

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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THE STATE OF NEW YORK,
THE STATE OF VERMONT, and
THE STATE OF CONNECTICUT,

Petitioners,

-against-

No. 11-_____ -ag

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

Respondents.

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**PETITION FOR JUDICIAL REVIEW OF
ADMINISTRATIVE AGENCY ACTION**

Pursuant to § 189 of the Atomic Energy Act, 42 U.S.C.
§ 2239, 28 U.S.C. §§ 2341-2344; the Administrative Procedure Act,
5 U.S.C. § 551 *et seq.*; and Rule 15 of the Federal Rules of
Appellate Procedure, the petitioners, the State of New York, by its
attorney, Eric T. Schneiderman, Attorney General of the State of
New York; the State of Vermont, by its attorney, William H.
Sorrell, Attorney General of the State of Vermont; and the State of

Connecticut, by its attorney, George Jepsen, Attorney General of the State of Connecticut, hereby petition this Court for review of the United States Nuclear Regulatory Commission's ("NRC") Consideration of Environmental Impacts of Temporary Storage of Spent Fuel After Cessation of Reactor Operation rule ("Temporary Storage Rule") and affiliated Waste Confidence Decision Update, both issued December 23, 2010. *See* 75 Fed. Reg. 80132 (Dec. 23, 2010); 75 Fed. Reg. 80137 (Dec. 23, 2010) (both attached to this petition). The NRC acted arbitrarily, abused its discretion, and violated the National Environmental Policy Act, the Administrative Procedure Act, the Atomic Energy Act, the Commission's policies and regulations, the Council on Environmental Quality's regulations, and other applicable laws and regulations in promulgating these rules and findings.

The State of New York, jointly with the State of Vermont and the Commonwealth of Massachusetts, and the State of Connecticut, through their respective Attorneys General, submitted extensive comments on both the draft Temporary Storage Rule and the draft Waste Confidence Decision Update in

February 2009. The State of New York also submitted supplemental comments on February 9, 2010. As the NRC published notice of these rules in the Federal Register on December 23, 2010, this filing is within the Hobbs Act's 60-day statute of limitations and is timely. 28 U.S.C. § 2344.

Venue is appropriate within the D.C. Circuit pursuant to 28 U.S.C. § 2343. Therefore, the States of New York, Vermont, and Connecticut respectfully request that this Court review the NRC's Temporary Storage Rule and Waste Confidence Decision Update, vacate both, and remand the matter to the NRC for further analysis and the preparation and issuance of an environmental impact statement, and grant any other relief that the Court may deem just and appropriate.

Dated: February 14, 2011
New York, New York

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ATTACHMENT

U.S. Nuclear Regulatory Commission

Consideration of Environmental Impacts of Temporary Storage of
Spent Fuel After Cessation of Reactor Operation rule
and
Waste Confidence Decision Update

issued December 23, 2010

75 Fed. Reg. 80132-37 (Dec. 23, 2010);
75 Fed. Reg. 80137-76 (Dec. 23, 2010)