

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

November 29, 1990

MEMORANDUM FOR: James M. Taylor
Executive Director for Operations

Harold R. Denton, Director
Office of Governmental and Public Affairs

FROM: Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS - BRIEFING ON ISSUES
RAISED BY THE PROVISION REQUIRING TITLE
TRANSFER OF LOW LEVEL WASTE, 10:00 A.M.,
MONDAY, OCTOBER 29, 1990, COMMISSIONERS'
CONFERENCE ROOM, ONE WHITE FLINT NORTH,
ROCKVILLE, MARYLAND (OPEN TO PUBLIC
ATTENDANCE)

The Commission was briefed by the NRC staff on issues associated with the provision in the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPA) that requires title transfer of low-level radioactive waste. The Commission agreed to solicit the views of States and other interested parties on the LLRWPA's title transfer provisions so the commission can consider them in its deliberations on staff's recommendations in SECY-90-318. The Commission also agreed that in the future the staff should solicit views of States and compacts during development of subsequent positions on significant policy issues involved with the implementation of the LLRWPA.

The Commission sent the enclosed letter to the Low-Level Radioactive Waste Forum and published the enclosed Federal Register notice to solicit comments on the staff's recommendations in SECY-90-318.

The staff should provide the commission with an analysis of the comments received in response to the letter and Federal Register notice.

(EDO/GPA) (SECY Suspense: 3/29/91)

The Commission will decide on the appropriate course of action on SECY-90-318 after receipt of staff's analysis of these comments.

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Enclosures:

1. Letter to Low-Level Radioactive Waste Forum
2. Federal Register notice

cc: Chairman Carr
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
OGC
GPA
PDR - Advance
DCS - P1-24

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

November 28, 1990

Mr. Jerry Griepentrog
Convenor, LLW Forum
c/o Afton Associates, Inc.
403 East Capitol Street
Washington, D. C. 20003

Dear Mr. Griepentrog:

I am responding to your letter of October 23, 1990, to Chairman Carr concerning Commission consideration of the title transfer and possession provisions in the Low-Level Radioactive Waste Policy Amendments Act of 1985 (Act). As you are aware, the Commission met with the NRC staff on this issue on October 29, 1990, to consider the staff's recommendations. At that meeting, the commission discussed your letter and agreed that if States and compacts have views on this subject they should communicate them expeditiously through the Forum to NRC so that these views can be considered by the Commission in its deliberations.

In addition to general views on the title transfer and possession provisions of the Act, the Commission is particularly interested

in comments on the following:

1. What factors should the Commission consider in deciding whether to authorize on-site storage of low-level radioactive waste (LLW) beyond January 1, 1996, for purposes other than storage for a few months to accommodate operational needs such as consolidating shipments or holding for periodic treatment or decay?
2. What are the potential health and safety and environmental impacts of increased reliance on on-site storage of LLW?
3. Would LLW storage for other than operational needs beyond January 1, 1996, have an adverse impact on the incentive for timely development of permanent disposal capacity?
4. What specific administrative, technical, or legal issues are raised by the requirements for transfer of title?

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5. What are the advantages and disadvantages of transfer of title and possession as separate steps?
6. Could any State or local laws interfere with or preclude transfer of title or possession of LLW?
7. What assurances of the availability of safe and sufficient disposal capacity for LLW should the Commission require and when should it require them? What additional conditions, if any, should the commission consider in reviewing such assurances?
8. Are there any other specific issues that would complicate the transfer of title and possession, as well as on-site storage, of LLW and mixed (radioactive and chemical hazardous) waste?

In addition, the Commission agreed at the meeting that in the

future staff should solicit the views of States and compacts during development of subsequent positions on significant policy issues involved with implementation of the Act.

I have enclosed a copy of the staff paper to the Commission, SECY-90-318, "Low-Level Radioactive Waste Policy Amendments Act Title Transfer and Possession Provisions," for your use in providing the views of Forum participants. This paper was released prior to the Commission meeting on October 29, 1990, and copies were made available at the meeting.

Sincerely,

Samuel J. Chilk
Secretary of the Commission

Enclosure:
SECY-90-318

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NUCLEAR REGULATORY COMMISSION

Recommendations on the Title Transfer Provisions of the
Low-Level Radioactive Waste Policy Amendments Act of 1985

AGENCY: Nuclear Regulatory commission.

ACTION: SECY 90-318 for comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of SECY 90-318 "Low-Level Radioactive Waste Policy Amendments Act Title Transfer and Possession Provisions" (dated September 12, 1990) for public comment. SECY 90-318 is available in the NRC Public Document Room, 2120 L Street, Washington, DC, telephone (202) 634-3273.

DATES: The comment period expires January 31, 1991.

ADDRESSES: Send written comments to James Kennedy, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or hand deliver comments to 11555 Rockville Pike, Rockville, MD between 7:30 a.m. and 4:15 p.m.

FOR FURTHER INFORMATION CONTACT: James Kennedy, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492-3401.

DISCUSSION: The Nuclear Regulatory Commission (NRC) staff has prepared an analysis of the issues associated with the waste title transfer and possession provisions of the Low-Level Radioactive Waste Policy Amendments Act (LLRWPA) of 1985. The staff's analysis also identifies options for discharging the Commission's responsibilities under the Atomic Energy Act and LLRWPA. Major issues related to these provisions include States taking possession of commercial low-level radioactive waste (LLW) after 1993 or 1996 in accordance with the LLRWPA and licensing of such possession (including interim storage of the LLW until disposal facilities are available) by NRC and Agreement States. These issues and staff's recommendations were summarized in SECY 90-318 and discussed in a public meeting of the Commission on October 29, 1990.

During the meeting, the Commission decided to solicit the views of the public on the staff recommendations provided in SECY 90-318. The Commission will consider these views in deciding on an appropriate course of action. In addition to the public's general views on the title transfer and possession provisions of the LLRWPA, the Commission is particularly interested in comments in response to the following questions:

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1. What factors should the Commission consider in deciding whether to authorize on-site storage of LLW (other than storage for a few months to accommodate operational needs such as consolidating shipments or holding for periodic treatment or decay) beyond January 1, 1996?
2. What are the potential health and safety and environmental impacts of increased reliance on on-site storage of LLW?
3. Would LLW storage for other than operational needs beyond January 1, 1996, have an adverse impact on the incentive for timely development of permanent disposal capacity?
4. What specific administrative, technical, or legal issues are raised by the requirements for transfer of title?
5. What are the advantages and disadvantages of transfer of title and possession as separate steps?

6. Could any State or local laws interfere with or preclude transfer of title or possession of LLW?

7. What assurances of the availability of safe and sufficient disposal capacity for LLW should the Commission require and when should it require them? What additional conditions, if any, should the Commission consider in reviewing such assurances?

8. Are there any other specific issues that would complicate the transfer of title and possession, as well as on-site storage, of LLW and mixed (radioactive and chemical hazardous) waste?

Dated at Rockville, Maryland this 28 day of November, 1990.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,
Secretary of the Commission