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COMMISSIONER:
Douglas E. Bryant

Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
Attn: Rulemakings and Adjudications Staff

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Re: Docket No. PRM-72-2, Interim Storage of Greater Than Class C (GTCC) Waste.

Dear Mr./Madam Secretary:

In reference to the above Docket No. and the notice of proposed rulemaking printed in the Federal Register, Vol.65, No. 177, Friday, June 16, 2000, the U.S. Nuclear Regulatory Commission (NRC) is soliciting comments from the Agreement States regarding their views on this matter.

The S.C. Department of Health and Environmental Control (DHEC) provides its answers to the specific questions addressed by the NRC as follows:

Question:

1. What is the position of the Agreement States on NRC assuming jurisdiction of storage of GTCC waste generated during the operation of a 10 CFR Part 50 license after termination of the 10 CFR Part 50 license?

Answer:

DHEC does not view favorably relinquishing its possible jurisdiction over the GTCC waste generated during the operation of a 10 CFR Part 50 license since the waste is composed of agreement materials authorized under Agreement State jurisdiction specified in the Atomic Energy Act. However, to be practical, DHEC agrees with the petitioner and NRC that GTCC waste could be stored on an interim basis at the reactor facility within the NRC jurisdiction exclusion area in a specifically constructed structure under a 10 CFR Part 72 license subject to the same conditions as spent fuel. DHEC also agrees with another state comment that NRC and the state could "effectively collaborate in the regulation of a single facility" and the state could be afforded the opportunity to participate in the licensing and compliance inspections of such facilities through a formal Memorandum of Understanding. Thereby the state could fulfill its obligations to its citizens for protection of health, safety and the environment, and its Agreement State responsibilities. This would not be viewed as dual regulation, but a cooperative effort allowing the state participation in the oversight of a decommissioned facility previously licensed by NRC under 10 CFR Part 50 which has precedence in the State of South Carolina and probably other Agreement States. There also exists the possibility that the NRC Part 50 licensee may chose to construct a separate GTCC storage facility outside the confines of the

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restricted exclusion area. Clearly this would be subject to state jurisdiction for licensure. In addition, on a case-by-case basis, DHEC allows temporary storage of some approved GTCC waste from Part 50 licensees (less than 1% above Class C limits) at the Barnwell facility while awaiting disposal. Therefore, South Carolina need to maintain GTCC authority for 10 CFR Part 50 generated waste.

Section 3(A)(b)(1)(D) of the 1985 Low Level Waste Policy Amendments Act makes it clear that the federal government is responsible for the disposal of GTCC waste subject to NRC licensing, but is mute to the interim storage of these agreement materials although generated under 10 CFR Part 50 licenses. Therefore, an argument could be made that the states may have some jurisdiction over the management and storage of these waste and other low level waste at decommissioned 10 CFR Part 50 facilities. Some states such as South Carolina may opt to have all GTCC stored at a central location rather than at numerous sites all over the state although spent fuel will remain at the facilities until the repository is opened.

Question:

2. What controls and regulatory framework would the Agreement States envision assuming they have jurisdiction of GTCC waste generated during the operation under a 10 CFR Part 50 license after termination of the 10 CFR Part 50 license? How would the Agreement States plan to ensure consistency with a national scheme?

Answer:

The State of South Carolina can not respond to what other Agreement States could do and each state should be evaluated on their own merits and ability to provide appropriate oversight. DHEC certainly has the experience and capability to establish the controls and regulatory framework comparable or equivalent to NRC standards. In some instances South Carolina established regulations and standards before NRC did to regulate waste forms comparable to GTCC. The only difference in GTCC and Class B & C wastes is that concentrations of certain long lived radio nuclides may exceed the Class C Table in 10 CFR Part 61, but the direct radiological hazards are essentially the same. Therefore DHEC is quite capable of administering 10 CFR Part 72 standards and its regulatory framework.

Question:

3. The NRC staff is not aware of any current Agreement State license for the storage of reactor-related GTCC waste. Are there any such licenses within your State or are you aware of any such Agreement State licenses?

Answer:

As mentioned in response No. 1, South Carolina does license a low level waste facility that has authority to temporarily store approved GTCC generated at 10 CFR Part 50 licensee facilities. South Carolina also licenses the partially decommissioned Carolinas-Virginia Nuclear Power Associates (CVNPA) or PARR Reactor located adjacent to the V.C. Summer Nuclear Station, Jenkinsville, SC. This commercial test reactor was formally licensed by the AEC and when decommissioned, it was turned over to South Carolina as a By-Product For Storage Only licensee. It is currently under going complete decommissioning and dismantlement. Although

waste classification of the irradiated reactor components are not complete, it is likely there will be some GTCC waste that may require licensure by the State for interim storage, or may be transferred to one of their parent 10 CFR Part 50 licensees for storage.

In summary, South Carolina is not willing to relinquish its authority for GTCC waste generated at 10 CFR Part 50 licensee facilities, but is willing to work cooperatively with NRC through a program of mutual licensing and inspection activities subject to 10 CFR Part 72 or equivalent conditions to avoid duplication of efforts and dual regulations.

DHEC appreciates the opportunity to provide our comments to the NRC for this important issue. Should the NRC staff have questions regarding this matter, please do not hesitate to contact either me or Mr. Virgil Autry our consultant at (803) 896-4240.

Very truly yours,



Henry J. Porter, Assistant Director
Division of Hazardous, Infectious, and Radioactive Waste Management
Bureau of Land and Waste Management

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