iii) After receiving a request for a hearing under clause (i), the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under clause (i), and shall state its reasons therefor.

(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).

(2)(A) The Commission may issue and make immediately effective any amendment to an operating license or any amendment to a combined construction and operating license, upon a determination by the Commission that such

<sup>1</sup> So in original. Probably should be “section”.



amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this chapter.

(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license or any amendment to a combined construction and operating license involves no significant hazards consideration; (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located.

(b) The following Commission actions shall be subject to judicial review in the manner prescribed in chapter 158 of title 28 and chapter 7 of title 5:

(1) Any final order entered in any proceeding of the kind specified in subsection (a) of this section.

(2) Any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license.

(3) Any final order establishing by regulation standards to govern the Department of Energy's gaseous diffusion uranium enrichment plants, including any such facilities leased to a corporation established under the USEC Privatization Act [42 U.S.C. 2297h et seq.].

(4) Any final determination under section 2297f(c) of this title relating to whether the gaseous diffusion plants, including any such facilities leased to a corporation established under the USEC Privatization Act [42 U.S.C. 2297h et seq.], are in compliance with the Commission's standards governing the gaseous diffusion plants and all applicable laws.

(Aug. 1, 1946, ch. 724, title I, §189, as added Aug. 30, 1954, ch. 1073, §1, 68 Stat. 955; amended Pub. L. 85-256, §7, Sept. 2, 1957, 71 Stat. 579; Pub. L. 87-615, §2, Aug. 29, 1962, 76 Stat. 409; Pub. L. 97-415, §12(a), Jan. 4, 1983, 96 Stat. 2073; renum-

bered title I and amended Pub. L. 102-486, title IX, §902(a)(8), title XXVIII, §§2802, 2804, 2805, Oct. 24, 1992, 106 Stat. 2944, 3120, 3121; Pub. L. 104-134, title III, §3116(c), Apr. 26, 1996, 110 Stat. 1321-349.)

#### REFERENCES IN TEXT

The effective date of this paragraph, referred to in subsec. (a)(2)(C), probably means the date of enactment of Pub. L. 97-415, which was approved Jan. 4, 1983.

The USEC Privatization Act, referred to in subsec. (b)(3), (4), is subchapter A (§§3101-3117) of chapter 1 of title III of Pub. L. 104-134, Apr. 26, 1996, 110 Stat. 1321-335, which is classified principally to subchapter VIII (§2297h et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1996 Amendment note set out under section 2011 of this title and Tables.

#### AMENDMENTS

1996—Subsec. (b). Pub. L. 104-134 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: "Any final order entered in any proceeding of the kind specified in subsection (a) of this section or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license shall be subject to judicial review in the manner prescribed in the Act of December 29, 1950, as amended (ch. 1189, 64 Stat. 1129), and to the provisions of section 10 of the Administrative Procedure Act, as amended."

1992—Subsec. (a)(1). Pub. L. 102-486, §2802, designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(2)(A), (C). Pub. L. 102-486, §2804, inserted "or any amendment to a combined construction and operating license" after "any amendment to an operating license".

Subsec. (b). Pub. L. 102-486, §2805, inserted "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

1983—Subsec. (a). Pub. L. 97-415 designated existing provisions as par. (1) and added par. (2).

1962—Subsec. (a). Pub. L. 87-615 substituted "construction permit for a facility" and "construction permit for a testing facility" for "license for a facility" and "license for a testing facility" respectively, and authorized the commission in cases where a permit has been issued following a hearing, and in the absence of a request therefor by anyone whose interest may be affected, to issue an operating license or an amendment to a construction permit or an operating license without a hearing upon thirty days' notice and publication once in the Federal Register of its intent to do so, and to dispense with such notice and publication with respect to any application for an amendment to a construction permit or to an operating license upon its determination that the amendment involves no significant hazards consideration.

1957—Subsec. (a). Pub. L. 85-256 required the Commission to hold a hearing after 30 days notice and publication once in the Federal Register on an application for a license for a facility or a testing facility.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Subsec. (a)(1)(B) of this section, as added by section 2802 of Pub. L. 102-486, applicable to all proceedings involving combined license for which application was filed after May 8, 1991, see section 2806 of Pub. L. 102-486, set out as a note under section 2235 of this title.

#### AUTHORITY TO EFFECTUATE AMENDMENTS TO OPERATING LICENSES

Section 12(b) of Pub. L. 97-415 provided that: "The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a) [amending this section], to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the

Commission of the regulations required in such provisions.”

#### REVIEW OF NUCLEAR PROLIFERATION ASSESSMENT STATEMENTS

No court or regulatory body to have jurisdiction to compel performance of or to review adequacy of performance of any Nuclear Proliferation Assessment Statement called for by the Atomic Energy Act of 1954 [this chapter] or by the Nuclear Non-Proliferation Act of 1978, Pub. L. 95-242, Mar. 10, 1978, 92 Stat. 120, see section 2160a of this title.

#### ADMINISTRATIVE ORDERS REVIEW ACT

Court of appeals exclusive jurisdiction respecting final orders of Atomic Energy Commission, now the Nuclear Regulatory Commission and the Secretary of Energy, made reviewable by this section, see section 2342 of Title 28, Judiciary and Judicial Procedure.

#### § 2240. Licensee incident reports as evidence

No report by any licensee of any incident arising out of or in connection with a licensed activity made pursuant to any requirement of the Commission shall be admitted as evidence in any suit or action for damages growing out of any matter mentioned in such report.

(Aug. 1, 1946, ch. 724, title I, §190, as added Pub. L. 87-206, §16, Sept. 6, 1961, 75 Stat. 479; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### § 2241. Atomic safety and licensing boards; establishment; membership; functions; compensation

(a) Notwithstanding the provisions of sections 556(b) and 557(b) of title 5, the Commission is authorized to establish one or more atomic safety and licensing boards, each comprised of three members, one of whom shall be qualified in the conduct of administrative proceedings and two of whom shall have such technical or other qualifications as the Commission deems appropriate to the issues to be decided, to conduct such hearings as the Commission may direct and make such intermediate or final decisions as the Commission may authorize with respect to the granting, suspending, revoking or amending of any license or authorization under the provisions of this chapter, any other provision of law, or any regulation of the Commission issued thereunder. The Commission may delegate to a board such other regulatory functions as the Commission deems appropriate. The Commission may appoint a panel of qualified persons from which board members may be selected.

(b) Board members may be appointed by the Commission from private life, or designated from the staff of the Commission or other Federal agency. Board members appointed from private life shall receive a per diem compensation for each day spent in meetings or conferences, and all members shall receive their necessary traveling or other expenses while engaged in the work of a board. The provisions of section 2203 of this title shall be applicable to board members appointed from private life.

(Aug. 1, 1946, ch. 724, title I, §191, as added Pub. L. 87-615, §1, Aug. 29, 1962, 76 Stat. 409; amended Pub. L. 91-560, §10, Dec. 19, 1970, 84 Stat. 1474; renumbered title I, Pub. L. 102-486, title IX, §902(a)(8), Oct. 24, 1992, 106 Stat. 2944.)

#### CODIFICATION

In subsec. (a), “sections 556(b) and 557(b) of title 5” substituted for “sections 7(a) and 8(a) of the Administrative Procedure Act [5 U.S.C. 1006(a), 1007(a)]” on authority of Pub. L. 89-554, §7(b), Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

#### AMENDMENTS

1970—Subsec. (a). Pub. L. 91-560 required that two members of the board should have such technical or other qualifications the Commission deems appropriate to the issues to be decided.

#### § 2242. Temporary operating license

##### (a) Fuel loading, testing, and operation at specific power level; petition, affidavit, etc.

In any proceeding upon an application for an operating license for a utilization facility required to be licensed under section 2133 or 2134(b) of this title, in which a hearing is otherwise required pursuant to section 2239(a) of this title, the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding 5 percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 2232(b) of this title; (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 4332(2)(C) of this title; and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating

**Hobbs Act**

**28 U.S.C. §§ 2342(4), 2344**

suspend orders of Interstate Commerce Commission which are pending when this amendment becomes effective shall not be affected thereby, but shall proceed to final disposition under the law existing on the date they were commenced, see section 10 of Pub. L. 93–584, set out as a note under section 2321 of this title.

#### TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

### § 2342. Jurisdiction of court of appeals

The court of appeals (other than the United States Court of Appeals for the Federal Circuit) has exclusive jurisdiction to enjoin, set aside, suspend (in whole or in part), or to determine the validity of—

(1) all final orders of the Federal Communication Commission made reviewable by section 402(a) of title 47;

(2) all final orders of the Secretary of Agriculture made under chapters 9 and 20A of title 7, except orders issued under sections 210(e), 217a, and 499g(a) of title 7;

(3) all rules, regulations, or final orders of—

(A) the Secretary of Transportation issued pursuant to section 50501, 50502, 56101–56104, or 57109 of title 46 or pursuant to part B or C of subtitle IV, subchapter III of chapter 311, chapter 313, or chapter 315 of title 49; and

(B) the Federal Maritime Commission issued pursuant to section 305, 41304, 41308, or 41309 or chapter 421 or 441 of title 46;

(4) all final orders of the Atomic Energy Commission made reviewable by section 2239 of title 42;

(5) all rules, regulations, or final orders of the Surface Transportation Board made reviewable by section 2321 of this title;

(6) all final orders under section 812 of the Fair Housing Act; and

(7) all final agency actions described in section 20114(c) of title 49.

Jurisdiction is invoked by filing a petition as provided by section 2344 of this title.

(Added Pub. L. 89–554, §4(e), Sept. 6, 1966, 80 Stat. 622; amended Pub. L. 93–584, §4, Jan. 2, 1975, 88 Stat. 1917; Pub. L. 95–454, title II, §206, Oct. 13, 1978, 92 Stat. 1144; Pub. L. 96–454, §8(b)(2), Oct. 15, 1980, 94 Stat. 2021; Pub. L. 97–164, title I, §137, Apr. 2, 1982, 96 Stat. 41; Pub. L. 98–554, title II, §227(a)(4), Oct. 30, 1984, 98 Stat. 2852; Pub. L. 99–336, §5(a), June 19, 1986, 100 Stat. 638; Pub. L. 100–430, §11(a), Sept. 13, 1988, 102 Stat. 1635; Pub. L. 102–365, §5(c)(2), Sept. 3, 1992, 106 Stat. 975; Pub. L. 103–272, §5(h), July 5, 1994, 108 Stat. 1375; Pub. L. 104–88, title III, §305(d)(5)–(8), Dec. 29, 1995, 109 Stat. 945; Pub. L. 104–287, §6(f)(2), Oct. 11, 1996, 110 Stat. 3399; Pub. L. 109–59, title IV, §4125(a), Aug. 10, 2005, 119 Stat. 1738; Pub. L. 109–304, §17(f)(3), Oct. 6, 2006, 120 Stat. 1708.)

#### HISTORICAL AND REVISION NOTES

| Derivation | U.S. Code      | Revised Statutes and Statutes at Large   |
|------------|----------------|--|
| .....      | 5 U.S.C. 1032. | Dec. 29, 1950, ch. 1189, §2, 64 Stat. 1129.<br>Aug. 30, 1954, ch. 1073, §2(b), 68 Stat. 961. |

The words “have exclusive jurisdiction” are substituted for “shall have exclusive jurisdiction”.

In paragraph (1), the word “by” is substituted for “in accordance with”.

In paragraph (3), the word “now” is omitted as unnecessary. The word “under” is substituted for “pursuant to the provisions of”. Reference to “Federal Maritime Commission” is substituted for “Federal Maritime Board” on authority of 1961 Reorg. Plan No. 7, eff. Aug. 12, 1961, 75 Stat. 840. Reference to the United States Maritime Commission is omitted because that Commission was abolished by 1950 Reorg. Plan No. 21, §306, eff. May 24, 1951, 64 Stat. 1277, and any existing rights are preserved by technical sections 7 and 8.

#### REFERENCES IN TEXT

Section 812 of the Fair Housing Act, referred to in par. (6), is classified to section 3612 of Title 42, The Public Health and Welfare.

#### AMENDMENTS

2006—Par. (3)(A). Pub. L. 109–304, §17(f)(3)(A), substituted “section 50501, 50502, 56101–56104, or 57109 of title 46” for “section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a)”.

Par. (3)(B). Pub. L. 109–304, §17(f)(3)(B), added subpar. (B) and struck out former subpar. (B) which read as follows:

“(B) the Federal Maritime Commission issued pursuant to—

“(i) section 19 of the Merchant Marine Act, 1920 (46 U.S.C. App. 876);

“(ii) section 14 or 17 of the Shipping Act of 1984 (46 U.S.C. App. 1713 or 1716); or

“(iii) section 2(d) or 3(d) of the Act of November 6, 1966 (46 U.S.C. App. 817d(d) or 817e(d)).”

2005—Par. (3)(A). Pub. L. 109–59 inserted “, subchapter III of chapter 311, chapter 313, or chapter 315” before “of title 49”.

1996—Par. (3)(A). Pub. L. 104–287 amended Pub. L. 104–88, §305(d)(6). See 1995 Amendment note below.

1995—Par. (3)(A). Pub. L. 104–88, §305(d)(6), as amended by Pub. L. 104–287, inserted “or pursuant to part B or C of subtitle IV of title 49” before the semicolon.

Pub. L. 104–88, §305(d)(5), substituted “or 41” for “41, or 43”.

Par. (3)(B). Pub. L. 104–88, §305(d)(7), redesignated cls. (ii), (iv), and (v) as (i), (ii), and (iii), respectively, and struck out former cls. (i) and (iii) which read as follows:

“(i) section 23, 25, or 43 of the Shipping Act, 1916 (46 U.S.C. App. 822, 824, or 841a);

“(iii) section 2, 3, 4, or 5 of the Intercoastal Shipping Act, 1933 (46 U.S.C. App. 844, 845, 845a, or 845b);”.

Par. (5). Pub. L. 104–88, §305(d)(8), added par. (5) and struck out former par. (5) which read as follows: “all rules, regulations, or final orders of the Interstate Commerce Commission made reviewable by section 2321 of this title and all final orders of such Commission made reviewable under section 11901(j)(2) of title 49, United States Code;”.

1994—Par. (7). Pub. L. 103–272 substituted “section 20114(c) of title 49” for “section 202(f) of the Federal Railroad Safety Act of 1970”.

1992—Par. (7). Pub. L. 102–365, which directed the addition of par. (7) at end, was executed by adding par. (7) after par. (6) and before concluding provisions, to reflect the probable intent of Congress.

1988—Par. (6). Pub. L. 100–430 added par. (6).

1986—Par. (3). Pub. L. 99–336 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “such final orders of the Federal Maritime Commission or the Maritime Administration entered under chapters 23 and 23A of title 46 as are subject to judicial review under section 830 of title 46;”.

1984—Par. (5). Pub. L. 98–554 substituted “11901(j)(2)” for “11901(i)(2)”.

1982—Pub. L. 97–164 inserted “(other than the United States Court of Appeals for the Federal Circuit)” after “court of appeals” in provisions preceding par. (1), and



struck out par. (6) which had given the court of appeals jurisdiction in cases involving all final orders of the Merit Systems Protection Board except as provided for in section 7703(b) of title 5. See section 1295(a)(9) of this title.

1980—Par. (5). Pub. L. 96-454 inserted “and all final orders of such Commission made reviewable under section 11901(i)(2) of title 49, United States Code” after “section 2321 of this title”.

1978—Par. (6). Pub. L. 95-454 added par. (6).

1975—Par. (5). Pub. L. 93-584 added par. (5).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 6(f) of Pub. L. 104-287 provided that the amendment made by that section is effective Dec. 29, 1995.

#### EFFECTIVE DATE OF 1995 AMENDMENT

Amendment by Pub. L. 104-88 effective Jan. 1, 1996, see section 2 of Pub. L. 104-88, set out as an Effective Date note under section 701 of Title 49, Transportation.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-430 effective on 180th day beginning after Sept. 13, 1988, see section 13(a) of Pub. L. 100-430, set out as a note under section 3601 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 5(b) of Pub. L. 99-336 provided that: “The amendment made by this section [amending this section] shall apply with respect to any rule, regulation, or final order described in such amendment which is issued on or after the date of the enactment of this Act [June 19, 1986].”

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-584 not applicable to actions commenced on or before last day of first month beginning after Jan. 2, 1975, and actions to enjoin or suspend orders of Interstate Commerce Commission which are pending when this amendment becomes effective shall not be affected thereby, but shall proceed to final disposition under the law existing on the date they were commenced, see section 10 of Pub. L. 93-584, set out as a note under section 2321 of this title.

#### TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those sections.

### § 2343. Venue

The venue of a proceeding under this chapter is in the judicial circuit in which the petitioner resides or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 622.)

#### HISTORICAL AND REVISION NOTES

| Derivation | U.S. Code      | Revised Statutes and Statutes at Large      |
|------------|----------------|---|
| .....      | 5 U.S.C. 1033. | Dec. 29, 1950, ch. 1189, §3, 64 Stat. 1130. |

The section is reorganized for clarity and conciseness. The word “is” is substituted for “shall be”. The word “petitioner” is substituted for “party or any of the parties filing the petition for review” in view of the definition of “petitioner” in section 2341 of this title.

### § 2344. Review of orders; time; notice; contents of petition; service

On the entry of a final order reviewable under this chapter, the agency shall promptly give notice thereof by service or publication in accordance with its rules. Any party aggrieved by the final order may, within 60 days after its entry, file a petition to review the order in the court of appeals wherein venue lies. The action shall be against the United States. The petition shall contain a concise statement of—

- (1) the nature of the proceedings as to which review is sought;
- (2) the facts on which venue is based;
- (3) the grounds on which relief is sought; and
- (4) the relief prayed.

The petitioner shall attach to the petition, as exhibits, copies of the order, report, or decision of the agency. The clerk shall serve a true copy of the petition on the agency and on the Attorney General by registered mail, with request for a return receipt.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 622.)

#### HISTORICAL AND REVISION NOTES

| Derivation | U.S. Code      | Revised Statutes and Statutes at Large      |
|------------|----------------|---|
| .....      | 5 U.S.C. 1034. | Dec. 29, 1950, ch. 1189, §4, 64 Stat. 1130. |

The section is reorganized, with minor changes in phraseology. The words “as prescribed by section 1033 of this title” are omitted as surplusage. The words “of the United States” following “Attorney General” are omitted as unnecessary.

### § 2345. Prehearing conference

The court of appeals may hold a prehearing conference or direct a judge of the court to hold a prehearing conference.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 622.)

#### HISTORICAL AND REVISION NOTES

| Derivation | U.S. Code      | Revised Statutes and Statutes at Large      |
|------------|----------------|---|
| .....      | 5 U.S.C. 1035. | Dec. 29, 1950, ch. 1189, §5, 64 Stat. 1130. |

### § 2346. Certification of record on review

Unless the proceeding has been terminated on a motion to dismiss the petition, the agency shall file in the office of the clerk the record on review as provided by section 2112 of this title.

(Added Pub. L. 89-554, §4(e), Sept. 6, 1966, 80 Stat. 623.)

#### HISTORICAL AND REVISION NOTES

| Derivation | U.S. Code      | Revised Statutes and Statutes at Large      |
|------------|----------------|---|
| .....      | 5 U.S.C. 1036. | Dec. 29, 1950, ch. 1189, §6, 64 Stat. 1130. |



**National Environmental Policy Act**

**42 U.S.C. § 4322**

scribed aspects of population growth in the United States and its foreseeable social consequences; provided for the appointment of an Executive Director and other personnel and prescribed their compensation; authorized the Commission to enter into contracts with public agencies, private firms, institutions, and individuals for the conduct of research and surveys, the preparation of reports, and other activities necessary to the discharge of its duties, and to request from any Federal department or agency any information and assistance it deems necessary to carry out its functions; required the General Services Administration to provide administrative services for the Commission on a reimbursable basis; required the Commission to submit an interim report to the President and the Congress one year after it was established and to submit its final report two years after Mar. 16, 1970; terminated the Commission sixty days after the date of the submission of its final report; and authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as might be necessary to carry out the provisions of Pub. L. 91-213.

EXECUTIVE ORDER No. 11507

Ex. Ord. No. 11507, eff. Feb. 4, 1970, 35 F.R. 2573, which related to prevention, control, and abatement of air and water pollution at federal facilities was superseded by Ex. Ord. No. 11752, eff. Dec. 17, 1973, 38 F.R. 34793, formerly set out below.

EXECUTIVE ORDER No. 11752

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, which related to the prevention, control, and abatement of environmental pollution at Federal facilities, was revoked by Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of this title.

**§ 4332. Cooperation of agencies; reports; availability of information; recommendations; international and national coordination of efforts**

The Congress authorizes and directs that, to the fullest extent possible: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all agencies of the Federal Government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by subchapter II of this chapter, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5, and shall accompany the proposal through the existing agency review processes;

(D) Any detailed statement required under subparagraph (C) after January 1, 1970, for any major Federal action funded under a program of grants to States shall not be deemed to be legally insufficient solely by reason of having been prepared by a State agency or official, if:

(i) the State agency or official has statewide jurisdiction and has the responsibility for such action,

(ii) the responsible Federal official furnishes guidance and participates in such preparation,

(iii) the responsible Federal official independently evaluates such statement prior to its approval and adoption, and

(iv) after January 1, 1976, the responsible Federal official provides early notification to, and solicits the views of, any other State or any Federal land management entity of any action or any alternative thereto which may have significant impacts upon such State or affected Federal land management entity and, if there is any disagreement on such impacts, prepares a written assessment of such impacts and views for incorporation into such detailed statement.

The procedures in this subparagraph shall not relieve the Federal official of his responsibilities for the scope, objectivity, and content of the entire statement or of any other responsibility under this chapter; and further, this subparagraph does not affect the legal sufficiency of statements prepared by State agencies with less than statewide jurisdiction.<sup>1</sup>

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anti-

<sup>1</sup> So in original. The period probably should be a semicolon.

pating and preventing a decline in the quality of mankind's world environment;

(G) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects; and

(I) assist the Council on Environmental Quality established by subchapter II of this chapter.

(Pub. L. 91-190, title I, § 102, Jan. 1, 1970, 83 Stat. 853; Pub. L. 94-83, Aug. 9, 1975, 89 Stat. 424.)

#### AMENDMENTS

1975—Subpars. (D) to (I). Pub. L. 94-83 added subpar. (D) and redesignated former subpars. (D) to (H) as (E) to (I), respectively.

#### CERTAIN COMMERCIAL SPACE LAUNCH ACTIVITIES

Pub. L. 104-88, title IV, § 401, Dec. 29, 1995, 109 Stat. 955, provided that: "The licensing of a launch vehicle or launch site operator (including any amendment, extension, or renewal of the license) under chapter 701 of title 49, United States Code, shall not be considered a major Federal action for purposes of section 102(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)) if—

"(1) the Department of the Army has issued a permit for the activity; and

"(2) the Army Corps of Engineers has found that the activity has no significant impact."

#### EX. ORD. NO. 13352. FACILITATION OF COOPERATIVE CONSERVATION

Ex. Ord. No. 13352, Aug. 26, 2004, 69 F.R. 52989, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

SECTION 1. *Purpose.* The purpose of this order is to ensure that the Departments of the Interior, Agriculture, Commerce, and Defense and the Environmental Protection Agency implement laws relating to the environment and natural resources in a manner that promotes cooperative conservation, with an emphasis on appropriate inclusion of local participation in Federal decisionmaking, in accordance with their respective agency missions, policies, and regulations.

SEC. 2. *Definition.* As used in this order, the term "cooperative conservation" means actions that relate to use, enhancement, and enjoyment of natural resources, protection of the environment, or both, and that involve collaborative activity among Federal, State, local, and tribal governments, private for-profit and nonprofit institutions, other nongovernmental entities and individuals.

SEC. 3. *Federal Activities.* To carry out the purpose of this order, the Secretaries of the Interior, Agriculture, Commerce, and Defense and the Administrator of the Environmental Protection Agency shall, to the extent permitted by law and subject to the availability of appropriations and in coordination with each other as appropriate:

(a) carry out the programs, projects, and activities of the agency that they respectively head that implement laws relating to the environment and natural resources in a manner that:

(i) facilitates cooperative conservation;

(ii) takes appropriate account of and respects the interests of persons with ownership or other legally recognized interests in land and other natural resources;

(iii) properly accommodates local participation in Federal decisionmaking; and

(iv) provides that the programs, projects, and activities are consistent with protecting public health and safety;

(b) report annually to the Chairman of the Council on Environmental Quality on actions taken to implement this order; and

(c) provide funding to the Office of Environmental Quality Management Fund (42 U.S.C. 4375) for the Conference for which section 4 of this order provides.

SEC. 4. *White House Conference on Cooperative Conservation.* The Chairman of the Council on Environmental Quality shall, to the extent permitted by law and subject to the availability of appropriations:

(a) convene not later than 1 year after the date of this order, and thereafter at such times as the Chairman deems appropriate, a White House Conference on Cooperative Conservation (Conference) to facilitate the exchange of information and advice relating to (i) cooperative conservation and (ii) means for achievement of the purpose of this order; and

(b) ensure that the Conference obtains information in a manner that seeks from Conference participants their individual advice and does not involve collective judgment or consensus advice or deliberation.

SEC. 5. *General Provision.* This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities or entities, its officers, employees or agents, or any other person.

GEORGE W. BUSH.

#### § 4333. Conformity of administrative procedures to national environmental policy

All agencies of the Federal Government shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the President not later than July 1, 1971, such measures as may be necessary to bring their authority and policies into conformity with the intent, purposes, and procedures set forth in this chapter.

(Pub. L. 91-190, title I, § 103, Jan. 1, 1970, 83 Stat. 854.)

#### § 4334. Other statutory obligations of agencies

Nothing in section 4332 or 4333 of this title shall in any way affect the specific statutory obligations of any Federal agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other Federal or State agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency.

(Pub. L. 91-190, title I, § 104, Jan. 1, 1970, 83 Stat. 854.)

#### § 4335. Efforts supplemental to existing authorizations

The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of Federal agencies.

(Pub. L. 91-190, title I, § 105, Jan. 1, 1970, 83 Stat. 854.)

**Nuclear Waste Policy Act**

**42 U.S.C. §§ 10101, 10131, 10141**

Sec.

- (d) Use of Waste Fund.
- (e) Administration of Waste Fund.
- 10223. Alternative means of financing.
- 10224. Office of Civilian Radioactive Waste Management.
  - (a) Establishment.
  - (b) Functions of Director.
  - (c) Annual report to Congress.
  - (d) Audit by GAO.
- 10225. Location of test and evaluation facility.
  - (a) Report to Congress.
  - (b) Procedures.
- 10226. Nuclear Regulatory Commission training authorization.
- SUBCHAPTER IV—NUCLEAR WASTE NEGOTIATOR
- 10241. "State" defined.
- 10242. Office of Nuclear Waste Negotiator.
  - (a) Establishment.
  - (b) Nuclear Waste Negotiator.
- 10243. Duties of Negotiator.
  - (a) Negotiations with potential hosts.
  - (b) Consultation with affected States, subdivisions of States, and tribes.
  - (c) Consultation with other Federal agencies.
  - (d) Proposed agreement.
- 10244. Environmental assessment of sites.
  - (a) In general.
  - (b) Contents.
  - (c) Judicial review.
  - (d) Public hearings.
  - (e) Public availability.
  - (f) Evaluation of sites.
- 10245. Site characterization; licensing.
  - (a) Site characterization.
  - (b) Licensing.
- 10246. Monitored retrievable storage.
  - (a) Construction and operation.
  - (b) Financial assistance.
- 10247. Environmental impact statement.
  - (a) In general.
  - (b) Preparation.
  - (c) Adoption.
- 10248. Administrative powers of Negotiator.
- 10249. Cooperation of other departments and agencies.
- 10250. Termination of Office.
- 10251. Authorization of appropriations.
- SUBCHAPTER V—NUCLEAR WASTE TECHNICAL REVIEW BOARD
- 10261. Definitions.
- 10262. Nuclear Waste Technical Review Board.
  - (a) Establishment.
  - (b) Members.
- 10263. Functions.
- 10264. Investigatory powers.
  - (a) Hearings.
  - (b) Production of documents.
- 10265. Compensation of members.
  - (a) In general.
  - (b) Travel expenses.
- 10266. Staff.
  - (a) Clerical staff.
  - (b) Professional staff.
- 10267. Support services.
  - (a) General services.
  - (b) Accounting, research, and technology assessment services.
  - (c) Additional support.
  - (d) Mails.
  - (e) Experts and consultants.
- 10268. Report.
- 10269. Authorization of appropriations.
- 10270. Termination of Board.

## CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2286g of this title.

## § 10101. Definitions

For purposes of this chapter:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "affected Indian tribe" means any Indian tribe—

(A) within whose reservation boundaries a monitored retrievable storage facility, test and evaluation facility, or a repository for high-level radioactive waste or spent fuel is proposed to be located;

(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: *Provided*, That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe;<sup>1</sup>

(3) The term "atomic energy defense activity" means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

(A) naval reactors development;

(B) weapons activities including defense inertial confinement fusion;

(C) verification and control technology;

(D) defense nuclear materials production;

(E) defense nuclear waste and materials by-products management;

(F) defense nuclear materials security and safeguards and security investigations; and

(G) defense research and development.

(4) The term "candidate site" means an area, within a geologic and hydrologic system, that is recommended by the Secretary under section 10132 of this title for site characterization, approved by the President under section 10132 of this title for site characterization, or undergoing site characterization under section 10133 of this title.

(5) The term "civilian nuclear activity" means any atomic energy activity other than an atomic energy defense activity.

(6) The term "civilian nuclear power reactor" means a civilian nuclear powerplant required to be licensed under section 2133 or 2134(b) of this title.

(7) The term "Commission" means the Nuclear Regulatory Commission.

(8) The term "Department" means the Department of Energy.

(9) The term "disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such waste.

(10) The terms "disposal package" and "package" mean the primary container that holds, and is in contact with, solidified high-level radioactive waste, spent nuclear fuel, or other radioactive materials, and any overpacks that are emplaced at a repository.

<sup>1</sup> So in original. The semicolon probably should be a period.



(11) The term “engineered barriers” means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved. Such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

(12) The term “high-level radioactive waste” means—

(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

(13) The term “Federal agency” means any Executive agency, as defined in section 105 of title 5.

(14) The term “Governor” means the chief executive officer of a State.

(15) The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

(16) The term “low-level radioactive waste” means radioactive material that—

(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in section 2014(e)(2) of this title; and

(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

(17) The term “Office” means the Office of Civilian Radioactive Waste Management established in section 10224<sup>2</sup> of this title.

(18) The term “repository” means any system licensed by the Commission that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited period during initial operation, of any materials placed in such system. Such term includes both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

(19) The term “reservation” means—

(A) any Indian reservation or dependent Indian community referred to in clause (a) or (b) of section 1151 of title 18; or

(B) any land selected by an Alaska Native village or regional corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(20) The term “Secretary” means the Secretary of Energy.

(21) The term “site characterization” means—

(A) siting research activities with respect to a test and evaluation facility at a candidate site; and

(B) activities, whether in the laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(22) The term “siting research” means activities, including borings, surface excavations, shaft excavations, subsurface lateral excavations and borings, and in situ testing, to determine the suitability of a site for a test and evaluation facility.

(23) The term “spent nuclear fuel” means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(24) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(25) The term “storage” means retention of high-level radioactive waste, spent nuclear fuel, or transuranic waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

(26) The term “Storage Fund” means the Interim Storage Fund established in section 10156(c)<sup>3</sup> of this title.

(27) The term “test and evaluation facility” means an at-depth, prototypic, underground cavity with subsurface lateral excavations extending from a central shaft that is used for research and development purposes, including the development of data and experience for the safe handling and disposal of solidified high-level radioactive waste, transuranic waste, or spent nuclear fuel.

(28) The term “unit of general local government” means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(29) The term “Waste Fund” means the Nuclear Waste Fund established in section 10222(c) of this title.

(30) The term “Yucca Mountain site” means the candidate site in the State of Nevada recommended by the Secretary to the President under section 10132(b)(1)(B) of this title on May 27, 1986.

(31) The term “affected unit of local government” means the unit of local government with jurisdiction over the site of a repository

<sup>2</sup> See References in Text note below.

<sup>3</sup> See References in Text note below.

or a monitored retrievable storage facility. Such term may, at the discretion of the Secretary, include units of local government that are contiguous with such unit.

(32) The term “Negotiator” means the Nuclear Waste Negotiator.

(33) As used in subchapter IV of this chapter, the term “Office” means the Office of the Nuclear Waste Negotiator established under subchapter IV of this chapter.

(34) The term “monitored retrievable storage facility” means the storage facility described in section 10161(b)(1) of this title.

(Pub. L. 97-425, § 2, Jan. 7, 1983, 96 Stat. 2202; Pub. L. 100-202, § 101(d) [title III, § 300], Dec. 22, 1987, 101 Stat. 1329-104, 1329-121; Pub. L. 100-203, title V, § 5002, Dec. 22, 1987, 101 Stat. 1330-227.)

#### REFERENCES IN TEXT

Section 10224 of this title, referred to in par. (17), was in the original a reference to section 305 of Pub. L. 97-425, which is classified to section 10225 of this title, and was translated as section 10224 of this title as the probable intent of Congress, in view of the Office of Civilian Radioactive Waste Management being established by section 10224 of this title.

The Alaska Native Claims Settlement Act, referred to in par. (19)(B), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

Section 10156(c) of this title, referred to in par. (26), was in the original a reference to section 137(c) of Pub. L. 97-425, which is classified to section 10157(c) of this title, and has been translated as section 10156(c) of this title as the probable intent of Congress, in view of the Interim Storage Fund being established by section 10156(c) of this title.

#### AMENDMENTS

1987—Pars. (30) to (34). Pub. L. 100-202 and Pub. L. 100-203 amended section identically adding pars. (30) to (34).

#### SHORT TITLE OF 1987 AMENDMENT

Section 101(d) [title III] of Pub. L. 100-202 and section 5001 of title V of Pub. L. 100-203 provided that: “This subtitle [subtitle A (§§ 5001-5065)] of title V, enacting sections 10162, 10163, 10164, 10165, 10166, 10167, 10168, 10169, 10172, 10172a, 10173, 10173a, 10173b, 10173c, 10174, 10174a, 10175, 10204, 10241, 10242, 10243, 10244, 10245, 10246, 10247, 10248, 10249, 10250, 10251, 10261, 10262, 10263, 10264, 10265, 10266, 10267, 10268, 10269, and 10270 of this title, amending this section and sections 10132, 10133, 10134, 10136, 10137, and 10138 of this title and enacting provisions set out as a note under section 5841 of this title] may be cited as the ‘Nuclear Waste Policy Amendments Act of 1987.’”

#### SHORT TITLE

Section 1 of Pub. L. 97-425 provided that: “This Act [enacting this chapter] may be cited as the ‘Nuclear Waste Policy Act of 1982.’”

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

#### NUCLEAR WASTE MANAGEMENT PLAN; REPORT

Pub. L. 102-486, title VIII, § 803, Oct. 24, 1992, 106 Stat. 2923, provided that:

“(a) PREPARATION AND SUBMISSION OF REPORT.—The Secretary of Energy, in consultation with the Nuclear

Regulatory Commission and the Environmental Protection Agency, shall prepare and submit to the Congress a report on whether current programs and plans for management of nuclear waste as mandated by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) are adequate for management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of the enactment of this Act [Oct. 24, 1992]. The Secretary shall prepare the report for submission to the President and the Congress within 1 year after the date of the enactment of this Act. The report shall examine any new relevant issues related to management of spent nuclear fuel and high-level radioactive waste that might be raised by the addition of new nuclear-generated electric capacity, including anticipated increased volumes of spent nuclear fuel or high-level radioactive waste, any need for additional interim storage capacity prior to final disposal, transportation of additional volumes of waste, and any need for additional repositories for deep geologic disposal.

“(b) OPPORTUNITY FOR PUBLIC COMMENT.—In preparation of the report required under subsection (a), the Secretary of Energy shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Nuclear Regulatory Commission, the Environmental Protection Agency, and other interested parties.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2014 of this title; title 18 sections 33, 1992; title 49 section 5105.

#### § 10102. Separability

If any provision of this chapter, or the application of such provision to any person or circumstance, is held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Pub. L. 97-425, § 3, Jan. 7, 1983, 96 Stat. 2205.)

#### § 10103. Territories and possessions

Nothing in this chapter shall be deemed to repeal, modify, or amend the provisions of section 1491 of title 48.

(Pub. L. 97-425, § 4, Jan. 7, 1983, 96 Stat. 2205.)

#### § 10104. Ocean disposal

Nothing in this chapter shall be deemed to affect the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.).

(Pub. L. 97-425, § 5, Jan. 7, 1983, 96 Stat. 2205.)

#### REFERENCES IN TEXT

The Marine Protection, Research, and Sanctuaries Act of 1972, referred to in text, is Pub. L. 92-532, Oct. 23, 1972, 86 Stat. 1052, as amended, which enacted chapters 32 (§ 1431 et seq.) and 32A (§ 1447 et seq.) of Title 16, Conservation, and chapters 27 (§ 1401 et seq.) and 41 (§ 2801 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1401 of Title 33 and Tables.

#### § 10105. Limitation on spending authority

The authority under this chapter to incur indebtedness, or enter into contracts, obligating

**10 C.F.R. § 51.14(b)**



## Nuclear Regulatory Commission

## § 51.14

of deviation, and notices of non-conformance.

[49 FR 9381, Mar. 12, 1984, as amended at 54 FR 43578, Oct. 26, 1989; 61 FR 43408, Aug. 22, 1996]

### § 51.11 Relationship to other subparts. [Reserved]

### § 51.12 Application of subpart to ongoing environmental work.

(a) Except as otherwise provided in this section, the regulations in this subpart shall apply to the fullest extent practicable to NRC's ongoing environmental work.

(b) No environmental report or any supplement to an environmental report filed with the NRC and no environmental assessment, environmental impact statement or finding of no significant impact or any supplement to any of the foregoing issued by the NRC before June 7, 1984, need be redone and no notice of intent to prepare an environmental impact statement or notice of availability of these environmental documents need be republished solely by reason of the promulgation on March 12, 1984, of this revision of part 51.

[49 FR 9381, Mar. 12, 1984, as amended at 49 FR 24513, June 14, 1984]

### § 51.13 Emergencies.

Whenever emergency circumstances make it necessary and whenever, in other situations, the health and safety of the public may be adversely affected if mitigative or remedial actions are delayed, the Commission may take an action with significant environmental impact without observing the provisions of these regulations. In taking an action covered by this section, the Commission will consult with the Council as soon as feasible concerning appropriate alternative NEPA arrangements.

### § 51.14 Definitions.

(a) As used in this subpart:

*Categorical Exclusion* means a category of actions which do not individually or cumulatively have a significant effect on the human environment and which the Commission has found to have no such effect in accordance with procedures set out in § 51.22, and

for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

*Cooperating Agency* means any Federal agency other than the NRC which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major Federal action significantly affecting the quality of the human environment. By agreement with the Commission, a State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may become a cooperating agency.

*Council* means the Council on Environmental Quality (CEQ) established by Title II of NEPA.

*DOE* means the U.S. Department of Energy or its duly authorized representatives.

*Environmental Assessment* means a concise public document for which the Commission is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid the Commission's compliance with NEPA when no environmental impact statement is necessary.

(3) Facilitate preparation of an environmental impact statement when one is necessary.

*Environmental document* includes an environmental assessment, an environmental impact statement, a finding of no significant impact, an environmental report and any supplements to or comments upon those documents, and a notice of intent.

*Environmental Impact Statement* means a detailed written statement as required by section 102(2)(C) of NEPA.

*Environmental report* means a document submitted to the Commission by an applicant for a permit, license, or other form of permission, or an amendment to or renewal of a permit, license or other form of permission, or by a petitioner for rulemaking, in order to aid the Commission in complying with section 102(2) of NEPA.

*Finding of No Significant Impact* means a concise public document for

**§51.15**

which the Commission is responsible that briefly states the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which therefore an environmental impact statement will not be prepared.

*NEPA* means the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 83 Stat. 852, 856, as amended by Pub. L. 94-83, 89 Stat. 424, 42 U.S.C. 4321, *et seq.*).

*Notice of Intent* means a notice that an environmental impact statement will be prepared and considered.

*Uranium enrichment facility* means:

(1) Any facility used for separating the isotopes for uranium or enriching uranium in the isotope 235, except laboratory scale facilities designed or used for experimental or analytical purposes only; or

(2) Any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

(b) The definitions in 40 CFR 1508.3, 1508.7, 1508.8, 1508.14, 1508.15, 1508.16, 1508.17, 1508.18, 1508.20, 1508.23, 1508.25, 1508.26, and 1508.27, will also be used in implementing section 102(2) of NEPA.

[49 FR 9381, Mar. 12, 1984, as amended at 57 FR 18391, Apr. 30, 1992]

**§51.15 Time schedules.**

Consistent with the purposes of NEPA, the Administrative Procedure Act, the Commission's rules of practice in part 2 of this chapter, §§51.100 and 51.101, and with other essential considerations of national policy:

(a) The appropriate NRC staff director may, and upon the request of an applicant for a proposed action or a petitioner for rulemaking shall, establish a time schedule for all or any constituent part of the NRC staff NEPA process. To the maximum extent practicable, the NRC staff will conduct its NEPA review in accordance with any time schedule established under this section.

(b) As specified in 10 CFR part 2, the presiding officer, the Atomic Safety and Licensing Board or the Commissioners acting as a collegial body may establish a time schedule for all or any

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part of an adjudicatory or rulemaking proceeding to the extent that each has jurisdiction.

[49 FR 9381, Mar. 12, 1984, as amended at 69 FR 2276, Jan. 14, 2004]

**§51.16 Proprietary information.**

(a) Proprietary information, such as trade secrets or privileged or confidential commercial or financial information, will be treated in accordance with the procedures provided in §2.390 of this chapter.

(b) Any proprietary information which a person seeks to have withheld from public disclosure shall be submitted in accordance with §2.390 of this chapter. When submitted, the proprietary information should be clearly identified and accompanied by a request, containing detailed reasons and justifications, that the proprietary information be withheld from public disclosure. A non-proprietary summary describing the general content of the proprietary information should also be provided.

[69 FR 2276, Jan. 14, 2004]

**§51.17 Information collection requirements; OMB approval.**

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has approved the information collection requirements contained in this part under control number 3150-0021.

(b) The approved information collection requirements in this part appear in §§51.6, 51.16, 51.41, 51.45, 51.50, 51.51, 51.52, 51.53, 51.54, 51.55, 51.60, 51.61, 51.62, 51.66, 51.68, and 51.69.

[49 FR 24513, June 14, 1984, as amended at 62 FR 52188, Oct. 6, 1997; 67 FR 67100, Nov. 4, 2002]

**10 C.F.R. pt. 51, subpart A, app. A, para. (5)**

**Pt. 51, Subpt. A, App. A****10 CFR Ch. I (1–15 Edition)****APPENDIX A TO SUBPART A OF PART 51—  
FORMAT FOR PRESENTATION OF MA-  
TERIAL IN ENVIRONMENTAL IMPACT  
STATEMENTS**

1. General
2. Cover sheet
3. Summary
4. Purpose of and need for action
5. Alternatives including the proposed action
6. Affected environment
7. Environmental consequences and miti-  
gating actions
8. List of preparers
9. Appendices

**1. General.**

(a) The Commission will use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless there is a compelling reason to do otherwise:

- (1) Cover sheet\*
- (2) Summary\*
- (3) Table of Contents
- (4) Purpose of and Need for Action\*
- (5) Alternatives including the proposed action\*
- (6) Affected Environment\*
- (7) Environmental Consequences and Mitigating Actions\*
- (8) List of Preparers\*
- (9) List of Agencies, Organizations and Persons to Whom Copies of the Statement are Sent
- (10) Substantive Comments Received and NRC Staff Responses
- (11) Index
- (12) Appendices (if any)\*

If a different format is used, it shall include paragraphs (1), (2), (3), (8), (9), (10), and (11) of this section and shall include the substance of paragraphs (4), (5), (6), (7), and (12) of this section, in any appropriate format.

Additional guidance on the presentation of material under the format headings identified by an asterisk is set out in sections 2.–9. of this appendix.

(b) The techniques of tiering and incorporation by reference described respectively in 40 CFR 1502.20 and 1508.28 and 40 CFR 1502.21<sup>1</sup> of CEQ's NEPA regulations may be used as appropriate to aid in the presentation of issues, eliminate repetition or reduce the size of an environmental impact statement. In appropriate circumstances, draft or final environmental impact statements prepared by other Federal agencies may be adopted in whole or in part in accordance with the pro-

cedures outlined in 40 CFR 1506.3<sup>2</sup> of CEQ's NEPA regulations. In final environmental impact statements, material under the following format headings will normally be presented in less than 150 pages: Purpose of and Need for Action, Alternatives Including the Proposed Action, Affected Environment, and Environmental Consequences and Mitigating Actions. For proposals of unusual scope or complexity, the material presented under these format headings may extend to 300 pages.

**2. Cover sheet.**

The cover sheet will not exceed one page. It will include:

- (a) The name of the NRC office responsible for preparing the statement and a list of any cooperating agencies.
- (b) The title of the proposed action that is the subject of the statement with a list of the states, counties or municipalities where the facility or other subject of the action is located, as appropriate.
- (c) The name, address, and telephone number of the individual in NRC who can supply further information.
- (d) A designation of the statement as a draft or final statement, or a draft or final supplement.
- (e) A one paragraph abstract of the statement.
- (f) For draft environmental impact statements, the date by which comments must be received. This date may be specified in the form of the following or a substantially similar statement:

“Comments should be filed no later than<sup>3</sup> days after the date on which the Environmental Protection Agency notice stating that the draft environmental impact statement has been filed with EPA is published in the FEDERAL REGISTER. Comments received after the expiration of the comment period will be considered if it is practical to do so but assurance of consideration of late comments cannot be given.”

**3. Summary.**

Each environmental impact statement will contain a summary which adequately and accurately summarizes the statement. The summary will stress the major issues considered. The summary will discuss the areas of controversy, will identify any remaining issues to be resolved, and will present the major conclusions and recommendations. The summary will normally not exceed 15 pages.

<sup>2</sup> *Adoption*—40 CFR 1506.3.

<sup>3</sup> The number of days in the comment period should be inserted. The minimum comment period is 45 days (see §51.73.)

<sup>1</sup> *Tiering*—40 CFR 1502.20, 40 CFR 1508.28; *Incorporation by reference*—40 CFR 1502.21.

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### 4. *Purpose of and need for action.*

The statement will briefly describe and specify the need for the proposed action. The alternative of no action will be discussed. In the case of nuclear power plant construction or siting, consideration will be given to the potential impact of conservation measures in determining the demand for power and consequent need for additional generating capacity.

### 5. *Alternatives including the proposed action.*

This section is the heart of the environmental impact statement. It will present the environmental impacts of the proposal and the alternatives in comparative form. Where important to the comparative evaluation of alternatives, appropriate mitigating measures of the alternatives will be discussed. All reasonable alternatives will be identified. The range of alternatives discussed will encompass those proposed to be considered by the ultimate decisionmaker. An otherwise reasonable alternative will not be excluded from discussion solely on the ground that it is not within the jurisdiction of the NRC.<sup>4</sup> The discussion of alternatives will take into accounts, without duplicating, the environmental information and analyses included in sections, 4., 6. and 7. of this appendix.

In the draft environmental impact statement, this section will either include a preliminary recommendation on the action to be taken, or identify the alternatives under consideration.

In the final environmental impact statement, this section will include a final recommendation on the action to be taken.

### 6. *Affected environment.*

The environmental impact statement will succinctly describe the environment to be affected by the proposed action. Data and analyses in the statement will be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Effort and attention will be concentrated on important issues; useless bulk will be eliminated.

### 7. *Environmental consequences and mitigating actions.*

This section discusses the environmental consequences of alternatives, including the proposed actions and any mitigating actions which may be taken. Alternatives eliminated from detailed study will be identified and a discussion of those alternatives will be confined to a brief statement of the reasons

why the alternatives were eliminated. The level of information for each alternative considered in detail will reflect the depth of analysis required for sound decisionmaking.

The discussion will include any adverse environmental effects which cannot be avoided should the alternative be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the alternative should it be implemented. This section will include discussions of:

- (a) Direct effects and their significance.
- (b) Indirect effects and their significance.
- (c) Possible conflicts between the alternative and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned.
- (d) Means to mitigate adverse environmental impacts.

### 8. *List of preparers.*

The environmental impact statement will list the names and qualifications (expertise, experience, professional disciplines), of the persons who were primarily responsible for preparing the environmental impact statement or significant background papers. Persons responsible for making an independent evaluation of information submitted by the applicant or petitioner for rulemaking or others will be included in the list. Where possible, the persons who are responsible for a particular analysis, including analyses in background papers, will be identified.

### 9. *Appendices.*

An appendix to an environmental impact statement will:

- (a) Consist of material prepared in connection with an environmental impact statement (as distinct from material which is not so prepared and which is incorporated by reference (40 CFR 1502.21)).
- (b) Normally consist of material which substantiates any analysis fundamental to the impact statement. Discussion of methodology used may be placed in an appendix.
- (c) Normally be analytic.
- (d) Be relevant to the decision to be made.
- (e) Be circulated with the environmental impact statement or be readily available on request.

### Discussion of Footnotes

#### 1. *Tiering.*

40 CFR 1502.20 states:

"Agencies are encouraged to tier their environmental impact statements to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review

<sup>4</sup>With respect to limitations on NRC's NEPA authority and responsibility imposed by the Federal Water Pollution Control Act Amendments of 1972, see §§51.10(c), 51.22(c)(17) and 51.71(d).

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(§1508.28). Whenever a broad environmental impact statement has been prepared (such as a program or policy statement) and a subsequent statement or environmental assessment is then prepared on an action included within the entire program or policy (such as a site specific action) the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action. The subsequent document shall state where the earlier document is available. Tiering may also be appropriate for different stages of actions. (Sec. 1508.28).”

40 CFR 1508.28 states:

“‘Tiering’ refers to the coverage of general matters in broader environmental impact statements (such as national program or policy statements) with subsequent narrower statements or environmental analyses (such as regional or basinwide program statements or ultimately site-specific statements) incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared. Tiering is appropriate when the sequence of statements or analyses is:

“(a) From a program, plan, or policy environmental impact statement to a program, plan, or policy statement or analysis of lesser scope or to a site-specific statement or analysis.

“(b) From an environmental impact statement on a specific action at an early stage (such as need and site selection) to a supplement (which is preferred) or a subsequent statement or analysis at a later stage (such as environmental mitigation). Tiering in such cases is appropriate when it helps the lead agency to focus on the issues which are ripe for decision and exclude from consideration issues already decided or not yet ripe.”

*Incorporation by reference.* 40 CFR 1502.21 states:

“Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference.”

*2. Adoption.*

40 CFR 1506.3 states:

“(a) An agency may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement under these regulations.

“(b) If the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency’s statement is not required to recirculate it except as a final statement. Otherwise the adopting agency shall treat the statement as a draft and recirculate it (except as provided in paragraph (c) of this section).

“(c) A cooperating agency may adopt without recirculating the environmental impact statement of a lead agency when, after an independent review of the statement, the cooperating agency concludes that its comments and suggestions have been satisfied.

“(d) When an agency adopts a statement which is not final within the agency that prepared it, or when the action it assesses is the subject of a referral under part 1504, or when the statement’s adequacy is the subject of a judicial action which is not final, the agency shall so specify.”

[49 FR 9381, Mar. 12, 1984, as amended at 61 FR 28490, June 5, 1996; 61 FR 66546, Dec. 18, 1996]

**APPENDIX B TO SUBPART A OF PART 51—  
ENVIRONMENTAL EFFECT OF RENEWING THE OPERATING LICENSE OF A  
NUCLEAR POWER PLANT**

The Commission has assessed the environmental impacts associated with granting a renewed operating license for a nuclear power plant to a licensee who holds either an operating license or construction permit as of June 30, 1995. Table B-1 summarizes the Commission’s findings on the scope and magnitude of environmental impacts of renewing the operating license for a nuclear power plant as required by section 102(2) of the National Environmental Policy Act of 1969, as amended. Table B-1, subject to an evaluation of those issues identified in Category 2 as requiring further analysis and possible significant new information, represents the analysis of the environmental impacts associated with renewal of any operating license and is to be used in accordance with §51.95(c). On a 10-year cycle, the Commission intends to review the material in this appendix and update it if necessary. A scoping notice must be published in the FEDERAL REGISTER indicating the results of the NRC’s review and inviting public comments and proposals for other areas that should be updated.

**10 C.F.R. § 51.45**



**§ 51.41****10 CFR Ch. I (1–1–10 Edition)**

telephone (301) 415–7800, e-mail [RidsNmssOd@nrc.gov](mailto:RidsNmssOd@nrc.gov).

(3) *Materials licenses*: ATTN: Document Control Desk, Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–7800, e-mail [RidsNmssOd@nrc.gov](mailto:RidsNmssOd@nrc.gov).

(4) *Rulemaking*: ATTN: Chief, Rules and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (800) 368–5642, e-mail [NRCREP@nrc.gov](mailto:NRCREP@nrc.gov).

(5) *General Environmental Matters*: Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 415–1700.

[49 FR 9381, Mar. 12, 1984, as amended at 53 FR 13399, Apr. 25, 1988; 60 FR 24552, May 9, 1995; 68 FR 58810, Oct. 10, 2003; 73 FR 5724, Jan. 31, 2008]

**§ 51.41 Requirement to submit environmental information.**

The Commission may require an applicant for a permit, license, or other form of permission, or amendment to or renewal of a permit, license or other form of permission, or a petitioner for rulemaking to submit such information to the Commission as may be useful in aiding the Commission in complying with section 102(2) of NEPA. The Commission will independently evaluate and be responsible for the reliability of any information which it uses.

ENVIRONMENTAL REPORTS—GENERAL  
REQUIREMENTS

**§ 51.45 Environmental report.**

(a) *General*. As required by §§ 51.50, 51.53, 51.54, 51.55, 51.60, 51.61, 51.62, or 51.68, as appropriate, each applicant or petitioner for rulemaking shall submit with its application or petition for rulemaking one signed original of a separate document entitled “Applicant’s” or “Petitioner’s Environmental Report,” as appropriate. An applicant or petitioner for rulemaking may submit a supplement to an environmental report at any time.

(b) *Environmental considerations*. The environmental report shall contain a

description of the proposed action, a statement of its purposes, a description of the environment affected, and discuss the following considerations:

(1) The impact of the proposed action on the environment. Impacts shall be discussed in proportion to their significance;

(2) Any adverse environmental effects which cannot be avoided should the proposal be implemented;

(3) Alternatives to the proposed action. The discussion of alternatives shall be sufficiently complete to aid the Commission in developing and exploring, pursuant to section 102(2)(E) of NEPA, “appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” To the extent practicable, the environmental impacts of the proposal and the alternatives should be presented in comparative form;

(4) The relationship between local short-term uses of man’s environment and the maintenance and enhancement of long-term productivity; and

(5) Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

(c) *Analysis*. The environmental report must include an analysis that considers and balances the environmental effects of the proposed action, the environmental impacts of alternatives to the proposed action, and alternatives available for reducing or avoiding adverse environmental effects. An environmental report prepared at the early site permit stage under § 51.50(b), limited work authorization stage under § 51.49, construction permit stage under § 51.50(a), or combined license stage under § 51.50(c) must include a description of impacts of the preconstruction activities performed by the applicant at the proposed site (*i.e.*, those activities listed in paragraphs (2)(i) through (2)(x) in the definition of “construction” contained in § 51.4), necessary to support the construction and operation of the facility which is the subject of the early site permit, limited work authorization, construction permit, or combined license application. The environmental report must also contain an



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analysis of the cumulative impacts of the activities to be authorized by the limited work authorization, construction permit, or combined license in light of the preconstruction impacts described in the environmental report. Except for an environmental report prepared at the early site permit stage, or an environmental report prepared at the license renewal stage under § 51.53(c), the analysis in the environmental report should also include consideration of the economic, technical, and other benefits and costs of the proposed action and its alternatives. Environmental reports prepared at the license renewal stage under § 51.53(c) need not discuss the economic or technical benefits and costs of either the proposed action or alternatives except if these benefits and costs are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. In addition, environmental reports prepared under § 51.53(c) need not discuss issues not related to the environmental effects of the proposed action and its alternatives. The analyses for environmental reports shall, to the fullest extent practicable, quantify the various factors considered. To the extent that there are important qualitative considerations or factors that cannot be quantified, those considerations or factors shall be discussed in qualitative terms. The environmental report should contain sufficient data to aid the Commission in its development of an independent analysis.

(d) *Status of compliance.* The environmental report shall list all Federal permits, licenses, approvals and other entitlements which must be obtained in connection with the proposed action and shall describe the status of compliance with these requirements. The environmental report shall also include a discussion of the status of compliance with applicable environmental quality standards and requirements including, but not limited to, applicable zoning and land-use regulations, and thermal and other water pollution limitations or requirements which have been imposed by Federal, State, regional, and local agencies having responsibility for environmental protection. The discus-

sion of alternatives in the report shall include a discussion of whether the alternatives will comply with such applicable environmental quality standards and requirements.

(e) *Adverse information.* The information submitted pursuant to paragraphs (b) through (d) of this section should not be confined to information supporting the proposed action but should also include adverse information.

[49 FR 9381, Mar. 12, 1984, as amended at 61 FR 28486, June 5, 1996; 61 FR 66542, Dec. 18, 1996; 68 FR 58810, Oct. 10, 2003; 72 FR 49511, Aug. 28, 2007; 72 FR 57443, Oct. 9, 2007; 73 FR 22787, Apr. 28, 2008]

ENVIRONMENTAL REPORTS—PRODUCTION  
AND UTILIZATION FACILITIES

**§ 51.49 Environmental report—limited work authorization.**

(a) *Limited work authorization submitted as part of complete construction permit or combined license application.* Each applicant for a construction permit or combined license applying for a limited work authorization under § 50.10(d) of this chapter in a complete application under 10 CFR 2.101(a)(1) through (a)(4), shall submit with its application a separate document, entitled, “Applicant’s Environmental Report—Limited Work Authorization Stage,” which is in addition to the environmental report required by § 51.50 of this part. Each environmental report must also contain the following information:

(1) A description of the activities proposed to be conducted under the limited work authorization;

(2) A statement of the need for the activities; and

(3) A description of the environmental impacts that may reasonably be expected to result from the activities, the mitigation measures that the applicant proposes to implement to achieve the level of environmental impacts described, and a discussion of the reasons for rejecting mitigation measures that could be employed by the applicant to further reduce environmental impacts.

(b) *Phased application for limited work authorization and construction permit or combined license.* If the construction permit or combined license application

**10 C.F.R. § 51.71**

**§ 51.71****10 CFR Ch. I (1–15 Edition)****§ 51.71 Draft environmental impact statement—contents.**

(a) *Scope.* The draft environmental impact statement will be prepared in accordance with the scope decided upon in the scoping process required by §§ 51.26 and 51.29. As appropriate and to the extent required by the scope, the draft statement will address the topics in paragraphs (b), (c), (d) and (e) of this section and the matters specified in §§ 51.45, 51.50, 51.51, 51.52, 51.53, 51.54, 51.61 and 51.62.

(b) *Analysis of major points of view.* To the extent sufficient information is available, the draft environmental impact statement will include consideration of major points of view concerning the environmental impacts of the proposed action and the alternatives, and contain an analysis of significant problems and objections raised by other Federal, State, and local agencies, by any affected Indian tribes, and by other interested persons.

(c) *Status of compliance.* The draft environmental impact statement will list all Federal permits, licenses, approvals, and other entitlements which must be obtained in implementing the proposed action and will describe the status of compliance with those requirements. If it is uncertain whether a Federal permit, license, approval, or other entitlement is necessary, the draft environmental impact statement will so indicate.

(d) *Analysis.* Unless excepted in this paragraph or § 51.75, the draft environmental impact statement will include a preliminary analysis that considers and weighs the environmental effects, including any cumulative effects, of the proposed action; the environmental impacts of alternatives to the proposed action; and alternatives available for reducing or avoiding adverse environmental effects. Additionally, the draft environmental impact statement will include a consideration of the economic, technical, and other benefits and costs of the proposed action and alternatives. The draft environmental impact statement will indicate what other interests and considerations of Federal policy, including factors not related to environmental quality, if applicable, are relevant to the consideration of environmental effects of the

proposed action identified under paragraph (a) of this section. The draft supplemental environmental impact statement prepared at the license renewal stage under § 51.95(c) need not discuss the economic or technical benefits and costs of either the proposed action or alternatives except if benefits and costs are either essential for a determination regarding the inclusion of an alternative in the range of alternatives considered or relevant to mitigation. In addition, the supplemental environmental impact statement prepared at the license renewal stage need not discuss other issues not related to the environmental effects of the proposed action and associated alternatives. The draft supplemental environmental impact statement for license renewal prepared under § 51.95(c) will rely on conclusions as amplified by the supporting information in the GEIS for issues designated as Category 1 in appendix B to subpart A of this part. The draft supplemental environmental impact statement must contain an analysis of those issues identified as Category 2 in appendix B to subpart A of this part that are open for the proposed action. The analysis for all draft environmental impact statements will, to the fullest extent practicable, quantify the various factors considered. To the extent that there are important qualitative considerations or factors that cannot be quantified, these considerations or factors will be discussed in qualitative terms. Consideration will be given to compliance with environmental quality standards and requirements that have been imposed by Federal, State, regional, and local agencies having responsibility for environmental protection, including applicable zoning and land-use regulations and water pollution limitations or requirements issued or imposed under the Federal Water Pollution Control Act. The environmental impact of the proposed action will be considered in the analysis with respect to matters covered by environmental quality standards and requirements irrespective of whether a certification or license from the appropriate

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authority has been obtained.<sup>3</sup> While satisfaction of Commission standards and criteria pertaining to radiological effects will be necessary to meet the licensing requirements of the Atomic Energy Act, the analysis will, for the purposes of NEPA, consider the radiological effects of the proposed action and alternatives.

(e) *Effect of limited work authorization.* If a limited work authorization was issued either in connection with or subsequent to an early site permit, or in connection with a construction permit or combined license application, then the environmental impact statement for the construction permit or combined license application will not address or consider the sunk costs associated with the limited work authorization.

<sup>3</sup>Compliance with the environmental quality standards and requirements of the Federal Water Pollution Control Act (imposed by EPA or designated permitting states) is not a substitute for, and does not negate the requirement for NRC to weigh all environmental effects of the proposed action, including the degradation, if any, of water quality, and to consider alternatives to the proposed action that are available for reducing adverse effects. Where an environmental assessment of aquatic impact from plant discharges is available from the permitting authority, the NRC will consider the assessment in its determination of the magnitude of environmental impacts for striking an overall cost-benefit balance at the construction permit and operating license and early site permit and combined license stages, and in its determination of whether the adverse environmental impacts of license renewal are so great that preserving the option of license renewal for energy planning decision-makers would be unreasonable at the license renewal stage. When no such assessment of aquatic impacts is available from the permitting authority, NRC will establish on its own, or in conjunction with the permitting authority and other agencies having relevant expertise, the magnitude of potential impacts for striking an overall cost-benefit balance for the facility at the construction permit and operating license and early site permit and combined license stages, and in its determination of whether the adverse environmental impacts of license renewal are so great that preserving the option of license renewal for energy planning decision-makers would be unreasonable at the license renewal stage.

(f) *Preliminary recommendation.* The draft environmental impact statement normally will include a preliminary recommendation by the NRC staff respecting the proposed action. This preliminary recommendation will be based on the information and analysis described in paragraphs (a) through (d) of this section and §§ 51.75, 51.76, 51.80, 51.85, and 51.95, as appropriate, and will be reached after considering the environmental effects of the proposed action and reasonable alternatives,<sup>4</sup> and, except for supplemental environmental impact statements for the operating license renewal stage prepared pursuant to § 51.95(c), after weighing the costs and benefits of the proposed action. In lieu of a recommendation, the NRC staff may indicate in the draft statement that two or more alternatives remain under consideration.

[49 FR 9381, Mar. 12, 1984, as amended at 61 FR 28488, June 5, 1996; 61 FR 66544, Dec. 18, 1996; 72 FR 49514, Aug. 28, 2007; 72 FR 57445, Oct. 9, 2007; 78 FR 37317, June 20, 2013]

**§ 51.72 Supplement to draft environmental impact statement.**

(a) The NRC staff will prepare a supplement to a draft environmental impact statement for which a notice of availability has been published in the FEDERAL REGISTER as provided in § 51.117, if:

(1) There are substantial changes in the proposed action that are relevant to environmental concerns; or

(2) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(b) The NRC staff may prepare a supplement to a draft environmental impact statement when, in its opinion, preparation of a supplement will further the purposes of NEPA.

<sup>4</sup>The consideration of reasonable alternatives to a proposed action involving nuclear power reactors (e.g., alternative energy sources) is intended to assist the NRC in meeting its NEPA obligations and does not preclude any State authority from making separate determinations with respect to these alternatives and in no way preempts, displaces, or affects the authority of States or other Federal agencies to address these issues.

**10 C.F.R. § 51.90**

**§ 51.90**FINAL ENVIRONMENTAL IMPACT  
STATEMENTS—GENERAL REQUIREMENTS**§ 51.90 Final environmental impact statement—general.**

After receipt and consideration of comments requested pursuant to §§ 51.73 and 51.117, the NRC staff will prepare a final environmental impact statement in accordance with the requirements in §§ 51.70(b) and 51.71 for a draft environmental impact statement. The format provided in section 1(a) of appendix A of this subpart should be used.

**§ 51.91 Final environmental impact statement—contents.**

(a)(1) The final environmental impact statement will include responses to any comments on the draft environmental impact statement or on any supplement to the draft environmental impact statement. Responses to comments may include:

- (i) Modification of alternatives, including the proposed action;
- (ii) Development and evaluation of alternatives not previously given serious consideration;
- (iii) Supplementation or modification of analyses;
- (iv) Factual corrections;
- (v) Explanation of why comments do not warrant further response, citing sources, authorities or reasons which support this conclusion.

(2) All substantive comments received on the draft environmental impact statement or any supplement to the draft environmental impact statement (or summaries thereof where the response has been exceptionally voluminous) will be attached to the final statement, whether or not each comment is discussed individually in the text of the statement.

(3) If changes in the draft environmental impact statement in response to comments are minor and are confined either to factual corrections or to explanations of why the comments do not warrant further response, the changes may be made by attaching errata sheets to the draft statement. The entire document with a new cover may then be issued as the final environmental impact statement.

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(b) The final environmental impact statement will discuss any relevant responsible opposing view not adequately discussed in the draft environmental impact statement or in any supplement to the draft environmental impact statement, and respond to the issues raised.

(c) The final environmental impact statement will state how the alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of NEPA and of any other relevant and applicable environmental laws and policies.

(d) The final environmental impact statement will include a final analysis and a final recommendation on the action to be taken.

**§ 51.92 Supplement to the final environmental impact statement.**

(a) If the proposed action has not been taken, the NRC staff will prepare a supplement to a final environmental impact statement for which a notice of availability has been published in the FEDERAL REGISTER as provided in § 51.118, if:

- (1) There are substantial changes in the proposed action that are relevant to environmental concerns; or
- (2) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(b) The NRC staff may prepare a supplement to a final environmental impact statement when, in its opinion, preparation of a supplement will further the purposes of NEPA.

(c) The supplement to a final environmental impact statement will be prepared in the same manner as the final environmental impact statement except that a scoping process need not be used.

(d)(1) A supplement to a final environmental impact statement will be accompanied by or will include a request for comments as provided in § 51.73 and a notice of availability will be published in the FEDERAL REGISTER as provided in § 51.117 if the conditions described in paragraph (a) of this section apply.

(2) If comments are not requested, a notice of availability of a supplement

**40 C.F.R. § 1500.2**



## PART 1500—PURPOSE, POLICY, AND MANDATE

Sec.

1500.1 Purpose.

1500.2 Policy.

1500.3 Mandate.

1500.4 Reducing paperwork.

1500.5 Reducing delay.

1500.6 Agency authority.

AUTHORITY: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609) and E.O. 11514, Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

SOURCE: 43 FR 55990, Nov. 28, 1978, unless otherwise noted.

### § 1500.1 Purpose.

(a) The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains “action-forcing” provisions to make sure that federal agencies act according to the letter and spirit of the Act. The regulations that follow implement section 102(2). Their purpose is to tell federal agencies what they must do to comply with the procedures and achieve the goals of the Act. The President, the federal agencies, and the courts share responsibility for enforcing the Act so as to achieve the substantive requirements of section 101.

(b) NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. Most important, NEPA documents must concentrate on the issues that are truly significant to the action in question, rather than amassing needless detail.

(c) Ultimately, of course, it is not better documents but better decisions that count. NEPA’s purpose is not to generate paperwork—even excellent paperwork—but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of en-

vironmental consequences, and take actions that protect, restore, and enhance the environment. These regulations provide the direction to achieve this purpose.

### § 1500.2 Policy.

Federal agencies shall to the fullest extent possible:

(a) Interpret and administer the policies, regulations, and public laws of the United States in accordance with the policies set forth in the Act and in these regulations.

(b) Implement procedures to make the NEPA process more useful to decisionmakers and the public; to reduce paperwork and the accumulation of extraneous background data; and to emphasize real environmental issues and alternatives. Environmental impact statements shall be concise, clear, and to the point, and shall be supported by evidence that agencies have made the necessary environmental analyses.

(c) Integrate the requirements of NEPA with other planning and environmental review procedures required by law or by agency practice so that all such procedures run concurrently rather than consecutively.

(d) Encourage and facilitate public involvement in decisions which affect the quality of the human environment.

(e) Use the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.

(f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.

### § 1500.3 Mandate.

Parts 1500 through 1508 of this title provide regulations applicable to and binding on all Federal agencies for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190, 42 U.S.C. 4321 *et seq.*) (NEPA or the Act)



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**§ 1502.2**

Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment. Agencies shall focus on significant environmental issues and alternatives and shall reduce paperwork and the accumulation of extraneous background data. Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.

**§ 1502.2 Implementation.**

To achieve the purposes set forth in §1502.1 agencies shall prepare environmental impact statements in the following manner:

(a) Environmental impact statements shall be analytic rather than encyclopedic.

(b) Impacts shall be discussed in proportion to their significance. There shall be only brief discussion of other than significant issues. As in a finding of no significant impact, there should be only enough discussion to show why more study is not warranted.

(c) Environmental impact statements shall be kept concise and shall be no longer than absolutely necessary to comply with NEPA and with these regulations. Length should vary first with potential environmental problems and then with project size.

(d) Environmental impact statements shall state how alternatives considered in it and decisions based on it will or will not achieve the requirements of sections 101 and 102(1) of the Act and other environmental laws and policies.

(e) The range of alternatives discussed in environmental impact statements shall encompass those to be considered by the ultimate agency decisionmaker.

(f) Agencies shall not commit resources prejudicing selection of alter-

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natives before making a final decision (§1506.1).

(g) Environmental impact statements shall serve as the means of assessing the environmental impact of proposed agency actions, rather than justifying decisions already made.

**§ 1502.3 Statutory requirements for statements.**

As required by sec. 102(2)(C) of NEPA environmental impact statements (§1508.11) are to be included in every recommendation or report.

On proposals (§1508.23).

For legislation and (§1508.17).

Other major Federal actions (§1508.18).

Significantly (§1508.27).

Affecting (§§1508.3, 1508.8).

The quality of the human environment (§1508.14).

**§ 1502.4 Major Federal actions requiring the preparation of environmental impact statements.**

(a) Agencies shall make sure the proposal which is the subject of an environmental impact statement is properly defined. Agencies shall use the criteria for scope (§1508.25) to determine which proposal(s) shall be the subject of a particular statement. Proposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement.

(b) Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations (§1508.18). Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking.

(c) When preparing statements on broad actions (including proposals by more than one agency), agencies may find it useful to evaluate the proposal(s) in one of the following ways:

(1) Geographically, including actions occurring in the same general location, such as body of water, region, or metropolitan area.

(2) Generically, including actions which have relevant similarities, such

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as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

(d) Agencies shall as appropriate employ scoping (§1501.7), tiering (§1502.20), and other methods listed in §§1500.4 and 1500.5 to relate broad and narrow actions and to avoid duplication and delay.

**§ 1502.5 Timing.**

An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal (§1508.23) so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decision-making process and will not be used to rationalize or justify decisions already made (§§1500.2(c), 1501.2, and 1502.2). For instance:

(a) For projects directly undertaken by Federal agencies the environmental impact statement shall be prepared at the feasibility analysis (go-no go) stage and may be supplemented at a later stage if necessary.

(b) For applications to the agency appropriate environmental assessments or statements shall be commenced no later than immediately after the application is received. Federal agencies are encouraged to begin preparation of such assessments or statements earlier, preferably jointly with applicable State or local agencies.

(c) For adjudication, the final environmental impact statement shall normally precede the final staff recommendation and that portion of the

public hearing related to the impact study. In appropriate circumstances the statement may follow preliminary hearings designed to gather information for use in the statements.

(d) For informal rulemaking the draft environmental impact statement shall normally accompany the proposed rule.

**§ 1502.6 Interdisciplinary preparation.**

Environmental impact statements shall be prepared using an interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (section 102(2)(A) of the Act). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process (§1501.7).

**§ 1502.7 Page limits.**

The text of final environmental impact statements (e.g., paragraphs (d) through (g) of §1502.10) shall normally be less than 150 pages and for proposals of unusual scope or complexity shall normally be less than 300 pages.

**§ 1502.8 Writing.**

Environmental impact statements shall be written in plain language and may use appropriate graphics so that decisionmakers and the public can readily understand them. Agencies should employ writers of clear prose or editors to write, review, or edit statements, which will be based upon the analysis and supporting data from the natural and social sciences and the environmental design arts.

**§ 1502.9 Draft, final, and supplemental statements.**

Except for proposals for legislation as provided in §1506.8 environmental impact statements shall be prepared in two stages and may be supplemented.

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in part 1503 of this chapter. The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements

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as common timing, impacts, alternatives, methods of implementation, media, or subject matter.

(3) By stage of technological development including federal or federally assisted research, development or demonstration programs for new technologies which, if applied, could significantly affect the quality of the human environment. Statements shall be prepared on such programs and shall be available before the program has reached a stage of investment or commitment to implementation likely to determine subsequent development or restrict later alternatives.

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**§ 1502.10**

in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

(b) Final environmental impact statements shall respond to comments as required in part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

(c) Agencies:

(1) Shall prepare supplements to either draft or final environmental impact statements if:

(i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or

(ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

(2) May also prepare supplements when the agency determines that the purposes of the Act will be furthered by doing so.

(3) Shall adopt procedures for introducing a supplement into its formal administrative record, if such a record exists.

(4) Shall prepare, circulate, and file a supplement to a statement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by the Council.

**§ 1502.10 Recommended format.**

Agencies shall use a format for environmental impact statements which will encourage good analysis and clear presentation of the alternatives including the proposed action. The following standard format for environmental impact statements should be followed unless the agency determines that there is a compelling reason to do otherwise:

(a) Cover sheet.

(b) Summary.

(c) Table of contents.

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(d) Purpose of and need for action.

(e) Alternatives including proposed action (sections 102(2)(C)(iii) and 102(2)(E) of the Act).

(f) Affected environment.

(g) Environmental consequences (especially sections 102(2)(C)(i), (ii), (iv), and (v) of the Act).

(h) List of preparers.

(i) List of Agencies, Organizations, and persons to whom copies of the statement are sent.

(j) Index.

(k) Appendices (if any).

If a different format is used, it shall include paragraphs (a), (b), (c), (h), (i), and (j), of this section and shall include the substance of paragraphs (d), (e), (f), (g), and (k) of this section, as further described in §§1502.11 through 1502.18, in any appropriate format.

**§ 1502.11 Cover sheet.**

The cover sheet shall not exceed one page. It shall include:

(a) A list of the responsible agencies including the lead agency and any cooperating agencies.

(b) The title of the proposed action that is the subject of the statement (and if appropriate the titles of related cooperating agency actions), together with the State(s) and county(ies) (or other jurisdiction if applicable) where the action is located.

(c) The name, address, and telephone number of the person at the agency who can supply further information.

(d) A designation of the statement as a draft, final, or draft or final supplement.

(e) A one paragraph abstract of the statement.

(f) The date by which comments must be received (computed in cooperation with EPA under § 1506.10).

The information required by this section may be entered on Standard Form 424 (in items 4, 6, 7, 10, and 18).

**§ 1502.12 Summary.**

Each environmental impact statement shall contain a summary which adequately and accurately summarizes the statement. The summary shall stress the major conclusions, areas of controversy (including issues raised by agencies and the public), and the issues to be resolved (including the choice

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among alternatives). The summary will normally not exceed 15 pages.

**§ 1502.13 Purpose and need.**

The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.

**§ 1502.14 Alternatives including the proposed action.**

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (§1502.15) and the Environmental Consequences (§1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

(a) Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives.

**§ 1502.15 Affected environment.**

The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data

and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.

**§ 1502.16 Environmental consequences.**

This section forms the scientific and analytic basis for the comparisons under §1502.14. It shall consolidate the discussions of those elements required by sections 102(2)(C)(i), (ii), (iv), and (v) of NEPA which are within the scope of the statement and as much of section 102(2)(C)(iii) as is necessary to support the comparisons. The discussion will include the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. This section should not duplicate discussions in §1502.14. It shall include discussions of:

(a) Direct effects and their significance (§1508.8).

(b) Indirect effects and their significance (§1508.8).

(c) Possible conflicts between the proposed action and the objectives of Federal, regional, State, and local (and in the case of a reservation, Indian tribe) land use plans, policies and controls for the area concerned. (See §1506.2(d).)

(d) The environmental effects of alternatives including the proposed action. The comparisons under §1502.14 will be based on this discussion.

(e) Energy requirements and conservation potential of various alternatives and mitigation measures.

(f) Natural or depletable resource requirements and conservation potential of various alternatives and mitigation measures.



**40 C.F.R. § 1508.7**

**§ 1508.6****§ 1508.6 Council.**

*Council* means the Council on Environmental Quality established by title II of the Act.

**§ 1508.7 Cumulative impact.**

*Cumulative impact* is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

**§ 1508.8 Effects.**

*Effects* include:

(a) Direct effects, which are caused by the action and occur at the same time and place.

(b) Indirect effects, which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

Effects and impacts as used in these regulations are synonymous. Effects includes ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

**§ 1508.9 Environmental assessment.**

*Environmental assessment:*

(a) Means a concise public document for which a Federal agency is responsible that serves to:

(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact

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statement or a finding of no significant impact.

(2) Aid an agency's compliance with the Act when no environmental impact statement is necessary.

(3) Facilitate preparation of a statement when one is necessary.

(b) Shall include brief discussions of the need for the proposal, of alternatives as required by section 102(2)(E), of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted.

**§ 1508.10 Environmental document.**

*Environmental document* includes the documents specified in §1508.9 (environmental assessment), §1508.11 (environmental impact statement), §1508.13 (finding of no significant impact), and §1508.22 (notice of intent).

**§ 1508.11 Environmental impact statement.**

*Environmental impact statement* means a detailed written statement as required by section 102(2)(C) of the Act.

**§ 1508.12 Federal agency.**

*Federal agency* means all agencies of the Federal Government. It does not mean the Congress, the Judiciary, or the President, including the performance of staff functions for the President in his Executive Office. It also includes for purposes of these regulations States and units of general local government and Indian tribes assuming NEPA responsibilities under section 104(h) of the Housing and Community Development Act of 1974.

**§ 1508.13 Finding of no significant impact.**

*Finding of no significant impact* means a document by a Federal agency briefly presenting the reasons why an action, not otherwise excluded (§1508.4), will not have a significant effect on the human environment and for which an environmental impact statement therefore will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it (§1501.7(a)(5)). If the assessment is included, the finding need not

**ORAL ARGUMENT NOT YET SCHEDULED**  
**IN THE UNITED STATES COURT OF APPEALS**  
**FOR THE DISTRICT OF COLUMBIA CIRCUIT**

D.C. Cir. No. 14-1210 (consolidated with D.C. Cir. Nos. 14-1212, 14-1216,  
14-1217)

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STATE OF NEW YORK, *et al.*,  
Petitioners,

v.

UNITED STATES NUCLEAR REGULATORY COMMISSION and the UNITED  
STATES OF AMERICA,  
Respondents

COMMONWEALTH OF MASSACHUSETTS, *et al.*,  
Intervenors.

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Petition for Review of Final Administrative Action of the United States Nuclear  
Regulatory Commission

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**STANDING ADDENDUM TO OPENING BRIEF FOR PETITIONERS  
NATURAL RESOURCES DEFENSE COUNCIL, INC., BEYOND  
NUCLEAR, BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE,  
MISSOURI COALITION FOR THE ENVIRONMENT, NEW ENGLAND  
COALITION, NUCLEAR INFORMATION & RESOURCE SERVICE,  
RIVERKEEPER, INC., SAN LUIS OBISPO MOTHERS FOR PEACE AND  
SOUTHERN ALLIANCE FOR CLEAN ENERGY, INC.**

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ADDENDUM EXHIBIT #1

Declaration of Diane Alden (November 25, 2014)

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

NATURAL RESOURCES DEFENSE  
COUNCIL, INC., *et al.*

Petitioner,

v.

UNITED STATES NUCLEAR  
REGULATORY COMMISSION and the  
UNITED STATES OF AMERICA,

Respondents.

No. 14-1217  
(consolidated with Case Nos.  
14-1210, 14-1212)

**DECLARATION OF DIANE ALDEN**

I, Diane Alden, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of the Natural Resources Defense Council ("NRDC"). I have been a member for over 15 years. I joined NRDC because I believe the government could do a better job of protecting the environment. I am committed to the long-term sustainability of the planet, and have a deep respect for life and for nature.



3. My current address is 124 Quaker Bridge Rd., Croton-on-Hudson NY, 10520, where I have lived for about 38 years.
4. My home is approximately eight miles southeast of the Indian Point Energy Center in Buchanan, NY. I am aware that regulators at the Nuclear Regulatory Commission ("NRC") are currently considering a re-permitting application for this facility, which will keep it open for another 20 years.
5. I am aware that Indian Point stores nuclear waste from the reactors at the facility itself. This concerns me a great deal. I have read about various accidents and violations that have occurred at the plant, and I am worried that radioactive materials from this nuclear waste may be leaking into the environment. I have no way of knowing whether it is being stored in a safe manner or not. Simply put, the government has not informed those of us in the neighboring communities about the risks that come with nuclear waste storage on site at power plants. I am concerned that these risks will be magnified by the proposed expansion of the Algonquin gas pipeline across the property of the plant.
6. In addition to the issue of radiation leaks, I am also concerned about what might happen to this spent nuclear fuel in the event of an accident at Indian Point. If something were to go wrong at the plant, I might not be able to evacuate in time, given the population density in the area and the limited number of transportation

routes. In this situation, those of us living near the plant could be exposed to the nuclear waste stored on site, and I have grave doubts about whether the government has prepared adequately for such a catastrophe. Even if the government has so prepared, it has not provided sufficient information to the community.

7. I am aware that cancer rates in my area are higher than average. In the time that I have lived at my current residence, three of the pet cats I have owned have had thyroid disease, and my husband passed away from thyroid cancer in September of 2009. I have often wondered whether radiation from the plant might have been a factor my husband's cancer and my pets' illnesses, and it gives me great concern about what might happen to more residents in the future because of exposure from the spent fuel stored at the plant. If the NRC were to conduct a full analysis of the health, safety and environmental consequences of spent nuclear fuel storage at Indian Point, I could better educate myself about the relationship between nuclear waste and cancer rates in the area.


8. I previously served as a standing declarant for NRDC in a suit to require the NRC from considering the risks involved in storing nuclear waste on site at power plants when it undertakes an environmental review. I am aware that, following this previous NRDC lawsuit, the NRC must analyze the environmental impacts of

failing to secure permanent storage for spent nuclear fuel rods. However, I also know that in its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (GEIS), the NRC failed to consider the environmental impacts of a representative range of reasonable alternatives for ensuring prolonged but safe surface storage of these fuel rods. I understand as well that, in the GEIS, the NRC assumed that the regulation of spent nuclear fuel will continue indefinitely at the same level as it exists today. These aspects of the NRC's analysis are of grave concern to me: how can we know what risks we are exposed to if the NRC does not consider them fully when deciding whether to grant a permit? Because of this rule, citizens like me do not have enough of a say in nuclear permitting decisions.

9. If the NRC were to revoke this rule and were to analyze the hazards posed by spent nuclear fuel storage at plants like Indian Point, my concerns would be lessened. Not only would it educate me on the risks that I am exposed to, but it would give me some confidence that the NRC were really doing its job of overseeing these plants and ensuring that they are operating safely. I would also be interested in submitting comments to the agency if it were to publish a more thorough environmental review that included discussions about nuclear waste storage. As of now, however, I cannot be confident that the agency is doing its job properly. Nor can I be confident that the nuclear waste at Indian Point is being stored safely.

10. I feel that the NRC is giving short shrift to health and safety concerns by ignoring nuclear waste storage issues in their environmental reviews of plants like Indian Point. I had hoped that NRDC's previous lawsuit would solve this problem, but it is clear to me that the NRC is not fulfilling its obligations under the law. I therefore support NRDC's efforts to take the NRC to court.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed on 11/25/14.

  
Diane Alden



ADDENDUM EXHIBIT #2

Declaration of Beverly Cohen (November 25, 2014)

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

|                               |   |                              |
|-------------------------------|---|------------------------------|
| NATURAL RESOURCES DEFENSE     | ) |                              |
| COUNCIL, INC., <i>et al.</i>  | ) |                              |
|                               | ) |                              |
| Petitioner,                   | ) | No. 14-1217                  |
|                               | ) | (consolidated with Case Nos. |
| v.                            | ) | 14-1210, 14-1212)            |
|                               | ) |                              |
| UNITED STATES NUCLEAR         | ) |                              |
| REGULATORY COMMISSION and the | ) |                              |
| UNITED STATES OF AMERICA,     | ) |                              |
|                               | ) |                              |
| Respondents.                  | ) |                              |
|                               | ) |                              |

**DECLARATION OF BEVERLY COHEN**

I, Beverly Cohen, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
  
2. I am a current member of the Natural Resources Defense Council (“NRDC”), and have been a member for about 16 years. I am concerned about a number of environmental issues, including the protection of marine mammals, the reduction of waste, and the necessary transition to cleaner, safer sources of energy. I am politically active on these issues, and volunteer for electoral candidates who share my concerns.

3. I have lived at 993 Bluebell Way, San Luis Obispo, CA 93401 for about six-and-a-half years. I moved to San Luis Obispo to be near my daughter, my son-in-law, and their two children, who live in town.

4. My home is about 13 miles east by north of the Diablo Canyon Power Plant, which is located near Avila Beach, California. I have been informed that the Nuclear Regulatory Commission (“NRC”) is in the process of re-licensing Diablo Canyon for another 20 years of operation.

5. I am aware that Diablo Canyon stores nuclear waste on site. This concerns me greatly. I used to live in Los Angeles, and my house sustained significant damage from an earthquake. Though I have acquaintances who work at Diablo Canyon who assure me of the plant’s structural integrity, I worry that the plant is similarly vulnerable, and that an earthquake would expose my grandchildren to dangerous radiation. My concerns have grown in recent years, as fossil fuel companies have sought to begin fracking in nearby Santa Barbara County. It is my understanding that fracking can provoke seismic activity. I believe it is likely that something will eventually go wrong at Diablo County, and that given the enormity of that prospect, we ought to take all possible safety precautions at the plant.

6. I am also concerned about the possibility of an evacuation, in the event of a mishap at Diablo Canyon. There are only two roads by which one could leave the

area, and I fear that because of traffic, many residents of San Luis Obispo would not be able to leave quickly enough. I have worried about this possibility ever since I moved to San Luis Obispo, at which point I had to procure potassium iodide tablets to protect against the potential effects of radiation. It is disconcerting to live—and to know that my grandchildren live—somewhere that might require special medication just to be minimally habitable.

7. I have been active on environmental issues related to Diablo Canyon. I have attended demonstrations and written letters on behalf of community groups concerned about the plant. My interest in these issues has been particularly keen following the Fukushima Daiichi nuclear disaster. While some of the groups in which I have been involved, such as San Luis Obispo Mothers for Peace, seek to have Diablo Canyon shut down altogether, my immediate interest has always been in improving the safety of the plant. Even if the plant were to shut down, we would still be left with the nuclear waste that already exists. Without safe permanent storage, closing the plant would simply mean transferring the danger to whoever were to next hold the waste.

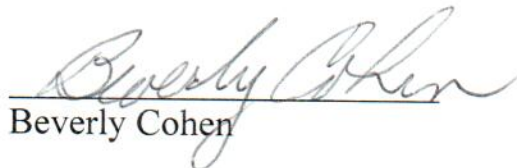
7. I am aware that the NRC must analyze the environmental impacts of failing to secure permanent storage for spent nuclear fuel rods. However, I also know that in its Generic Environmental Impact Statement for Continued Storage of Spent



Nuclear Fuel (GEIS), the NRC failed to consider the environmental impacts of a representative range of reasonable alternatives for ensuring prolonged but safe surface storage of these fuel rods. I understand as well that, in the GEIS, the NRC assumed that the regulation of spent nuclear fuel will continue indefinitely at the same level as it exists today. It seems to me that the regulators have failed to do their jobs properly. Nuclear waste poses a serious threat to San Luis Obispo and other communities near nuclear power plants. When dealing with the possibility of catastrophe, we cannot just assume that everything will work as planned.

8. In view of what I have described above, I fully support NRDC's efforts to bring the NRC to court. I believe that NRDC's success in this lawsuit would help ensure the safe storage of nuclear waste, and would thereby alleviate some of my concerns about Diablo Canyon.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed on 11/25/14.

  
Beverly Cohen

ADDENDUM EXHIBIT #3

Declaration of Deanna Reeves Korey (November 25, 2014)

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

|                               |   |                              |
|-------------------------------|---|------------------------------|
| NATURAL RESOURCES DEFENSE     | ) |                              |
| COUNCIL, INC., <i>et al.</i>  | ) |                              |
|                               | ) |                              |
| Petitioner,                   | ) | No. 14-1217                  |
|                               | ) | (consolidated with Case Nos. |
| v.                            | ) | 14-1210, 14-1212)            |
|                               | ) |                              |
| UNITED STATES NUCLEAR         | ) |                              |
| REGULATORY COMMISSION and the | ) |                              |
| UNITED STATES OF AMERICA,     | ) |                              |
|                               | ) |                              |
| Respondents.                  | ) |                              |
|                               | ) |                              |

**DECLARATION OF DEANNA REEVES KOREY**

I, Deanna Reeves Korey, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
  
2. I am a current member of the Natural Resources Defense Council (“NRDC”), and have been a member for 12 years. I joined NRDC because I have always had a deep commitment to protecting the natural environment. My grandfather was a chemical engineer and a founding member of the Water Environment Federation; he helped Wisconsin become the first state to pass comprehensive water pollution laws and went on to advise national and

international bodies on water amelioration projects. My parents continued this legacy of environmental stewardship and activism. From an early age, I remember we were taught to painstakingly separate our paper, metal cans, and glass containers, drive to the community “recycling center,” and sort them into the designated dumpsters, long before household recycling became the norm in the United States. I have tried to continue the tradition, not only through private actions, but also through political engagement. I consistently write to Members of Congress in support of environmental causes, attend political rallies, and donate to environmental organizations. Among the issues I consider most important is the global transition to safe, sustainable sources of energy. NRDC has proven to be effective in fighting for the policies that I wish to see implemented.

3. Since 1987, I have lived at 90 Lexington Dr., Croton-on-Hudson, NY 10520, where I raised my three children, who are now grown. I am an artist, writer, and former educator. I was most recently employed in a research library.

4. My home is approximately five miles southeast of the Indian Point Energy Center, which is located in Buchanan, NY. I have been informed that the Nuclear Regulatory Commission (“NRC”) is in the process of re-licensing Indian Point for another 20 years of operation.

5. I began paying attention to the environmental and health risks of the Indian Point Energy Center shortly after I moved to Croton-on-Hudson. At that time, I received the booklet, "Community Emergency Planning for Indian Point" produced by Westchester County. When I studied the evacuation plan in the booklet, I found it woefully inadequate: it did not sufficiently account for traffic patterns in the area, nor did it consider that individuals under pressure tend to ignore directions.

6. Since reading that booklet, I have remained engaged with issues relating to Indian Point. In recent years, these have included, among others: the leaking of strontium-90 into the Hudson River from the spent fuel rod pool; the discharge of hot wastewater from the plant into the Hudson River; the security of the plant in the wake of the September 11<sup>th</sup>, 2001 attacks; and most recently, the expansion of the Algonquin gas pipeline near the plant. I have attended numerous meetings of community groups opposed to the operation of Indian Point.

7. I am aware that Indian Point stores spent nuclear fuel rods on site, and this worries me very much. It is my understanding that spent fuel rod assemblies at Indian Point have been stored for decades in pools meant to hold waste only temporarily, until they could be relocated to a permanent storage facility. The growing density of hot spent fuel rods magnifies the danger of a malfunction at the



plant. I am concerned, particularly following the 2011 Fukushima Daiichi nuclear disaster, that nuclear waste stored onsite at Indian Point could meltdown or combust, thereby exposing my community to dangerous levels of radioactivity.

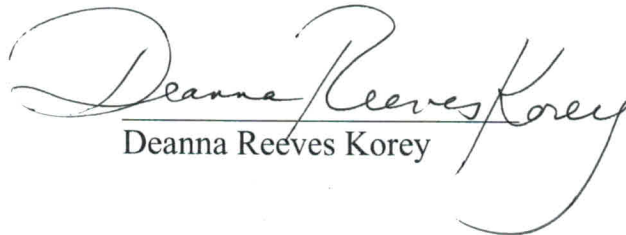
8. I am also concerned about the structural integrity of Indian Point. The reactors at Indian Point were constructed approximately forty years ago, and it is my understanding that they were not designed for such extended operation. Moreover, the plant lies in what I know to be is a seismically active region, which heightens the risk and my fear of an unpredictable release of radioactivity.

9. I am aware that the NRC must analyze the environmental impacts of failing to secure permanent storage for spent nuclear fuel rods. However, I also know that in its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (GEIS), the NRC failed to consider the environmental impacts of a representative range of reasonable alternatives for ensuring prolonged but safe surface storage of these fuel rods. I understand as well that, in the GEIS, the NRC assumed that the regulation of spent nuclear fuel will continue indefinitely at the same level as it exists today. These aspects of the GEIS trouble me. I feel they are indicative of a hubristic attitude that Fukushima exposed all too well.

10. For the foregoing reasons, I fully support NRDC's efforts to bring the NRC to court. If NRDC were to win in this case, the concerns that I have described

above would be lessened, because I would know that the NRC's formerly lax oversight would be tempered by the requirements of the law. I would feel that the NRC might take a more responsible and diligent approach to the relicensing process for Indian Point, in a way that more accurately reflects the unpredictability inherent in storing nuclear waste on site with inadequate protections.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed on November 25, 2014

  
Deanna Reeves Korey

ADDENDUM EXHIBIT #4

Declaration of Blake Rowe (November 26, 2014)



**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

|                               |   |                              |
|-------------------------------|---|------------------------------|
| NATURAL RESOURCES DEFENSE     | ) |                              |
| COUNCIL, INC., <i>et al.</i>  | ) |                              |
|                               | ) |                              |
| Petitioner,                   | ) | No. 14-1217                  |
|                               | ) | (consolidated with Case Nos. |
| v.                            | ) | 14-1210, 14-1212)            |
|                               | ) |                              |
| UNITED STATES NUCLEAR         | ) |                              |
| REGULATORY COMMISSION and the | ) |                              |
| UNITED STATES OF AMERICA,     | ) |                              |
|                               | ) |                              |
| Respondents.                  | ) |                              |
|                               | ) |                              |

**DECLARATION OF BLAKE ROWE**

I, Blake Rowe, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
  
2. I am a current member of the Natural Resources Defense Council (“NRDC”), and have been a member for over 16 years. I joined NRDC because of my abiding commitment to living sustainably and minimizing waste. These values are fundamental to many of my family members and peers. My wife and I have personally sought to help protect the planet by founding a company called Eco-Bags Products, Inc. Since 1989, Eco-Bags has sold ethically and sustainably

sourced reusable bags. Until 2007, I was responsible for the technical aspects of the administration of Eco-Bags Products. I believe that we need to hold all corporations accountable for activities that despoil the planet. In my view, NRDC does this effectively by helping to enforce the rule of law.

3. My current address is 42 Stone Ave., Ossining, New York 10562, where I live with my wife and my son. My daughter lived with us until 2010. I am an elementary school music teacher.

4. My home is approximately eight miles southeast-by-south of the Indian Point Energy Center, which is located in Buchanan, New York. I have been informed that the Nuclear Regulatory Commission ("NRC") is in the process of relicensing Indian Point for another 20 years of operation.

5. I am keenly interested in the environmental and human health impacts of the Indian Point Energy Center. I have closely followed the relicensing process in the local news. I have also attended public hearings relating to the plant and signed various petitions put forth by community groups that aim to improve the environmental safety of the plant's operations.

6. I am aware that Indian Point stores spent nuclear fuel rods on site, and this seriously concerns me. I am personally opposed to the use of nuclear power, largely because of the long-term threat posed by fuel rods such as these. It is my

understanding that they remain dangerously radioactive for thousands of years.

Therefore, by using nuclear power, and particularly by failing to adequately consider the problem of storing spent fuel rods, we are seriously endangering future generations, and forcing them to deal with our problems. When I reflect upon how significantly both society and technology have evolved even over the last few hundred years, the thought of making decisions for the next few millennia seems absurd.

7. My feelings about the storage of spent nuclear fuel rods were confirmed in October 2013, when I attended an NRC hearing on the Commission's Waste Confidence Draft Generic Environmental Impact Statement. At that hearing, I found the NRC staff who spoke to be shortsighted in their understanding of the threat posed by nuclear waste. In my view, they grossly overestimated the durability of the proposed arrangements for containing this waste.

8. I also worry about the immediate dangers that Indian Point poses to my community. I fear the possibility of a catastrophic meltdown. I understand that the spent nuclear waste previously contaminated the Hudson River, endangering the biota there. I believe that such leaks are a persistent risk of any nuclear power plant, but also that leaks are more likely when the NRC neglects to require adequate safety measures.

9. I am aware that the NRC must analyze the environmental impacts of failing to secure permanent storage for spent nuclear fuel rods. However, I also know that in its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (GEIS), the NRC failed to consider the environmental impacts of a representative range of reasonable alternatives for ensuring prolonged but safe surface storage of these fuel rods. I understand as well that, in the GEIS, the NRC assumed that the regulation of spent nuclear fuel will continue indefinitely at the same level as it exists today. These aspects of the GEIS trouble me deeply.

10. I fear that the NRC has been improperly influenced by the nuclear power industry, and has therefore not devised an adequate regulatory regime. The nuclear power industry cannot be counted on to police itself. I therefore believe that to protect future generations from the threat of spent nuclear waste, we must bring the NRC under the rule of law.

11. For the foregoing reasons, I fully support NRDC's efforts to bring the NRC to court. If NRDC were to win in this case, the concerns that I have described above would be lessened, because I would know that the NRC would be required to fully consider the intergenerational threats posed by the storage of nuclear waste, and to better protect human health and the environment near the Indian Point Energy Center.

I declare under penalty of perjury that the foregoing is true and correct to the  
USCA Case #14-1210 Document #1560068 Filed: 06/29/2015 Page 27 of 181  
best of my knowledge, information and belief. Executed on 11/26/2014

Blake Rowe

Blake Rowe

ADDENDUM EXHIBIT #5

Declaration of David School (November 25, 2014)

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

|                               |   |                              |
|-------------------------------|---|------------------------------|
| NATURAL RESOURCES DEFENSE     | ) |                              |
| COUNCIL, INC., <i>et al.</i>  | ) |                              |
|                               | ) |                              |
| Petitioner,                   | ) | No. 14-1217                  |
|                               | ) | (consolidated with Case Nos. |
| v.                            | ) | 14-1210, 14-1212)            |
|                               | ) |                              |
| UNITED STATES NUCLEAR         | ) |                              |
| REGULATORY COMMISSION and the | ) |                              |
| UNITED STATES OF AMERICA,     | ) |                              |
|                               | ) |                              |
| Respondents.                  | ) |                              |
|                               | ) |                              |

**DECLARATION OF DAVID SCHOOL**

I, David School, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
  
2. I am a current member of the Natural Resources Defense Council ("NRDC"), and have been a member for almost 14 years. I am broadly concerned about environmental issues, and support a number of advocacy organizations working to protect our planet. I worry when companies, including those in the nuclear power industry, undertake potentially harmful activities with little transparency to the public. I believe that we need environmental organizations like

NRDC to hold these companies accountable for their behavior, and to give citizens fair notice regarding the risks to which we are exposed by their practices.

3. I first became aware of the dangers of nuclear power when I lived in Freeport, IL, near the Byron Nuclear Generating Station.

4. My current address is 2947 E. 1499<sup>th</sup> Rd., Ottawa, IL 61350, where I live with my wife and eight year-old son. I have lived at this address for about 14 years. I am a retired special education director. My adult daughter and her family live nearby, in Seneca, IL.

5. My home is approximately 13 miles northwest of the LaSalle County Nuclear Generating Station, which is located in Marseilles, IL. I have been informed that the Nuclear Regulatory Commission ("NRC") is in the process of re-licensing LaSalle for another 20 years of operation.

6. I understand that LaSalle stores nuclear waste onsite. This concerns me, because I do not know whether the means of storing the waste are safe. It seems to me that from the advent of nuclear power, we have never had a permanent solution, or even a satisfactory comprehensive plan, for storing waste. Disasters such as those at Chernobyl and Fukushima have shown the potential for immense damage, should anything malfunction at a nuclear plant. Storing nuclear waste



onsite magnifies these risks. It is my view that we cannot simply assume that nuclear plants such as LaSalle are safe.

7. I am also concerned about the possibility of water pollution from the nuclear waste stored at LaSalle. It is my understanding that the waste there is stored in a manmade cooling pond. I fear that radioactive material from this pond might seep into the Illinois River, and from there, given a leak of sufficient magnitude, into the Mississippi River. This could expose a terribly large number of people to dangerous radiation. I have not been able to find any indication of a sufficient system of failsafe mechanisms to prevent a disaster such as this.

8. I am aware that the NRC must analyze the environmental impacts of failing to secure permanent storage for spent nuclear fuel rods. However, I also know that in its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (GEIS), the NRC failed to consider the environmental impacts of a representative range of reasonable alternatives for ensuring prolonged but safe surface storage of these fuel rods. I understand as well that, in the GEIS, the NRC assumed that the regulation of spent nuclear fuel will continue indefinitely at the same level as it exists today. In my view, this indicates that the NRC has not done enough to address the problem of storing nuclear waste. By not adequately dealing

with storage, we are simply postponing necessary investments and passing along unnecessary risks to future generations.

9. I fully support NRDC's efforts to bring the NRC to court, for the reasons that I have described above. I believe that if NRDC were successful in this lawsuit, it would help bring about a more transparent nuclear regulatory system, because the NRC would be forced to address the tough questions posed by nuclear waste. NRDC's success in this lawsuit would also deter the nuclear power industry from claiming that the energy they produce is clean and cheap. It is essential that we understand the true costs of their activities.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed on 11/25/14.

  
David School

ADDENDUM EXHIBIT #6

Declaration of Dorothy Schwartz (November 25, 2014)

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

NATURAL RESOURCES DEFENSE  
COUNCIL, INC., *et al.*

Petitioner,

V.

UNITED STATES NUCLEAR  
REGULATORY COMMISSION and the  
UNITED STATES OF AMERICA,

### Respondents.

**No. 14-1217  
(consolidated with Case Nos.  
14-1210, 14-1212)**

## DECLARATION OF DOROTHY SCHWARTZ

**I, Dorothy Schwartz, declare as follows:**

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of the Natural Resources Defense Council (“NRDC”), and have been a member for almost 30 years. We have to live in this world, and we are messing the world up. I do what I can to support groups that are helping to keep us from messing it up even more, and so, I joined NRDC. I have long viewed the world from this environmental perspective. I have spent most of my life in Cleveland, where, a result of pollution, the Cuyahoga River caught fire

several times. Now that I have five grandchildren, I think more and more often of what kind of world we will leave for them. I believe that NRDC's work helps provide a better world for my grandchildren.

3. I live at 21 Villa Ct., San Luis Obispo, CA 93401. I moved to San Luis Obispo two years ago to be closer to my grandchildren, who live in the area, after about ten years of frequent visiting from Cleveland. I am a retired social worker. I am 84 years old.

4. My home is approximately ten miles east by north of the Diablo Canyon Power Plant, which is located near Avila Beach, California. I have been informed that the Nuclear Regulatory Commission ("NRC") is in the process of re-licensing Diablo Canyon, which would keep the plant open for another 20 years.

5. I understand from reading the local newspaper that Diablo Canyon stores nuclear waste on site. It seems to me that it is only a matter of time before something goes wrong with this waste, to potentially catastrophic effect. I know that Diablo Canyon sits in a seismically active region, in which an earthquake could cause structural damage to the plant, exposing the population nearby to radioactivity from the waste. It is also my understanding that, though California is not famous for such events, the region has a history of very large tsunamis. Given that nuclear waste remains dangerously radioactive for thousands of years, it

strikes me as conceivable that a tsunami could provoke a nuclear disaster, as it did in Fukushima. I don't want my grandchildren, or their grandchildren, exposed to that horrible threat.

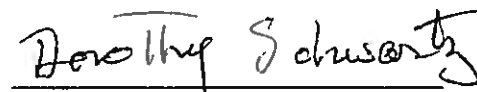
6. Because I am concerned about nuclear waste, I have assisted local efforts to address some of the environmental challenges posed by Diablo Canyon, by signing petitions and making phone calls on behalf of community groups.

7. I am aware that the NRC must analyze the environmental impacts of failing to secure permanent storage for spent nuclear fuel rods. However, I also know that in its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (GEIS), the NRC has failed to consider the environmental impacts of a representative range of reasonable alternatives for ensuring prolonged but safe surface storage of these fuel rods. I understand as well that, in the GEIS, the NRC has assumed that the regulation of spent nuclear fuel will continue indefinitely at the same level as it exists today. I consider this irresponsible. We can't keep storing our nuclear waste on site at power plants indefinitely, simply hoping that nothing will go wrong.

8. I fully support NRDC's efforts to bring the NRC to court, for the reasons that I have described. I believe that, if NRDC were successful in this lawsuit, it would help ensure that nuclear waste is stored with appropriate attention to the

long-term hazards of keeping it on site. I would be grateful for the peace of mind that would come from knowing that the NRC had to fully address this grave problem.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief. Executed on 14-25-24.

  
Dorothy Schwartz

ADDENDUM EXHIBIT #7

Declaration of Gina Trujillo (December 1, 2014)



**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

|                               |   |                              |
|-------------------------------|---|------------------------------|
| NATURAL RESOURCES DEFENSE     | ) |                              |
| COUNCIL, INC., <i>et al.</i>  | ) |                              |
|                               | ) |                              |
| Petitioner,                   | ) | No. 14-1217                  |
|                               | ) | (consolidated with Case Nos. |
| v.                            | ) | 14-1210, 14-1212, 14-1216)   |
|                               | ) |                              |
| UNITED STATES NUCLEAR         | ) |                              |
| REGULATORY COMMISSION and the | ) |                              |
| UNITED STATES OF AMERICA,     | ) |                              |
|                               | ) |                              |
| Respondents.                  | ) |                              |
|                               | ) |                              |

**DECLARATION OF GINA TRUJILLO**

I, Gina Trujillo, declare as follows:

1. I am the director of member services and member development at the Natural Resources Defense Council, Inc. (NRDC). I have been the director of member services and member development for over 9 years.

2. My duties include supervising the preparation of materials that NRDC distributes to members and prospective members. Those materials describe NRDC and identify its mission.

3. NRDC is a membership organization incorporated under the laws of the State of New York. It is recognized as a not-for-profit corporation under section 501(c)(3) of the United States Internal Revenue Code.

4. NRDC currently has approximately 300,461 members. There are NRDC members residing in each of the fifty United States and in the District of Columbia.

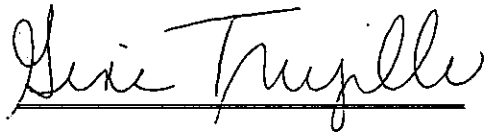
5. NRDC's mission statement declares that "The Natural Resources Defense Council's purpose is to safeguard the Earth: its people, its plants and animals, and the natural systems on which all life depends." Furthermore, NRDC "strive[s] to protect nature in ways that advance the long-term welfare of present and future generations," and "work[s] to foster the fundamental right of all people to have a voice in decisions that affect their environment."

6. Since its inception in 1970, NRDC has, as one of its organizational goals, sought to improve the environmental, health, and safety conditions at the nuclear facilities operated by the Department of Energy and the civil nuclear facilities licensed by the Nuclear Regulatory Commission and their predecessor agencies. To that end, NRDC utilizes its institutional resources (such as its capacities for legislative advocacy, public outreach and education, and litigation)

to minimize the risks that nuclear facilities and its attendant waste pose to its members and to the general public.

I declare under penalty of perjury that the foregoing is true and correct, to the best of my knowledge, information, and belief.

Dated: December 1, 2014

A handwritten signature in black ink, reading "Gina Trujillo", written over a horizontal line.

Gina Trujillo

ADDENDUM EXHIBIT #8

Declaration of Victoria Clemons (November 17, 2014)

**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

BEYOND NUCLEAR, INC., et al.,

Petitioners,

V.

NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,

## Respondents.

No. 14-1216

# DECLARATION OF VICTORIA CLEMONS

Under penalty of perjury, I, Victoria Clemons, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of Beyond Nuclear. I agree with Beyond Nuclear's mission of advocacy against commercial nuclear power and in favor of long-term reliance on sustainable energy alternatives, and I believe my health and well-being depend upon the health of the environment in the region where I live. I have authorized Beyond Nuclear to pursue this lawsuit challenging the NRC's rule titled, "Continued Storage of Spent Nuclear Fuel" and accompanying environmental analysis entitled, "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel," on my behalf.
3. I know that Beyond Nuclear submitted comments to the U.S. Nuclear Regulatory Commission ("NRC") in 2013 regarding the NRC's proposed rule entitled "Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel," which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying "Waste Confidence Generic Environmental Impact Statement," published the same day.

4. I live at 330 East Perry Street, Port Clinton, Ohio 43452. My home lies nine (9) miles from the site of Davis-Besse Nuclear Power Station, Unit 1 (“Davis-Besse”). I live within the 10-mile emergency evacuation zone, and well within the fifty-mile radius distance from Davis-Besse at which the U.S. Nuclear Regulatory Commission (“NRC”) presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Davis-Besse if it allowed to continue operations presently, or if it is granted a 20-year license extension to commence in 2017, for which an application is pending. I am aware that Congress has established a policy that the spent fuel should be removed from the Davis-Besse site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel being generated presently, and anticipated to be generated in the future by Davis-Besse. For these reasons, I am concerned that Davis-Besse may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Davis-Besse site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Davis-Besse can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Davis-Besse in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC’s Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) (“Continued Storage Rule”) and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) (“Continued Storage GEIS”). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my

concerns about the licensing of Davis-Besse would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Davis-Besse's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Victoria A. Clemons

Victoria Clemons

11/17/2014

[Date]



ADDENDUM EXHIBIT #9

Declaration of Michael Keegan (1) (October 27, 2014)

**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

BEYOND NUCLEAR, INC., et al.,

Petitioners,

V.

NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,

## Respondents.

No. 14-1216

## DECLARATION OF MICHAEL KEEGAN

Under penalty of perjury, I, Michael Keegan, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of Beyond Nuclear. I agree with Beyond Nuclear's mission of advocacy against commercial nuclear power and in favor of long-term reliance on sustainable energy alternatives, and I believe my health and well-being depend upon the health of the environment in the region where I live. I have authorized Beyond Nuclear to pursue this lawsuit challenging the NRC's rule titled, "Continued Storage of Spent Nuclear Fuel" and accompanying environmental analysis entitled, "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel," on my behalf.
3. I know that Beyond Nuclear submitted comments to the U.S. Nuclear Regulatory Commission ("NRC") in 2013 regarding the NRC's proposed rule entitled "Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel," which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying "Waste Confidence Generic Environmental Impact Statement," published the same day.

4. I live at 811 Harrison Street, Monroe, Michigan 48161. My home lies fewer than ten (10) miles from the site of the existing Fermi Nuclear Power Plant, Unit 2 ("Fermi 2"). I live well within the fifty-mile radius distance from Fermi 2 at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Fermi 2 if it receives a renewed license to continue operations. I am aware that Congress has established a policy that the spent fuel should be removed from the Fermi 2 site to a repository for permanent disposal. But I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel which has been generated and which is to be generated by Fermi 2. For these reasons, I am concerned that Fermi 2 may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Fermi 2 site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel presently and prospectively being generated by Fermi 2 can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Fermi 2 in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the relicensing of Fermi 2 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such

findings and therefore decide that denying Fermi 2's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Michael D. Keegan  
[Name]

10/27/2014  
[Date]

ADDENDUM EXHIBIT #10

Declaration of Michael Keegan (2) (October 27, 2014)

**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

BEYOND NUCLEAR, INC., et al.,

Petitioners,

V.

NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,

## Respondents.

No. 14-1216

## DECLARATION OF MICHAEL KEEGAN

Under penalty of perjury, I, Michael Keegan, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of Beyond Nuclear. I agree with Beyond Nuclear's mission of advocacy against commercial nuclear power and in favor of long-term reliance on sustainable energy alternatives, and I believe my health and well-being depend upon the health of the environment in the region where I live. I have authorized Beyond Nuclear to pursue this lawsuit challenging the NRC's rule titled, "Continued Storage of Spent Nuclear Fuel" and accompanying environmental analysis entitled, "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel," on my behalf.
3. I know that Beyond Nuclear submitted comments to the U.S. Nuclear Regulatory Commission ("NRC") in 2013 regarding the NRC's proposed rule entitled "Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel," which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying "Waste Confidence Generic Environmental Impact Statement," published the same day.



4. I live at 811 Harrison Street, Monroe, Michigan 48161. My home lies fewer than ten (10) miles from the site of the proposed Fermi Nuclear Power Plant, Unit 3 nuclear power plant ("Fermi 3"). I live well within the fifty-mile radius distance from Fermi 3 at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Fermi 3 if it is licensed for operations. I am aware that Congress has established a policy that the spent fuel should be removed from the Fermi 3 site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Fermi 3. For these reasons, I am concerned that Fermi 3 may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Fermi 3 site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Fermi 3 can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Fermi 3 in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of Fermi 3 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Fermi 3's license application is



appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Michael J. Keegan  
[Name]

10/27/2014  
[Date]

ADDENDUM EXHIBIT #11

Declaration of Mary Ellen B. Connolly (September 23, 2014)



4. I live at 664 Connolly Road, York South Carolina 29745. My home lies about 15 miles from the William States Lee III Nuclear Station ("WSL"). This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by WSL if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the WSL site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by WSL. For these reasons, I am concerned that WSL may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the WSL site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by WSL can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like WSL in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of WSL would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and

therefore decide that denying WSL's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Mary Ellen B. Connolly  
[Signature]

Sept. 23, 2014  
[Date]

ADDENDUM EXHIBIT #12

Declaration of John A. Cruickshank (September 23, 2014)





4. I live at 324 Parkway St., Charlottesville, VA, 22902. My home lies 30 miles from the North Anna Power Station. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by North Anna Power Station Unit 3 if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the North Anna site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by North Anna. For these reasons, I am concerned that North Anna may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the North Anna site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

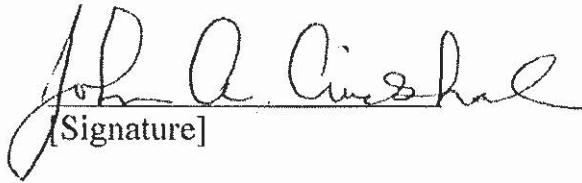
6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by North Anna can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like North Anna in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of North Anna would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying North Anna's license application is

appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
[Signature]

9/23/14  
[Date]

ADDENDUM EXHIBIT #13

Declaration of Elena Day (September 24, 2014)

**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

BEYOND NUCLEAR, INC., et al.,

Petitioners,

V.

NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,

## Respondents.

No. 14-1216

## DECLARATION OF ELENA DAY

Under penalty of perjury, I, Elena Day, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of Blue Ridge Environmental Defense League and its chapter People's Alliance for Clean Energy ("BREDL"). I agree with BREDL's mission of clean and safe energy and I believe my health and well-being depend upon the health of the environment in the region where I live. I have authorized BREDL to pursue this lawsuit challenging the NRC's rule titled, "Continued Storage of Spent Nuclear Fuel" and accompanying environmental analysis entitled, "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel," on my behalf.
3. I know that BREDL submitted comments to the U.S. Nuclear Regulatory Commission ("NRC") in 2013 regarding the NRC's proposed rule entitled "Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel," which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying "Waste Confidence Generic Environmental Impact Statement," published the same day.



4. I live at 151 Buckingham Circle, Charlottesville, VA. My home lies 0.3 miles from the North Anna Power Station. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by North Anna Power Station Unit 3 if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the North Anna site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by North Anna. For these reasons, I am concerned that North Anna may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the North Anna site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by North Anna can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like North Anna in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of North Anna would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying North Anna's license application is

appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Elena B. Day  
[Signature]

9/24/14  
[Date]

ADDENDUM EXHIBIT #14

Declaration of Stewart V. Horn (September 26, 2014)

**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

BEYOND NUCLEAR, INC., et al.,

Petitioners,

V.

NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,

## Respondents.

No. 14-1216

## DECLARATION OF STEWART V. HORN

Under penalty of perjury, I, Stewart V. Horn, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of Blue Ridge Environmental Defense League (BREDL) and its chapter Bellefonte Efficiency and Sustainability Team/Mothers Against Tennessee River Radiation (BEST/MATRR). I agree with BREDL's mission of environmental stewardship and clean, safe energy choices. I believe my health and well-being depend upon the health of the environment in the region where I live. I have authorized BREDL to pursue this lawsuit challenging the NRC's rule titled, "Continued Storage of Spent Nuclear Fuel" and accompanying environmental analysis entitled, "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel," on my behalf.
3. I know that BREDL submitted comments to the U.S. Nuclear Regulatory Commission ("NRC") in 2013 regarding the NRC's proposed rule entitled "Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel," which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying "Waste Confidence Generic Environmental Impact Statement," published the same day.

4. I live at 498 Keel Hollow Rd., New Hope, Al., 35760. My home lies 25 miles from the Bellefonte Nuclear Power Plant. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Bellefonte Nuclear Plant Units 3 and 4 if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Bellefonte site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Bellefonte. For these reasons, I am concerned that Bellefonte may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Bellefonte site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

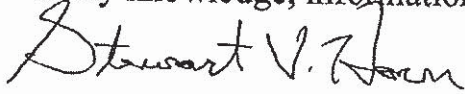
6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Bellefonte can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Bellefonte in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of Bellefonte would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Bellefonte's license application is

appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.



Stewart V. Horn

[Signature]

September 26, 2014

[Date]

ADDENDUM EXHIBIT #15

Declaration of Sandra Kurtz (September 23, 2014)



**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

BEYOND NUCLEAR, INC., et al.,

Petitioners,

V.

NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,

## Respondents.

No. 14-1216

## DECLARATION OF SANDRA KURTZ

Under penalty of perjury, I, Sandra Kurtz, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of Blue Ridge Environmental Defense League and its chapter Bellefonte Efficiency and Sustainability Team/Mothers Against Tennessee River Radiation ("BREDL"). I agree with BREDL's mission of clean and safe energy and I believe my health and well-being depend upon the health of the environment in the region where I live. I have authorized BREDL to pursue this lawsuit challenging the NRC's rule titled, "Continued Storage of Spent Nuclear Fuel" and accompanying environmental analysis entitled, "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel," on my behalf.
3. I know that BREDL submitted comments to the U.S. Nuclear Regulatory Commission ("NRC") in 2013 regarding the NRC's proposed rule entitled "Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel," which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying "Waste Confidence Generic Environmental Impact Statement," published the same day.



4. I live at 3701 Skylark Trail, Chattanooga, TN 37416. My home lies 15 miles from the Sequoyah Nuclear Power Plant. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Sequoyah if it is relicensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Sequoyah site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Sequoyah. For these reasons, I am concerned that Sequoyah may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Sequoyah site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Sequoyah can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Sequoyah in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the relicensing of Sequoyah would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Sequoyah's license renewal application

is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Sandra L. Kutz  
[Signature]

9/23/14  
[Date]

ADDENDUM EXHIBIT #16

Declaration of Garry L. Morgan (September 24, 2014)





4. I live at 130 Rome St., Scottsboro, Al., 35769. My home lies 4.5 miles from the Bellefonte Nuclear Facility. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Bellefonte Nuclear Plant Units 3 and 4 if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Bellefonte site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Bellefonte. For these reasons, I am concerned that Bellefonte may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Bellefonte site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.


6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Bellefonte can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Bellefonte in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of Bellefonte would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Bellefonte's license application is

appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
Garry L. Morgan  
[Signature]

September 24, 2014  
[Date]



ADDENDUM EXHIBIT #17

Declaration of Charles L. Moss Jr. (September 23, 2014)

**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

BEYOND NUCLEAR, INC., et al.,

Petitioners,

V.

NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,

## Respondents.

No. 14-1216

## DECLARATION OF Charles L. Moss Jr.

Under penalty of perjury, I, Charles L. Moss Jr, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of the Blue Ridge Environmental Defense League (“BREDL”). I agree with BREDL’s mission of clean and safe energy and I believe my health and well-being depend upon the health of the environment in the region where I live. I have authorized BREDL to pursue this lawsuit challenging the NRC’s rule titled, “Continued Storage of Spent Nuclear Fuel” and accompanying environmental analysis entitled, “Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel,” on my behalf.
3. I know that BREDL submitted comments to the U.S. Nuclear Regulatory Commission (“NRC”) in 2013 regarding the NRC’s proposed rule entitled “Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel,” which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying “Waste Confidence Generic Environmental Impact Statement,” published the same day.
4. I live at 4595 Hickory Grove Rd. Sharon SC 29742. My home lies about 6 miles from the William States Lee III Nuclear Station (“WSL”). This is less

than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by WSL if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the WSL site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by WSL. For these reasons, I am concerned that WSL may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the WSL site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

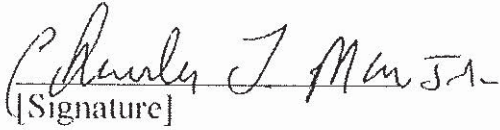
6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by WSL can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like WSL in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

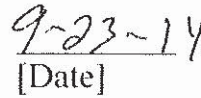
7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of WSL would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying

WSL's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
[Signature]

  
[Date]

ADDENDUM EXHIBIT #18

Declaration of Marilyn P. Moss (September 24, 2014)





fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by WSL if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the WSL site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by WSL. For these reasons, I am concerned that WSL may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the WSL site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by WSL can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like WSL in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of WSL would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying



WSL's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Marilyn P. Moss  
[Signature]

9-24-2014  
[Date]

ADDENDUM EXHIBIT #19

Declaration of Declaration of Mark Haim (September 22, 2014)

**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

BEYOND NUCLEAR, INC., et al.,

Petitioners,

V.

NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,

## Respondents.

No. 14-1216

## DECLARATION OF MARK HAIM

Under penalty of perjury, I, Mark Haim, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of the Missouri Coalition for the Environment (MCE). I agree with MCE's mission of working to protect and restore the environment through education, public engagement, and legal action. I believe my health and well-being depend upon the health of the environment in the region where I live. I have authorized MCE to pursue this lawsuit challenging the NRC's rule titled, "Continued Storage of Spent Nuclear Fuel" and accompanying environmental analysis entitled, "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel," on my behalf.
3. I know that MCE submitted comments to the U.S. Nuclear Regulatory Commission ("NRC") in 2013 regarding the NRC's proposed rule entitled "Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel," which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying "Waste Confidence Generic Environmental Impact Statement," published the same day.

4. I live at 1402 Richardson Street, Columbia, MO 65201. My home lies 32 miles from the Callaway 1 nuclear reactor. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Callaway 1 if it is relicensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Callaway 1 site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Callaway 1. For these reasons, I am concerned that Callaway 1 may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Callaway 1 site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Callaway 1 can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Callaway 1 in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the relicensing of Callaway 1 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Callaway's license renewal application

is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Mark Hain  
[Name]

9/22/14  
[Date]



ADDENDUM EXHIBIT #20

Declaration of Declaration of Mary Mosley (September 25, 2014)



4. I live at 1010 Vine Street, Fulton, MO 65251. My home lies 11 miles from the Callaway 1 nuclear reactor. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Callaway 1 if it is relicensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Callaway 1 site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Callaway 1. For these reasons, I am concerned that Callaway 1 may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Callaway 1 site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Callaway 1 can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Callaway 1 in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the relicensing of Callaway 1 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Callaway's license renewal application

is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Mary Mosley  
[Name]

September 25, 2014  
[Date]

ADDENDUM EXHIBIT #21

Declaration of Declaration of Karen Stewart (October 27, 2014)

**UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT**

BEYOND NUCLEAR, INC., et al.,

Petitioners,

V.

NUCLEAR REGULATORY  
COMMISSION, and the  
UNITED STATES OF AMERICA,

### Respondents.

No. 14-1216

## DECLARATION OF KAREN STEWART

Under penalty of perjury, I, Karen Stewart, declare as follows:

1. I make this declaration of my own personal knowledge. If called to testify as a witness, I could and would testify competently regarding its contents.
2. I am a current member of New England Coalition on Nuclear Pollution (“New England Coalition”). I agree with New England Coalition’s mission of protecting human health and the environment from radiation hazards associated with commercial nuclear power and the uranium fuel cycle and I believe my health and well-being depend upon the health of the environment in the region where I live. I have authorized New England Coalition to pursue this lawsuit challenging the NRC’s rule titled, “Continued Storage of Spent Nuclear Fuel” and accompanying environmental analysis entitled, “Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel,” on my behalf.
3. I know that New England Coalition submitted comments to the U.S. Nuclear Regulatory Commission (“NRC”) in 2013 regarding the NRC’s proposed rule entitled “Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel,” which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying “Waste Confidence Generic Environmental Impact Statement,” published the same day.



4. I live at 546 Washington Road, Rye, New Hampshire 03870. My home lies 12 miles from the Seabrook Nuclear Generating Station. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Seabrook Nuclear Generating Station if it is relicensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Seabrook Nuclear Generating Station site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Seabrook Nuclear Generating Station. For these reasons, I am concerned that Seabrook Nuclear Generating Station may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Seabrook Nuclear Generating Station site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Seabrook Nuclear Generating Station can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Seabrook Nuclear Generating Station in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the relicensing of Seabrook Generating Station would be lessened.

And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Seabrook Generating Station's 's license renewal application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Karen Stewart

[Name]

10/27/14

[Date]

ADDENDUM EXHIBIT #22

Declaration of Declaration of Emily Casey (September 26, 2014)





4. I live at 1430 E. Hartford St., Inverness, Florida. My home lies 20 miles from the proposed Levy County 1 and 2 nuclear site. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Levy County 1 and 2 if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Levy County 1 and 2 site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Levy County 1 and 2. For these reasons, I am concerned that Levy County 1 and 2 may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Levy County 1 and 2 site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Levy County 1 and 2 can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Levy County 1 and 2 in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

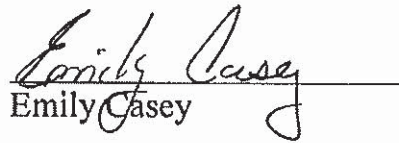
7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of Levy County 1 and 2 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make

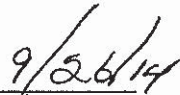
such findings and therefore decide that denying Levy County 1 and 2's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*



I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
Emily Casey

  
09/26/2014

ADDENDUM EXHIBIT #23

Declaration of Declaration of Amanda Hancock Anderson (September 26, 2014)



4. I live at 516 NW 19<sup>th</sup> Avenue in Gainesville, FL. My home lies 48 miles from the proposed Levy County 1 and 2 nuclear site. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Levy County 1 and 2 if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Levy County 1 and 2 site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Levy County 1 and 2. For these reasons, I am concerned that Levy County 1 and 2 may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Levy County 1 and 2 site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

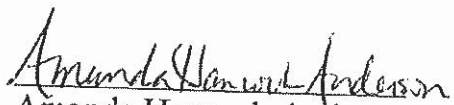
6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Levy County 1 and 2 can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Levy County 1 and 2 in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of Levy County 1 and 2 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make

such findings and therefore decide that denying Levy County 1 and 2's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
Amanda Hancock Anderson

09/26/2014

ADDENDUM EXHIBIT #24

Declaration of Declaration of W. Russell Anderson (September 26, 2014)





4. I live at 516 NW 19<sup>th</sup> Avenue in Gainesville, FL. My home lies 48 miles from the proposed Levy County 1 and 2 nuclear site. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Levy County 1 and 2 if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Levy County 1 and 2 site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Levy County 1 and 2. For these reasons, I am concerned that Levy County 1 and 2 may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Levy County 1 and 2 site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Levy County 1 and 2 can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Levy County 1 and 2 in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of Levy County 1 and 2 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make

such findings and therefore decide that denying Levy County 1 and 2's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
W. Russell Anderson

09/26/14  
09/26/2014

ADDENDUM EXHIBIT #25

Declaration of Declaration of Nancy Syrop (October 31, 2014)





entitled “Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel,” which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying “Waste Confidence Generic Environmental Impact Statement,” published the same day.

4. I live at 36 Aldridge Road, Chappaqua, NY 10514. My home lies 19.5 miles from the Indian Point nuclear power plant. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission (“NRC”) presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by the Indian Point nuclear power plant if it is relicensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Indian Point nuclear power plant site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by the Indian Point nuclear power plant. For these reasons, I am concerned that the Indian Point nuclear power plant may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Indian Point nuclear power plant site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by the Indian Point nuclear power plant can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like the Indian Point nuclear power plant in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC’s Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) (“Continued Storage Rule”) and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) (“Continued Storage GEIS”). If this



Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the relicensing of Indian Point nuclear generating Units 2 and 3 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying the Indian Point nuclear power plant's license renewal application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

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US declares under penalty of perjury that the foregoing is true and correct to the best  
of my knowledge, information and belief.

Nancy Syrop  
[Name]

10/31/14  
[Date]

ADDENDUM EXHIBIT #26

Declaration of Declaration of Elaine E. Holder (September 22, 2014)



3. I know that San Luis Obispo Mothers for Peace, Inc. submitted comments to the U.S. Nuclear Regulatory Commission ("NRC") in 2013 regarding the NRC's proposed rule entitled "Waste Confidence Decision - Continued Storage of Spent Nuclear Fuel," which was published at 78 Fed. Reg. 56,776 on September 13, 2013 and its accompanying "Waste Confidence Generic Environmental Impact Statement," published the same day.

4. I live at 274 Cuesta Drive, San Luis Obispo, CA 93405. My home lies 12 miles from the Diablo Canyon Nuclear Power Plant. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Diablo Canyon Nuclear Power Plant if it is relicensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Diablo Canyon Nuclear Power Plant site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Diablo Canyon Nuclear Power Plant. For these reasons, I am concerned that Diablo Canyon Nuclear Power Plant may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Diablo Canyon Nuclear Power Plant site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Diablo Canyon Nuclear Power Plant can be safely disposed of in a repository. I am also concerned NRC has not adequately evaluated the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Diablo Canyon Nuclear Power Plant in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the relicensing of Diablo Canyon Nuclear Power Plant would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Diablo Canyon Nuclear Power Plant's license renewal application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

*Elaine E. Holder*

Elaine E. Holder

\_\_\_\_\_  
[Name]

*September 22, 2014*

September 22, 2014

\_\_\_\_\_  
[Date]



ADDENDUM EXHIBIT #27

Declaration of Declaration of Lucy Jane Swanson (September 19, 2014)



4. I live at 475 Squire Canyon Road, San Luis Obispo, California. My home lies 12 miles from the Diablo Canyon nuclear plant. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by the Diablo Canyon plant if it is relicensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Diablo Canyon site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Diablo Canyon nuclear plant. For these reasons, I am concerned that Diablo Canyon nuclear plant may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Diablo Canyon nuclear plant site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Diablo Canyon nuclear plant can be safely disposed of in a repository. I am also concerned that NRC has not adequately evaluated the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Diablo Canyon nuclear plant in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the relicensing of Diablo Canyon Unit 1 and Unit 2 would be

lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Diablo Canyon's license renewal application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Name *Lucy Jane Swanson*

Date *Sept. 19, 2014*

Lucy Jane Swanson

September 19, 2014

ADDENDUM EXHIBIT #28

Declaration of Declaration of Louise Gorenflo (September 21, 2014)





4. I live at 185 Hood Drive, Crossville, TN 38555. My home lies 26 miles from the Watts Bar nuclear plant. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by the Watts Bar nuclear plant if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Watts Bar nuclear plant site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by the Watts Bar nuclear plant. For these reasons, I am concerned that the Watts Bar nuclear plant may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Watts Bar site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

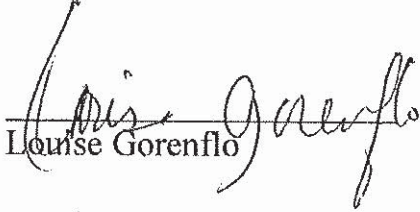
6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by the Watts Bar nuclear plant can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like the Watts Bar nuclear plant in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

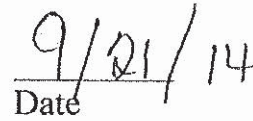
7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of Watts Bar Unit 2 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate

environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Watts Bar's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
Louise Gorenflo

  
Date

ADDENDUM EXHIBIT #29

Declaration of Declaration of Daniel C. Kipnis (September 19, 2014)





4. I live at 3156 Royal Palm Avenue, Miami Beach, FL. My home lies within 30 miles from the Turkey Point nuclear plant. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Turkey Point Units 6 and 7 if they is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Turkey Point site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Turkey Point Units 6 and 7. For these reasons, I am concerned that Turkey Point may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Turkey Point site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Turkey Point can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Turkey Point in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the Licensing of Turkey Point Reactors 6 and 7 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Turkey Point's license

application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Daniel C. Kyprianou

[Name]

9/19/14

[Date]

ADDENDUM EXHIBIT #30

Declaration of Declaration of Jeannie V. McKinney (September 25, 2014)



and its accompanying "Waste Confidence Generic Environmental Impact Statement," published the same day.

4. I live at 721 Walker Springs Road, Apt A-1, Knoxville, TN 37923. My home lies 45 miles from the Watts Bar nuclear plant. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by the Watts Bar nuclear plant if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Watts Bar nuclear plant site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by the Watts Bar nuclear plant. For these reasons, I am concerned that the Watts Bar nuclear plant may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Watts Bar site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

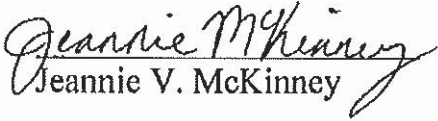
6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by the Watts Bar nuclear plant can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like the Watts Bar nuclear plant in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my

concerns about the licensing of Watts Bar Unit 2 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Watts Bar's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
Jeannie V. McKinney

09/25/14  
Date

ADDENDUM EXHIBIT #31

Declaration of Declaration of Mark P. Oncavage (September 22, 2014)





4. I live at 12200 SW 110<sup>th</sup> Avenue, Miami, FL 33176. My home lies 15 miles from the Turkey Point nuclear plant. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission (“NRC”) presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by the Turkey Point nuclear plant if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Turkey Point site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by the Turkey Point nuclear plant. For these reasons, I am concerned that the Turkey Point nuclear plant may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Turkey Point site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by the Turkey Point nuclear plant can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Turkey Point in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC’s Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) (“Continued Storage Rule”) and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) (“Continued Storage GEIS”). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of Turkey Point Units 6 & 7 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make

such findings and therefore decide that denying Turkey Point's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
Mark P. Oncavage

Sept. 22, 2014  
Date

ADDENDUM EXHIBIT #32

Declaration of Declaration of Maria Rosales (September 25, 2014)





4. I live at 36207 SR 30 Pikeville, TN 37367. My home lies 24 miles from the Watts Bar nuclear plant. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by the Watts Bar nuclear plant if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Watts Bar nuclear plant site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by the Watts Bar nuclear plant. For these reasons, I am concerned that the Watts Bar nuclear plant may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Watts Bar site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by the Watts Bar nuclear plant can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like the Watts Bar nuclear plant in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of Watts Bar Unit 2 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate



environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Watts Bar's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Maria Rosales

9/25/14  
Date

ADDENDUM EXHIBIT #33

Declaration of Declaration of Lon Burnam (September 24, 2014)



4. I live at 2103 6<sup>th</sup> Avenue, Fort Worth, Texas, 76110. My home lies 40 miles from the Comanche Peak Nuclear Power Plant.

5. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

6. I am concerned about the health and safety risks posed by the spent fuel that will be generated by Comanche Peak 3 & 4 if they are licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the Comanche Peak site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by Comanche Peak. For these reasons, I am concerned that Comanche Peak may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the Comanche Peak site may leak into the environment and harm my health and threaten my safety. Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

7. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by Comanche Peak can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like Comanche Peak in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

8. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of Comanche Peak 3 & 4 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an

adequate environmental analysis, I believe the NRC may determine it cannot make such findings and therefore decide that denying Comanche Peak's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

L. Burman  
[Name]

Oct 24 2014  
[Date]



ADDENDUM EXHIBIT #34

Declaration of Declaration of Susan Dancer (1) (September 25, 2014)



4. I live at .648 County Road 475, Blessing, Texas. My home lies 8 miles from the South Texas Project. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by South Texas Project if it is relicensed. I am aware that Congress has established a policy that the spent fuel should be removed from the South Texas Project site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by South Texas Project. For these reasons, I am concerned that South Texas Project may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the South Texas Project site may leak into the environment and harm my health and threaten my safety.

Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by South Texas Project can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like South Texas Project in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the relicensing of South Texas Project would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make

such findings and therefore decide that denying South Texas Project's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Susan Doman  
[Name]

9-25-14  
[Date]

ADDENDUM EXHIBIT #35

Declaration of Declaration of Susan Dancer (2) (September 25, 2014)





4. I live at .648 County Road 475, Blessing, Texas. My home lies 8 miles from the South Texas Project. This is less than the fifty-mile radius distance at which the U.S. Nuclear Regulatory Commission ("NRC") presumes a reactor accident will cause harm to my health and safety.

5. I am concerned about the health and safety risks posed by the spent fuel that will be generated by South Texas Project 3 & 4 if it is licensed. I am aware that Congress has established a policy that the spent fuel should be removed from the South Texas Project site to a repository for permanent disposal. But, I am concerned that permanent disposal of spent fuel may not be feasible. I am also concerned that the government will not find sufficient capacity in a repository or multiple repositories to accommodate the spent fuel to be generated by South Texas Project. For these reasons, I am concerned that South Texas Project may become a *de facto* long term storage depot or even waste disposal site. I am concerned that spent fuel stored for a lengthy period at the South Texas Project site may leak into the environment and harm my health and threaten my safety.

Additionally, I am concerned about the health and safety of future generations in my family, and protection of the environment.

6. I am aware that NRC must conduct a full safety and environmental review whenever it licenses or re-licenses a nuclear power plant. However, I am concerned that NRC has not adequately evaluated the question of whether the spent fuel that will be generated by South Texas Project can be safely disposed of in a repository or the environmental, health, and safety consequences of storing spent nuclear fuel at facilities like South Texas Project in the meantime. In the absence of adequate safety findings and environmental analyses regarding these issues, I do not have confidence that my health and safety or the integrity of my environment will be protected from the adverse effects of exposure to spent reactor fuel.

7. Therefore I have authorized this petition for review of the NRC's Final Rule regarding Continued Storage of Spent Nuclear Fuel (Sept. 19, 2014) ("Continued Storage Rule") and its Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel (Sept. 2014) ("Continued Storage GEIS"). If this Court reverses the Continued Storage Rule and the Continued Storage GEIS and requires the NRC to make necessary safety findings regarding spent fuel disposal and fully analyze the environmental impacts of storing spent nuclear fuel, my concerns about the licensing of South Texas Project 3 & 4 would be lessened. And, further, if this Court requires the NRC to make safety findings and conduct an adequate environmental analysis, I believe the NRC may determine it cannot make

such findings and therefore decide that denying South Texas Project's license application is appropriate and required by law. Therefore, my concerns may be redressed by this lawsuit.

*[The remainder of this page has been intentionally left blank]*

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Susan Damer  
[Name]

9-25-14  
[Date]