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Dear Ms. Pineda:

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On behalf of the Council of State Governments' Midwestern Radioactive Materials Transportation Committee, we are writing to submit comments on the U.S. Nuclear Regulatory Commission's (NRC) draft report "Background and Preliminary Assumptions for an Environmental Impact Statement – Long-Term Waste Confidence Update," issued for public comment in December 2011. The committee includes members from the 12 Midwestern states: Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. We appreciate the NRC's efforts to engage the states in its ongoing Waste Confidence-related actions through two webinars co-hosted by CSG Midwest. We urge the NRC to make further use of webinar technology to give states and other stakeholders additional opportunities to engage in the rulemaking process.

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Timing: We urge the NRC staff to compress the schedule for completing the environmental impact statement (EIS) and publishing a final decision and rule, if necessary. The long timeframe proposed – seven years from start to finish – raises several concerns. First, such a long time span increases the likelihood of NRC staff turnover during the project, which could lead to the timeline being extended even further. In addition, it will be difficult to sustain widespread stakeholder interest over such a long period of time. Finally, developments in national policy, the nuclear industry, and technology are likely to occur at a faster pace than the NRC's examination of environmental impacts. If it is not feasible to condense the schedule, it would be helpful for the NRC to explain the schedule constraints in the final report.

Connection to other activities: How will the recommendations of the Blue Ribbon Commission on America's Nuclear Future be incorporated into or addressed in the NRC's assumptions for the EIS? It would seem appropriate for the EIS to reflect the recommendations for consolidated storage and early removal of spent fuel from shutdown reactors. Also, we reiterate the point raised on the January 31 webinar that the NRC staff incorporate relevant information from the EIS that supported the decision to issue a license for the Private Fuel Storage facility.

Reprocessing: The NRC staff should consider dropping Scenario #4 involving reprocessing. One of the stated purposes of the EIS is “to ensure that the [Waste Confidence] decision and rule are informed by current circumstances (including national policy)” (p. 5). On the January 31 webinar, both James Rubenstone and you made statements reinforcing the point that the assumptions in the report were based on the “current status.” There are not currently any reprocessing facilities in the United States, nor are any new reprocessing facilities on the horizon. Moreover, in its recently released final report, the Blue Ribbon Commission specifically commented that “*it would be premature for the United States to commit, as a matter of policy, to ‘closing’ the nuclear fuel cycle given the large uncertainties that exist about the merits and commercial viability of different fuel cycles and technology options*” (emphasis in original).

Because “current circumstances” do not include reprocessing, it would be advisable to remove this scenario from consideration. Doing so would reduce the complexity of the task and would allow the staff to focus on what truly are “current conditions.” Streamlining the analysis would also increase the likelihood of the NRC being able to complete the EIS and proposed rule in a more timely fashion, as we advocated above. The report notes that, in the event of additional information becoming available in the future, the staff may “develop a supplement or addendum to the EIS to reflect new information” (p. 16). Such a supplement or addendum could be produced if reprocessing does, indeed, become part of the U.S. nuclear industry's plan for managing spent fuel.

Composite sites: We were glad to hear Dr. Rubenstone confirm on January 31 that the NRC staff will develop multiple composite sites that reflect different hazard characteristics, geology, and other factors. It is important that some of the composite sites represent conditions near the shores of the Great Lakes, in areas prone to flooding, and in high-hazard zones like “Tornado Alley” in the central U.S. We were also pleased to hear that the NRC will make public its methodology and the actual sites from which the composite sites will be derived.

Storage Scenarios: The report would benefit from additional detail regarding the distinction between “regional storage facilities” and “one centralized storage facility.” We appreciate the clarification on the January 31 webinar that the term “centralized” is not intended to describe the geographic location of the facility. It is confusing, however, that during the webinar you described the proposed Private Fuel Storage facility as a type of “regional facility” when many people would consider it representative of a “centralized” or “consolidated” storage facility. It would be useful to include in the final report, for each storage scenario, specific information on the number of sites to be considered and the amount of spent fuel assumed to be transported to and stored at each site. The NRC staff should also address the question, raised on the webinar, about whether the analysis will follow the Blue Ribbon Commission’s recommendation to move “stranded” spent fuel first. We agree that the NRC should consider whether it is feasible to evaluate the impacts of the two storage scenarios together as a single scenario.

Research on extended storage: The report states that “the EIS will consider the impacts of repackaging operations or other actions to ensure transportability after extended storage” (p. 10, Section 8.1(4)). If “repackaging operations or other actions” can “ensure transportability after extended storage,” then why is the NRC devoting so many resources to researching the behavior of spent fuel inside casks during extended storage? Why not simply plan to repackage spent fuel when it is necessary to do so for transportation purposes? It would be helpful for the NRC staff to explain all the potential benefits of its ongoing research into extended storage, particularly those that go beyond ensuring transportability of the spent fuel.

Security: According to the report, the NRC “plans to consider the environmental impacts of terrorism related to storage and transportation at a generic level” (p. 13). We recommend changing “plans to consider” to “will assess” to make it clear that these environmental impacts will be addressed in any environmental impact statement. Furthermore, in 2007, the Midwest joined its counterparts in the other regions in beginning to work with the NRC on ways to share information with appropriate state personnel regarding the vulnerability of transportation casks to terrorist actions – information that is well beyond what is generally releasable to the public. With the cancellation of the Yucca Mountain repository, this effort did not progress very far. We renew our request to begin a dialogue between the NRC and the states on cask vulnerability. In light of the NRC’s evaluation of extended storage lasting up to 300 years, we believe the scope of the dialogue should be expanded to include both transportation and storage casks.

Spent fuel pools: It does not seem to be a realistic assumption that “some facilities [i.e., spent fuel pools] at reactor sites will continue to operate in place after reactors are decommissioned and until the spent fuel is transported to a disposal site” (Scenario #1, p. 14). If the EIS is supposed to reflect “current circumstances,” it should be assumed that utilities (with the one exception noted in the report) will continue the practice of removing spent fuel pools during site decommissioning, with spent fuel remaining on site in dry storage casks.

Scoping: Looking ahead to the EIS scoping process, the Midwest requests that public meetings be held in several locations throughout the region, such as Chicago, Minneapolis, Kansas City, and Detroit. The region also urges the NRC staff to use webinars to provide additional opportunities to engage stakeholders nationwide.

Outreach to State and Local Officials: We urge the NRC to consider holding webinars and other briefings on both Waste Confidence and extended storage specifically tailored for state and local government officials, including elected officials. As we heard on the January 31 webinar, extended storage of spent fuel can have socioeconomic impacts on communities, such as negatively affecting property values and creating uncertainties for planning boards charged with making decisions on long-term housing projects. Questions of liability have also come up, as has the issue of municipalities having to provide emergency services for storage at decommissioned sites without the benefit of property taxes from an operating plant. Two of

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our states, in fact, have considered legislation that would impose a fee on utilities to reduce the financial burden that long-term storage places on communities. We request that the NRC work with the Midwest to develop and disseminate information that is accessible to and suitable for an audience consisting of elected and executive agency officials at the state and local level. We urge you to tap this committee and the CSG Midwest staff to implement our suggestion.

We appreciate the opportunity to provide input on the background and assumptions. Please contact Lisa Janairo at 920.458.5910 or ljanairo@csg.org if you have any questions about our comments.

Sincerely,



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