



OFFICE OF THE
COMMISSIONER

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

January 16, 1981

MEMORANDUM FOR: Chairman Ahearne
Commissioner Gilinsky
Commissioner Hendrie

FROM: Peter A. Bradford ^{PB}

I understand that the attached modifications are consistent with the Hendrie/Gilinsky version of the final rule on geologic disposal of high-level waste. I would therefore propose that they be substituted.

Attachments:
As stated

cc: L. Bickwit, OGC
E. Hanrahan, OPE
S. Chilk, SECY
W. Dircks, EDOL ✓

Enclosure I

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(all these are of which is not said)

sites that are among the best that can reasonably be found. The Commission considers three sites in two geologic media to be the minimum number needed to satisfy NEPA. That is, the Commission can foresee no circumstance that would permit it to conclude, on the basis of a more limited investigation that alternatives have been considered in accordance with the "rule of reason." However, because the "rule of reason" is intrinsically flexible the Commission does not believe that it would be appropriate for [the rule] these regulations to specify [the] ^{more than the minimum number} ~~in mandatory terms, the precise~~ number of geologic media and sites that DOE must characterize during multiple site characterization. What is important is that there be sufficient information for NRC to be able to evaluate real alternatives, in a timely manner, in accordance with NEPA. (Information on plans for considering alternative sites is to be included in the Site Characterization Report. This provision was questioned by some commenters. This information is needed so that any deficiency may be the subject of a "specific recommendation" by the Director of the NRC's Office of Nuclear Material Safety and Safeguards, (Director) as provided in §60.11(e), with respect to additional information that might be needed by the Commission in reviewing a license application in accordance with NEPA. The NRC also continues to believe that waste form research is an appropriate topic for treatment in the site characterization report, as the discussion may lead to specific recommendations by the Director and, as well, contribute to early examination and broader understanding of possible waste form host rock interactions.) Further, wording of §60.11(a) has been changed from "waste form" to "waste form and packaging" to better convey that the NRC was seeking information relating to the interaction of the waste as emplaced (hence including packaging) with the host rock.

(TB)

Item 2, Suppl. Info,

(3) If the Director of Nuclear Material Safety and Safeguards determines that the tendered document is complete and acceptable for docketing, a docket number will be assigned and the applicant will be notified of the determination. If it is determined that all or any part of the tendered document is incomplete and therefore not acceptable for processing, the applicant will be informed of this determination and the respects in which the document is deficient.

5(4) With respect to any tendered document that is acceptable for docketing, the applicant will be requested to (i) submit to the Director of Nuclear Material Safety and Safeguards such additional copies as the regulations in Parts 60 and 51 require, (ii) serve a copy on the chief executive of the municipality in which the geologic repository operations area is to be located or, if the geologic repository operations area is not to be located within a municipality, on the chief executive of the county (or to the Tribal organization, if it is to be located within an Indian reservation), and (iii) make direct distribution of additional copies to Federal, State, Indian Tribe, and local officials in accordance with the requirements of this chapter and written instructions from the Director of Nuclear Material Safety and Safeguards. All such copies shall be completely assembled documents, identified by docket number. Subsequently distributed amendments, however, may include revised pages to previous submittals and, in such cases, the recipients will be responsible for inserting the revised pages.

6(5) The tendered document will be formally docketed upon receipt by the Director of Nuclear Material Safety and Safeguards of the required additional copies. The date of docketing shall be the date when the required copies are received by the Director of Nuclear Material Safety

(4) The Director may find the Environmental Report to be not complete and therefore not acceptable for processing if it fails to include site characterization data including the results of off-site in site testing at repository depth for each site characterized. If the Director makes such a finding, he shall request the applicant to submit within a specified time such site characterization data as he determines to be necessary. If the applicant fails to provide the requested data within the time specified, the application shall be subject to denial under Section 2.10B.

Div 3, Rule,
R143

and Safeguards. Within ten (10) days after docketing, the applicant shall submit to the Director of Nuclear Material Safety and Safeguards a written statement that distribution of the additional copies to Federal, State, Indian Tribe, and local officials has been completed in accordance with requirements of this chapter and written instructions furnished to the applicant by the Director of Nuclear Material Safety and Safeguards. Distribution of the additional copies shall be deemed to be complete as of the time the copies are deposited in the mail or with a carrier prepaid for delivery to the designated addressees.

7 (f) Amendments to the application and environmental report shall be filed and distributed and a written statement shall be furnished to the Director of Nuclear Material Safety and Safeguards in the same manner as for the initial application and environmental report.

8 (7) The Director of Nuclear Material Safety and Safeguards will cause to be published in the FEDERAL REGISTER a notice of docketing which identifies the State and location at which the proposed geologic repository operations area would be located and will give notice of docketing to the governor of that State.

2. 10 CFR 2.103(a) is revised to read as follows:

§2.103 Action on applications for byproduct, source, special nuclear material, and operator licenses.

(a) If the Director of Nuclear Reactor Regulation or the Director of Nuclear Material Safety and Safeguards, as appropriate, finds that an application for a byproduct, source, special nuclear material, or operator license complies with the requirements of the Act, the Energy Reorganization Act, and this chapter, he will issue a license. If the license is

as long as the Commission is not required to a particular site that such testing is not required.

so as to aid the Commission in making a comparative evaluation as a basis for arriving at a reasoned decision under NEPA. [2] The Commission considers the characterization of three sites representing two geologic media *(at least one of which is not salt)* to be the minimum necessary to satisfy the requirements of NEPA. However, in light of the significance of the decision selecting a site for a repository, the Commission fully expects the DOE to submit a wider range of alternatives than the minimum ^{recommended} suggested here. (TB)

[22-]23. 10 CFR 51.41 is amended to read as follows:

§51.41 Administrative procedures.

Except as the context may otherwise require, procedures and measures similar to those described in §§51.22-51.25 will be followed in proceedings for the issuance of materials licenses and other actions covered by §51.5(a) but not covered by §51.20 or 51.21. The procedures followed with respect to materials licenses will reflect the fact that, unlike the licensing of production and utilization facilities, the licensing of materials does not require separate authorizations for construction and operation. In the case of an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter, however, the environmental impact statement required by §51.5(a) shall be prepared and circulated prior to the issuance of a construction authorization; the environmental impact statement shall be supplemented prior to issuance of a license to

[To satisfy the requirements of NEPA, the Commission anticipates such characterization at a minimum of three sites representing a minimum of two geologic media. However, in light of the significance of the decision selecting a site for a repository, the Commission fully expects the Department to submit a wider range of alternatives than the minimum suggested here.]

Item 3, Rule, p. 3 of 3

Item 2, Rule p. 1 of 1