Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[Docket No. PRM–51–12]

State of California; Receipt of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated March 16, 2007, which was filed with the NRC by Edmund G. Brown, Jr., Attorney General for the State of California. The petition was docketed by the NRC on March 21, 2007, and has been assigned Docket No. PRM–51–12. The petitioner requests that NRC rescind its regulations that declare the potential environmental effects of the approval, construction, and operation of high-density pool storage of spent nuclear fuel are not and cannot be significant for purposes of the National Environmental Policy Act (NEPA) and NEPA analysis; adopt and issue a generic determination that approval of such storage at a nuclear power plant or any other facility does constitute a major Federal action that may have a significant effect on the human environment; and order that no NRC licensing decision that approves high-density pool storage of spent nuclear fuel at a nuclear power plant or other storage facility may issue without the prior adoption and certification of an environmental impact statement (EIS) that complies with NEPA in all respects, including full identification, analysis, and disclosure of the potential environmental effects of such storage, including the potential for accidental or deliberately caused release of radioactive products to the environment, whether by accident or through acts of terrorism, as well as full and adequate discussion of potential mitigation for such effects, and full discussion of an adequate array or alternatives to the proposed storage project.

DATES: Submit comments by July 30, 2007. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments on this petition by any one of the following methods. Please include PRM–51–12 in the subject line of your comments. Comments on petitions submitted in writing or in electronic form will be made available for public inspection. Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *SECY@nrc.gov.* If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; e-mail *cag@nrc.gov.* Comments can also be submitted via the Federal eRulemaking Portal *http://www.regulations.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays. (Telephone (301) 415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC's Public Document Room (PDR), Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee. Selected documents, including comments, may be viewed and downloaded electronically via the NRC rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

A copy of the petition can be found in ADAMS under accession number ML070811132. A paper copy of the petition may be obtained by contacting Betty Golden, Office of Administration, Nuclear Regulatory Commission, Washington DC, 20555–0001, telephone 301–415–6863, toll-free 1–800–368–5642, or by e-mail *bkg2@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rulemaking, Directives, and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: 301–415–7163 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

The Petition

The petitioner seeks to have the NRC: (1) Consider new and significant information about threats to the environment caused by dense storage of spent nuclear fuel; (2) rescind regulations that bar the consideration of spent fuel storage impacts in NEPA documents, regardless of the reasonable foreseeability of such effects; (3) make a generic determination that environmental impacts from spent fuel storage are significant; and (4) order that any decision to permit high density pool storage of nuclear fuel at any facility be accompanied by an Environmental Impact Statement (EIS) that complies with NEPA. The petitioner specifically requests that the NRC amend its regulations under 10 CFR 51.23(a) and (b) that concern a generic determination of no significant environmental impact in regard to the temporary storage of spent fuel after cessation of reactor operation.

The petitioner asserts that the requested rulemaking actions are

mandated by NEPA, the regulations of the Council on Environmental Quality (CEQ), and in particular, the Ninth Circuit decision in *San Luis Obispo Mothers for Peace* v. *NRC*, 449 F.3d 1016 (9th Cir. 2006), *cert. denied* 127 S. Ct. 1124 (2007). The petitioner further asserts that the requested rulemaking actions are warranted by the facts and legal arguments set forth in the rulemaking petition filed by the Attorney General of the Commonwealth of Massachusetts, docketed by the NRC as Docket No. PRM–51–10 on September 19, 2006, followed by a subsequent publication of a notice of receipt of a petition for rulemaking on November 1, 2006 (71 FR 64169), which the petitioner incorporates by reference.

The petitioner requests that NRC's current regulations be amended as these regulations, in the petitioner's view, determine that the effects of high density storage of spent fuel rods may never be significant for purposes of NEPA. The petitioner asserts that the NRC has not properly evaluated the significance of storing spent fuel assemblies in pools that were designed for a smaller number of spent nuclear fuel assemblies, thereby, increasing the possibility of catastrophic accidents involving fire. In this regard, the petitioner asserts that there is new and significant information showing that significant impacts can occur from high density pool storage of spent nuclear fuels, namely, a 2006 National Academy of Sciences study (NAS Committee on the Safety and Security of Commercial Spent Nuclear Fuel Storage, Safety and Security of Commercial Spent Fuel Storage (the National Academies Press 2006)). The petitioner also asserts that current regulations bar a finding of significance for high density storage despite the threats posed by potential acts of terrorism, as the President of the United States and various other Federal officials have articulated those threats after the September 11, 2001 attacks.

Conclusion

The petitioner asserts that the current NRC regulations preclude the NRC from carrying out its obligations under NEPA by forbidding it from disclosing and analyzing reasonably foreseeable significant risks that will affect the environment. The petitioner states that under NEPA and the Administrative Procedure Act, the NRC has a duty to amend those regulations as requested by the State of California.

Consolidation With Docket No. PRM–51–10

The NRC has determined that this petition raises issues that are substantially similar to those raised by the petition of the Attorney General of the Commonwealth of Massachusetts, which was docketed by the NRC as PRM–51–10 on September 19, 2006, followed by a subsequent publication of a notice of receipt of a petition for rulemaking on November 1, 2006 (71 FR 64169). Therefore, the NRC, after the public comment period, may consolidate its response to both petitions in one action.

Dated at Rockville, Maryland, this 8th day of May 2007.

For the U.S. Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E7–9211 Filed 5–11–07; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

RIN 1029–AC54

Placement of Coal Combustion Byproducts in Active and Abandoned Coal Mines

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: We are extending the comment period for the advance notice of proposed rulemaking (ANPR) published in the March 14, 2007 **Federal Register** for 30 days. The ANPR is related to the placement of coal combustion byproducts (CCBs) in active and abandoned coal minesites.

DATES: To ensure consideration, we must receive your comments on or before June 13, 2007.

ADDRESSES: You may submit comments, identified by docket number 1029–AC54, by any of the following methods to the indicated address:

- *E-mail: rules_comments@osmre.gov*. Please include docket number 1029–AC54 in the subject line of the message.
- *Mail/Hand-Delivery/Courier to the OSM Administrative Record Room:* Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 252–SIB, 1951 Constitution Avenue, NW., Washington, DC 20240.
- *Federal e-Rulemaking Portal: http://www.regulations.gov*. The notice is listed under the agency name ''SURFACE MINING RECLAMATION AND ENFORCEMENT OFFICE.'' Click ''Add Comments'' to submit comments.

FOR FURTHER INFORMATION CONTACT: John Craynon, P.E., Chief, Division of Regulatory Support, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., MS–202, Washington, DC 20240; Telephone 202–208–2866; E-mail: *jcraynon@osmre.gov*.

SUPPLEMENTARY INFORMATION: On March 14, 2007, we published the ANPR that invited comment on how we should revise the regulations implementing Titles IV and V of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) to regulate the placement of CCBs on active and abandoned coal minesites and what type of guidance documents we should issue, if any. (72 FR 12026). We also sought comment on whether section 405(i) of the Act provides sufficient latitude to require that abandoned mine land reclamation project submissions include site-specific plans and requirements concerning the placement of CCBs. The comment period was originally scheduled to close May 14, 2007.

After publishing the ANPR, we received requests from several parties to extend the comment period. We reviewed the requests and have decided to extend the public comment period for the ANPR for 30 days. The public comment period will now close June 13, 2007.

Comments received in response to the ANPR will help us scope and frame the proposed rule. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

Dated: May 4, 2007.

C. Stephen Allred,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 07–2359 Filed 5–11–07; 8:45 am]

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