

the record compiled recently in rulemaking on the environmental impacts of the nuclear fuel cycle (44 Federal Register 45362-74, August 2, 1979).

The Commission has chosen to employ hybrid rulemaking procedures for conducting this proceeding. Members of the public were directed to file notice of intent to participate as a "full participant" by November 26, 1979. Members of the public who did not wish to be full participants were also invited to file comments on the issues addressed in this rulemaking. Pursuant to this Notice, 57 persons and organizations have filed notices of intent to participate as full participants. A list of such participants, full and limited, is appended as Attachment 1.

The full participants are to be supervised by a Presiding Officer whose principal responsibility will be to monitor the early stages of the proceeding for the Commission, and to assist the Commission in conducting the later portions. The Presiding Officer is authorized to order consolidation of individuals or groups, and to take appropriate action to avoid delay, including holding prehearing conferences or certifying matters to the Commission. Marshall E. Miller, Esq., a full-time member of the Atomic Safety and Licensing Board Panel, has been designated the Presiding Officer for this proceeding (44 Federal Register 75652, December 21, 1979).

The Commission has determined that this proceeding should not rely on opposing participants to develop a full record, but that it should be a broad-ranging, public, legislative type of inquiry. Consequently, the procedures developed should be fashioned to obtain broad public participation. Greater involvement will be encouraged by allowing those who do not choose to become full participants, to comment upon the issues at different stages of the proceeding.

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The Commission's Staff has compiled a full bibliography on the subjects relevant to this proceeding. In addition, a data bank is being established which will collect relevant information on waste storage and disposal. The data bank will include the IRG Report and materials upon which it is based, extensive documents prepared or collected by the Department of Energy, and the views of a number of federal agencies on the questions involved in this proceeding. It is expected that full participants will voluntarily make relevant documents in their possession available to the extent practical, and will reference and produce on request the documents on which they rely. Documents in the data bank will be made available to the public for inspection in the Commission's Public Document Room at 1717 H Street, N. W., Washington, D. C.

After the prehearing conference which is the subject of this notice, the Presiding Officer will issue a prehearing order resolving all preliminary issues including consolidation. Following the prehearing order, the participants will have approximately 60 additional days to prepare and file their statements of position. These statements will be the participants' principal contribution to the waste confidence proceeding, and participants should focus their preparation on them. The participants will be given approximately 60 days after these statements are filed to prepare cross-statements discussing those filed by others. Thereafter the Commission will determine the procedures to be followed for the remainder of the hearing.

PLEASE TAKE NOTICE that on January 29, 1980, a prehearing conference will be held at the Commissioners' Conference Room, located on the Eleventh Floor at 1717 H Street, N. W. Washington, D. C., commencing at 10:00 a.m. EST. All written prehearing statements or other filings shall be in the hands of the

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Presiding Officer not later than five (5) days prior to the prehearing conference.

The following subjects among others will be considered at this conference:

1. Identification of issues and matters within scope of waste management inquiry.
 - (a) Underlying assumptions and scenarios, including technical, institutional and legal issues.
2. Suggestions on making available to participants data bank documents as extensively as possible.
3. Involvement of broad spectrum of members of the public, scientific and educational communities, both in government and private areas.
4. Consideration of recommended procedures, priorities and time limitations.
5. Consolidation of participants.

Solely to stimulate further thought on some of these questions, there is appended as Attachment 2 the "Supplemental Filing of Natural Resources Defense Council, Inc. On Procedures." Also included as Attachment 3 for the same limited purpose is the "Atomic Industrial Forum Statement on Nuclear Waste Disposal."

Marshall E. Miller

Marshall E. Miller
Presiding Officer

Dated at Bethesda, Maryland
this 9th day of January 1980.

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ATTACHMENT 1

FULL AND LIMITED PARTICIPANTS IN THE
WASTE CONFIDENCE RULEMAKING PROCEEDING

American Nuclear Society (Raymond M. Mombousse)
American Institute of Chemical Engineers (A. S. West)
Atomic Industrial Forum, Inc. (Carl Walske)
*Bechtel National, Inc. (Ashton J. O'Donnell)
California Energy Commission (Christopher Ellison)
Capital Legal Foundation and Scientists & Engineers for Secure Energy
(James R. Richards)
Christa-Maria (Karin P. Sheldon)
Commonwealth of Massachusetts (Francis X. Bellotti)
Commonwealth of Virginia (R. Leonard Vance)
(See also States, post)
Consolidated Edison Company of New York, Inc.
Consumers Power Company (Joseph Gallo)
County of Ocean and Township of Lower Alloways Creek (Carl Valore, Jr.)
Department of Energy (Joseph DiStefano)
Department of the Interior (George DeBucharanne)
Edison Electric Institute (Maurice Axelrad)
Environmental Coalition on Nuclear Power (Judith Johnsrud)
Environmental Policy Institute (David Berick)
Friends of the Earth (Lorna Salzman)
General Electric Company (B. Wolfe)
Hanford Conversion Project (Creg Darby)
Lochstet, William A., Ph.D.

*Represents limited participants.

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Lewis, Marvin L.

Mississippians Against Disposal (Elliott Andalman)

Mockingbird Alliance (Bryan L. Baker)

Natural Resources Defense Council, Inc. (Ronald J. Wilson)

Neighbors for the Environment (Eugene N. Cramer)

New England Coalition on Nuclear Pollution (Karin P. Sheldon)

Niagara Mohawk Power Corporation, Omaha Public Power District, Power Authority
of the State of New York, and Public Service Company of Indiana, Inc. (Utilities)
(Harry H. Voigt)

O'Neill, John, II

Safe Haven, Ltd. (W. W. Schaefer)

Scientists & Engineers for Secure Energy (James P. McGranery, Jr.)

Sensible Maine Power, INC. (David Santee Miller)

Sierra Club (Ken Kramer)

State of California (Priscilla C. Grew)

State of Delaware (June D. MacArtor)

State of Hawaii (Lawrence K. Lau)

State of Illinois (William J. Scott)

State of Louisiana (William J. Guste, Jr.)

State of Maryland (Michael J. Scibinico, II)

State of Minnesota (Marlene E. Senechal)

State of Missouri (John Ashcroft)

State of New Hampshire (E. Tupper Kinder)

State of New Jersey (Richard Hluchan and Keith A. Onsdorff)

State of New York (Ezra I. Bialik)

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State of Ohio (E. Dennis Muchnicki)

State of Oklahoma (Jan Eric Cartwright)

State of Oregon (Richard M. Sandvik)

State of South Carolina (Richard P. Wilson)

State of Texas (Richard W. Lowere)

State of Vermont (William Griffin)

State of Wisconsin (Patrick Walsh and Robert Halstead)

(See also Commonwealth, supra)

Tennessee Valley Authority (Herbert S. Sanger, Jr.)

*The S. M. Stroller Corporation (Michael H. Raudenbush)

Todorvich, Miro M., Dr.

Uranium Fuel Cycle Group (George C. Freeman, Jr.)

Utility Waste Management Group (Maurice Axelrad)

*Represents limited participants.

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SERVICE LIST

Brown, Omer F., II (Department of Energy)

Exxon Nuclear Company, Inc. (R. K. Robinson)

Gloria, M. A. (Department of Energy)

Hill, Orville F.

Lemberg, Thomas M.

+McDanal, Wayne (Federal Energy Regulatory Commission)

Stein, Ralph (Department of Energy)

+Warburg, Phillip (State of Connecticut)

+Represents telephone requests.

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ATTACHMENT 3

**ATOMIC INDUSTRIAL FORUM
STATEMENT ON NUCLEAR WASTE DISPOSAL**

The disposal of nuclear wastes is an accepted responsibility of the federal government. However, after more than two decades of studies, development work, and planning, there is still no sufficiently focused and reliably managed federal program to demonstrate a means of final waste disposal. The apparent lack of direction and conviction by the government with respect to nuclear waste disposal has raised public apprehension which poses a threat to use of nuclear power to help satisfy both energy and defense needs.

Options are available to develop means for the permanent disposal of wastes. Indeed, one problem is that there are a number of approaches, each of which seems probable of success.

Ironically, this diversity of approaches has apparently diverted the focus away from a specific solution. Accordingly, there is legitimate concern that the final IRG recommendations, like the past two decades of government plans and promises, will not lead to resolution of the waste disposal issue — unless the President and Congress take the necessary actions to ensure a solution.

These necessary actions and the issues they most address are outlined below.

1. A well-defined government program of action is needed to resolve the nuclear waste issue. This is particularly important since past history could lead the public to believe falsely that the issue is not resolvable.

Spent fuel can be safely stored indefinitely in surface storage facilities. This spent fuel, after reprocessing, can provide enormous quantities of energy. At present, international policy considerations make uncertain the use and timing of reprocessing. Until this issue is resolved, spent fuel should be stored in surface storage facilities from which the fuel can be readily retrieved. This will keep available the energy in the spent fuel in the event that national needs require its use. However, a program must be implemented which enhances public confidence that an acceptable repository will be available when the decision is made to remove spent fuel from storage for reprocessing and waste disposal or for direct disposal.

To support this outcome, both the *President* and *Congress* should commit the federal government to a well-defined program leading to an early first repository which reflects the government's conviction that wastes will be disposed of with no significant risk to the public.

2. There are a number of federal agencies with overlapping responsibilities for various aspects of waste disposal. A timely waste disposal program cannot be formulated and implemented unless these agencies are dedicated to this objective.

The *President* should make it clear that timely demonstration of waste disposal is a high priority goal of the Administration and should direct all segments of the Administration to participate in a positive manner to support this goal.

3. The construction of permanent waste disposal facilities involves planning, design, licensing, and construction activities extending over many years. There is no project organization in the government with a stable structure and the high level dedicated leadership, charter, and resources to accomplish the job.

The *President* and *Congress* should establish a permanent waste management organization with designated responsibilities and authorities, headed by an experienced program manager at the Assistant Secretary level in DOE. This organization, and particularly its program manager, should be held accountable both to Congress and the President and should be responsible for planning and implementing the waste program. The program manager should periodically report on progress to Congress and should suggest legislative action needed to make the mission successful.

4. The availability of a number of apparently suitable geological media for waste disposal, is apparently preventing progress on any one which may be fully adequate. An approach that searches for the "best" site in the "best" medium, could be unending; however, one that searches for an "acceptable" site for a first repository will undoubtedly have many other successful follow-up candidates.

The *President* should publicly adopt a site selection strategy which focuses on the development of an initial repository in a suitable medium and location for which adequate data and information exists; concurrently, site characterization and selection at other locations could proceed, providing the potential for development of subsequent repositories at other sites. This would lead initially to two or so fully characterized sites which could result in licensing of the primary site in the early 1980's.

The alternative strategy of in-depth evaluation of a number of media at several sites before selecting an initial site for repository development unnecessarily delays the accumulation of essential information and experience on repository design and construction. Progress in achieving a first-of-a-kind repository depends crucially on a program which progressively reduces uncertainties through the step-wise accumulation of experience. Early and intense site development work and experimentation offer the principal means for removing broadly bounded uncertainties and thus provides the key to ultimate acceptance of a first repository.

The important elements of these basic strategies are not mutually exclusive. The implementation of the preferred strategy also includes the pursuit of other media and sites, but without significantly delaying the first repository.

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5. The focus of U.S. efforts for the past two decades has been on the use of deep salt repositories. Confirmatory information on the adequacy of salt for a repository should be obtained. If there are unrecognized technical impediments, it is important to a sound waste program that they be uncovered as early as possible. The information can best be obtained from site specific investigations and repository construction activities.

Work on the establishment of a near-term salt R&D facility should be initiated.*

6. Present licensing procedures for nuclear projects are not suitable for first-of-a-kind endeavors of urgent priority such as waste disposal. Present procedures have been interpreted to require a "best" approach rather than a fully satisfactory approach. They have been interpreted so as to require site specific data before access to the site can be had to obtain the data.

Congress should clarify its intent with respect to NEPA and NRC requirements. It should indicate that the goal of the waste repository program is to develop fully satisfactory repositories at the earliest time. It should not be necessary to prove that some nebulous alternative is not "better." New procedures should be developed which allow needed data collection and construction to proceed in a step-wise and timely manner.

7. The legitimate interests of the States in the waste disposal program must be recognized.

Since the ability to gain access to viable candidate sites and selection of a first repository depends on the cooperation of affected states, the President should invite specific Governors to work with key Federal officials in the development of an acceptable program which includes appropriate incentives and defines the role and responsibility of the states and the Federal Government; procedures should be established to foster their participation in all planning and implementation decisions.

States should be afforded financial grants to monitor waste programs within the state and provided with other incentives, including priority consideration for the co-location of other facilities, payments in lieu of taxes or other economic considerations.

8. While current policy suggests burial of spent fuel for ultimate disposal, continued R&D is necessary on both reprocessed and spent fuel waste forms to provide for the eventual use of either.

Pending removal of uncertainty regarding the government's reprocessing policy, Congress should aggressively support and adequately fund continued R&D on storage and disposal of high level wastes.

In particular, priority support must continue on R&D activities related to reprocessed fuel waste forms, such as volume reduction, vitrification, and packaging. As mentioned previously, WIPP would advance the goals of the waste disposal demonstration program in this regard.

In conclusion, we reiterate the importance of a sufficiently focused and reliably managed program which is aimed at a solution of the waste issue. While the thrust of our comments is directed toward early and intense site and technology development, through which progress to an early first repository can be ensured, we do not intend to imply that technical and institutional problems can or should be brushed aside. Rather, we believe that delaying crucial program decision-making will guarantee further impediments to solutions, rather than achieving an effective resolution.

Mr. Philip M. Smith, Associate Director for National Resources and Commercial Services, Office of Science and Technology Policy, expressed this another way in his March 13, 1979 testimony before the Subcommittee on Energy, Nuclear Proliferation and Federal Services of the Senate Committee on Government Affairs:

"For most people, however, the creation of a deliberate, careful, well conceived and well managed program leading expeditiously toward the opening of a first repository is more important than exactly when the first repository opens. The date of initial operational capability is itself of little real concern, particularly if we have the flexibility we seek to use away-from-reactor storage in an interim way until the first repository is available. We, of course, want to move as quickly as we can, but only as fast as is prudent and possible while still assuring ourselves and the public that all necessary care is being taken. Proceeding with a careful and deliberate program need not be inconsistent with moving expeditiously." (emphasis added)

For additional information, see the October 18, 1978, AIF Statement on Spent Fuel and Nuclear Waste.

In view of the extensive geological, environmental, and safety investigations already performed at the Waste Isolation Pilot Project (WIPP) site, WIPP provides the best available venue for advancing our knowledge of repository issues related to the salt medium. While other sites are being intensely characterized and developed over the next two years, further development of the WIPP site and concurrent experimentation would offer the greatest rate of progress toward reducing specific uncertainties related to the salt medium.

In line with the importance of both early selection of candidate repository sites, and parallel R&D activities to achieve progressively advanced disposal solutions, the President and Congress should support the continued use of the WIPP site for advancing the programmatic goals of waste disposal demonstration. Toward this end, WIPP R&D should include retrievable emplacement of commercial spent fuel rods and other candidate waste forms.

In view of the R&D nature of this activity, Congress should encourage NRC review procedures which would allow the early compilation of site specific data essential to final NRC acceptance of the proposed experiment. Toward this end, Congress should support the option, previously considered by NRC, of first having DOE proceed with snift-venting, while maintaining liaison with NRC Staff, to obtain needed data; subsequently, more formalized NRC procedures can be applied to validate the use and analysis of these data in regulatory models and in meeting regulatory standards.

Should the development work at WIPP prove the site as a viable candidate for the first repository, its selection should be considered in the early 1980's in line with the other intensely characterized sites which should be available at that time.

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For additional information, see the October 12, 1978, AIF Statement on Spent Fuel and Nuclear Waste.

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Should the development work at WIPP prove the site as a viable candidate for the first repository, its selection should be considered in the early 1980's in line with the other intensely characterized sites which should be available at that time.

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UNITED STATES OF AMERICA
BEFORE THE
NUCLEAR REGULATORY COMMISSION



In The Matter Of

GENERIC PROCEEDING ON CONFERENCE IN)
STORAGE AND DISPOSAL OF NUCLEAR WASTES) Docket No. PR 50-51
44 FR 61372

SUPPLEMENTAL FILING OF NATURAL RESOURCES
DEFENSE COUNCIL, INC. ON PROCEDURES

Introduction

In its Notice of Intent To Participate, filed November 26, 1979, Natural Resources Defense Council, Inc. (NRDC) observed that "it is absolutely vital that ways be found to elicit testimony and input from experts in universities, national laboratories, and independent research institutions," and suggested that "the Commission should actively solicit the testimony" of such persons. See Notice of Intent To Participate, p.6. At that time, NRDC promised to submit to the Commission a list of experts it believes should appear in the proceeding with an outline of the matters which they should address. This paper is NRDC's promised submission.

Since it is unlikely that the following list is complete, NRDC also urges that the Commission (1) generally request other "full participants" and the public at large to recommend other experts who should offer testimony for the record; and (2) by written invitation specifically

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