



DEPARTMENT OF JUSTICE

PORTLAND DIVISION
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Portland, Oregon 97204
Telephone: (503) 229-5725



PR 5051

November 13, 1979

Secretary
US Nuclear Regulatory Commission
Washington, DC 20555

ATTENTION: Docketing and Service Branch

Re: Notice of Proposed Rulemaking--Storage and Disposal
of Nuclear Waste

Dear Sir:

Pursuant to the Commission's Notice of Proposed Rulemaking docketed October 19, 1979, the State of Oregon is filing its "Notice of Intent to Participate as a Full Participant" in the Commission's generic "Waste Confidence" rulemaking proceeding. In accordance with requirements of the Commission's notice, Oregon provides the following information:

(1) Full Participant's Identity

The State of Oregon will participate in this proceeding through its Department of Energy (ODOE) and Energy Facility Siting Council (EFSC). The ODOE and EFSC will be represented by Richard M. Sandvik, Assistant Attorney General, Oregon Department of Justice, 500 Pacific Building, Portland, Oregon, 97204.

(2) Full Participant's Qualifications

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EFSC, a seven-member citizen's commission, is Oregon's "one-stop" energy facility siting agency. (See ORS 469.300 through 469.580). As such, the EFSC is responsible for determining that the siting, construction and operation of all energy facilities in Oregon, including nuclear-fueled thermal power plants, is accomplished in a manner consistent with protection of the public health and safety of Oregonians, and with Oregon's energy, air, water, solid wastes, land use and other environmental protection policies. ORS 469.310. The ODOE serves as the staff of the EFSC. Staff members of the ODOE responsible for the siting and regulation of nuclear facilities have degrees and experience in

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the areas of nuclear engineering, environmental sciences, chemical engineering and health physics.

Since the creation of the ODOE and EFSC in 1975, those agencies have had an in-depth involvement with matters related to waste disposal. In early 1977, the EFSC held hearings on a proposed rule which would have created a moratorium on nuclear power plant development until waste disposal problems were resolved. The NRC and the US Department of Energy, along with many other qualified agencies and individuals, presented testimony to the EFSC during this proceeding. The proposed rule was not adopted.

Oregon's only operating nuclear plant--the Trojan facility is regulated by the EFSC and DOE. In January 1977, Portland General Electric Company requested an amendment to its NRC operating license to modify the Trojan spent fuel pool, in order to accommodate additional on-site storage of spent fuel. (NRC Docket No. 50-344) The ODOE and EFSC intervened in this license amendment proceeding, and participated fully by means of discovery, cross-examination and direct testimony. While the issue of the ultimate availability of a final storage repository was not litigated in this proceeding, a great deal of information was generated regarding the safety and environmental implications of increased on-site spent fuel storage. The EFSC and ODOE sought, unsuccessfully, the imposition of certain technical specifications to assure that enhanced on-site storage would pose no threat to the public health and safety.

The ODOE and EFSC reviewed, and filed comments upon, the NRC's "Draft Generic Environmental Impact Statement on Handling and Storage of Spent Light Water Power Reactor Fuel" (NUREG-0404).

Finally, the ODOE and EFSC received further in-depth exposure to waste disposal problems in connection with a site certificate application proceeding pending before the EFSC on the proposed Pebble Springs nuclear power plants. During those hearings, an extensive record was developed, with the ODOE being instrumental in securing a full exploration of the status of waste disposal through August, 1978. (In 1979, the Oregon Legislative Assembly passed House Bill 2570, a copy of which is attached, requiring the ODOE to study the availability and cost of adequate waste disposal techniques and facilities. This study, which is nearing completion, will be made part of the Pebble Springs site certificate proceeding record.)

Based upon the efforts recited above, the ODOE and EFSC have acquired a strong working knowledge regarding the

technical, institutional and political issues surrounding the waste disposal controversy.

(3) Full Participant's Tentative Position

Oregon has not taken a tentative position on the three issues set forth at page 3 of the Notice of Proposed Rulemaking. Since there is a contested issue regarding the availability and adequacy of long-term waste disposal pending before the EFSC in its Pebble Springs proceeding, it is inappropriate for Oregon to take a position at this time.

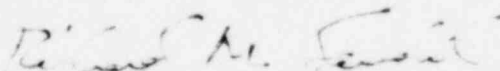
Furthermore, given staff and resource limitations, Oregon is not able to generate substantial original investigative data regarding the subject of waste disposal. Instead, it must interpret data developed by others and, in effect, attempt to arbitrate extremely polarized viewpoints in reaching a position. Thus, Oregon intends to participate in this proceeding for partially selfish reasons--by participating, it will gain access to data and views that otherwise might not be available to it. On the other hand, should Oregon, by completion of the Pebble Springs proceeding, draw its own conclusions on the issues involved herein before this rulemaking is concluded, it will share those conclusions, and the reasons therefor, with the Commission.

(4) Special Matters

The Notice of Proposed Rulemaking indicates that the Presiding Officer will have authority to consolidate participants as provided in 10 CFR 2.715a. Oregon does not wish to be consolidated with any other full participant who takes a position, tentative or otherwise, on the issues set forth in the Notice of Proposed Rulemaking. Furthermore, Oregon believes that it should not be consolidated with other "neutral" full participants who are geographically distant. The burdens created by geographical separation will, in all probability, make it extremely difficult for Oregon, as a consolidated participant, to meet the deadlines to be imposed in this proceeding.

If you need or desire any additional information in order to rule upon Oregon's "Notice of Intent to Participate as a Full Participant", please feel free to call the undersigned at 503-229-5725.

Very truly yours,



Richard M. Sandvik
Assistant Attorney General

dg/hk
enclosure
cc: Don Godard
Walter Evans

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OREGON LEGISLATIVE ASSEMBLY—1979 Regular Session

Enrolled

House Bill 2570

Sponsored by Representatives BAUMAN, BURROWS, FADELEY, KAFOURY, KLEIN, STARR, Senators BROWN, KULONGOSKI, ROBERTS, WYERS, Representatives CHREST, FAWBUSH, KITZHABER, MONROE, PRIESTLEY, RICHARDS, Senators FADELEY, GARDNER, HALLOCK, WINGARD

CHAPTER.....510.....

AN ACT

Relating to nuclear-fueled thermal power plants; prescribing an effective date; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Department of Energy shall conduct a study of the incident which occurred at the Three Mile Island Nuclear Plant in the State of Pennsylvania on or about March 30, 1979, to ascertain what action, if any, should be taken by the State of Oregon to prevent or avoid similar problems from occurring in this state. The department shall also include in the study, an examination of the availability of long-term storage for radioactive wastes generated by nuclear-fueled thermal power plants and the costs of such long-term storage.

SECTION 2. The Department of Energy shall file its findings relating to the Three Mile Island incident and its recommendations regarding the same with the Energy Facility Siting Council no later than July 1, 1980. An appropriate extension of the foregoing time limit may be granted by the Energy Facility Siting Council for good cause shown.

SECTION 3. The findings and recommendations of the Department of Energy shall be made a part of all proceedings now pending before the Energy Facility Siting Council for site certificates for nuclear installations and nuclear-fueled thermal power plants subject to the right of any participant in such proceeding to rebut such findings and recommendations by cross-examination or other testimony. The council as part of any final order on any pending or subsequent application for a site certificate for a nuclear installation or nuclear-fueled thermal power plant shall make as a part of its findings a determination that there will be an available and adequate repository for the terminal storage of radioactive waste generated by nuclear-fueled thermal power plants and that the economic cost of such terminal storage is known and reasonable.

SECTION 4. The provisions of section 3 of this Act do not apply to any nuclear-fueled thermal power plant for which a site certificate was granted before the effective date of this Act.

SECTION 5. Notwithstanding the provisions of subsection (3) of ORS 469.370, no pending or subsequent application for a site certificate for a nuclear installation or a nuclear-fueled power plant shall be approved by the Energy Facility Siting Council before November 15, 1980, and until the provisions of sections 1 to 3 of this Act have been satisfied. Nothing in this section shall prevent the Energy Facility Siting Council from making appropriate findings on other issues before it pending

receipt of the study required under section 1 of this Act.

SECTION 6. The cost of the study required under section 1 of this Act shall be paid from the fee required of the applicant under subsection (2) of ORS 469.420.

SECTION 7. Sections 1 to 6 of this Act are repealed on July 1, 1981.

SECTION 8. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect July 1, 1979.

Approved by the Governor July 21, 1979.

Filed in the office of Secretary of State July 23, 1979.

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