

OHIO DEPARTMENT OF HEALTH

DSI-5

(35)

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December 2, 1996

John C. Hoyle
Secretary of the Commission
U.S. Nuclear Regulatory Commission
ATTN: Chief of Docketing and Services Branch
11555 Rockville Pike
Rockville, MD 20852-2738

Dear Mr. Hoyle:

Attached are our comments on DSI papers 2, 4, 5, 6, 7, 10, and 11. This is a hard copy of what has already been submitted electronically to you. We also support all of the comments submitted by the Organization of Agreement States on the DSI papers.

Consideration of these comments by the NRC in its decision-making on these issues is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "REO", with a long horizontal line extending to the right.

Robert E. Owen
Manager of Technical Services
Bureau of Radiation Protection

cf: Roger Suppes
Marcia Howard
Ruth Vandegrift
Harvey Brugger
Ron Goodwin
John Cooper

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Compilation of Comments Strategic Assessment Issue Paper DSI-5, "Low-level Waste"

The Strategic Assessment Issue Paper reviews five options that the U.S. NRC has for the future of low-level radioactive waste program.

The five options were identified during the Strategic Assessment and Rebaselining project, and are as follows:

- Assume Greater Leadership Role;
- Assume a Strong Regulatory Role in the National low-level waste Program;
- Retain Current Program;
- Recognize Progress and Reduce Program; and
- Transfer the Low-level waste Program to the U.S. EPA.

The following comments are offered on the five options:

Option 1

Premise: Under this role, the NRC will "actively advocate" new disposal facilities. The NRC admits that this option will be practical only if the NRC takes oversight of the U.S. Department of Energy facilities.

Comment: It is apparent that NRC does not want oversight of the Department of Energy, therefore, in the opinion of the low-level waste staff, this option is untenable.

Staff also questions, "Why has the NRC waited for 16 years before proposing to "actively advocate" new disposal sites?"

Option 2

Premise: This option is the same as existed for the first 14 years following the adoption of the Low-level Radioactive Waste Policy Act and its Amendments. This option includes funding for such legislatively mandated functions as inspections at Barnwell, S.C. and Hanford WA. It also includes funding for such activities as technical assistance for the states and license reviews for non-Agreement States.

Comment: Option 2 is the preferred Option of the NRC and most nearly matches Ohio's recommendations presented to SECY-201.

This option will increase staffing in the Low-level Radioactive Waste program to approximately 12 FTEs. This may benefit Ohio as additional staffing would come aboard as our needs for technical assistance are increasing.

It is noted, however, that this option could also be a return to previous methodologies that created many of the problems and paradigms that exist today

regarding low-level radioactive waste.

Option 3

Premise: This option is for *status quo*.

Comment: No money would be burdened for license reviews and technical assistance for the States would be provided in the same manner as now. No new NRC personnel or resources would be made available and backlogs would inevitably occur. This is basically the state of affairs that have existed since 1994.

This option incorporates approximately 6 FTE, which is not sufficient to handle current case loading and would not be any more available or able to handle increases in technical assistance demands based on State and compact requests as new disposal sites are licensed in the existing 10 Regional Compacts and 6 unaligned states.

Option 4

Premise: Because of the progress that has occurred since the adoption of the Low-level Radioactive Waste Policy Act and its amendment, the NRC Low-level Radioactive Waste program can be safely reduced.

Comment: This option is flawed from the start. There has not been any additional low-level radioactive waste disposal capacity produced, including the reopening of Barnwell, which was a State decision, not an NRC edict. Although Barnwell has reopened, with the permanent closure of Beatty, the long term future of waste disposal in the compacts and unaligned states remain uncertain and subject to partisan political pressure.

The statement, "...development of new facilities is well along in several States,..." is an assertion which is entirely subjective, is not clearly defined relative to the extremes of either no progress or all sites having been developed, and appears to be entirely self-serving for the NRC to defend this position.

Option 5

Premise: This option replaces one regulatory agency with another.

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Comment: The U.S. EPA has little or no experience in matters radiological, is not prepared and does not have the technical expertise in headquarters or regional offices by their own admission to accept the responsibility for this program.

Overall, this comment is subjective. Current U.S. EPA policy is to delegate authority for programs to states when possible especially when the issue is regarding technical issues. EPA has in the past, delegated authority to regulate, but retains the technical analysis to itself, often to the detriment of technical accuracy, i.e., EPA uses methods, which, scientifically are insufficiently rigorous to justify the regulatory decisions which are based on the technical analysis. Additionally, EPA often uses methodology based on outdated models and mindsets that are not maintained with best available technology.

The additional postulation on pp. 24 that "EPA control of low-level waste would result in 'harmonization' of the process does not appear to take into account what would be in harmony.

Additional Comments on DSI - 5

Discussion

The conclusion stated on pp. 12 that strong NRC support of the development of new low-level waste disposal capacity is not essential appears entirely premature given the various issues that have surfaced with respect to delays on both State and Federal levels since the implementation of the Low-level Radioactive Waste Policy Act and its Amendments.

Options for NRC support of low-level waste disposal capacity development are actions which, if pursued aggressively by the NRC would constitute strong support. If implemented, these options would, in the opinion of staff, obviate the conclusions that strong support is not needed.

Research

This section refers to a "Research Issue Paper". To the best of my knowledge, we do not have a copy of this document, and it would prove most beneficial to obtain a copy to ascertain the extent and content of NRC plans regarding research on or related to low-level waste.

External Factors

Compilation of Comments

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The conclusion that "...the staff expect new facilities (pp. 9 §2) to be licensed and begin operation by [the year] 2000..." [despite opposition at State and Federal levels] does not give detail as to which states. This information would also prove most valuable. Ohio is at least ten years from opening the low-level radioactive waste disposal facility in the State, and this in itself should be an effective argument. The comment that NRC staff expects the Ward Valley site [in California] to "...open eventually..." appears extremely vague and ambiguous.

Internal Factors

This section refers to the Advisory Committee on Nuclear Waste (ACNW) and effort to reduce the NRC budget in low-level waste. This comment should be considered along with the fact that ACNW will be meeting the week of October 21 to discuss program activities.