

SD-901-1

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PROPOSED REGULATIONS
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(44 FR 70468)

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29 February 1980



Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Docketing and Service Branch

Subject: Proposed 10 CFR 60, "Disposal of High-Level Radioactive
Waste in Geologic Repositories"

Gentlemen:

We are pleased to comment on the Commission's proposed new Part 60 to
Title 10 of the Code of Federal Regulations.

In general, Part 60 appears to conform to the precepts embodied in
Part 50, which governs the licensing of production and utilization
facilities. However, unlike Part 50, Part 60 introduces what many will
view as an inappropriate burden of policy issues in addition to the
concepts normally found in the CFR involving strictly procedural matters
and technical criteria. In particular, we believe that it is unnecessary
for the Commission to address the policy-related issue as to the number
of fully characterized high-level radioactive waste sites in these
proposed new regulations.

It would seem to us that the NEPA process (to which DOE must adhere)
would allow a site selection process involving a candidate site which
adequately meets reasonable technical site criteria previously promul-
gated by the regulations and was the only site which had been subjected
to an extensive and detailed site characterization process. Such an
approach is entirely consistent with a total systems evaluation which
takes into account the beneficial role of stabilized waste forms, engi-
neered barriers, and other engineered considerations in meeting disposal
criteria.

To the extent that the Department of Energy, to prudently manage a
program for which it is the designated lead agency, may elect to investi-
gate one or more backup sites and address these alternate sites and
plans for investigating them in its site characterization report should

Acknowledged by card... 3/7 *g*

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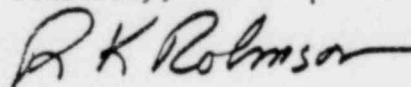
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be viewed as the DOE's prerogative. Should this approach be adopted by the DOE, it would then be possible to "bank" these alternate sites for future use. But, if a site, in whatever media and in an acceptable location, can be shown with high confidence to meet the NRC's criteria, then submitting an application for a construction permit should not have to wait until other sites are fully characterized.

The proposed requirement for evaluating multiple sites may well become a requirement through other actions, such as administration policy, congressional action, or in DOE's development of its National Plan for Nuclear Waste Management. NRC's regulations need not duplicate these requirements, they merely need to be responsive to whatever national course of action is chosen.

Additional comments are provided in the attachment to this letter.

Sincerely,



R.K. Robinson

RKR:d1

Attachment

Attachment

Additional Comments on 10 CFR 60

1. 60.2(c), 60.51 and 60.52

The term "Decommissioning" has a significantly different meaning in this Part than it has for other types of facilities. We would rather see a different term used to identify the activities of "Final backfilling of subsurface facilities, sealing of shafts, and decontamination and dismantlement of surface facilities". On the other hand, if it is intended to actually terminate (60.52 uses the word "may") such licenses when the above-mentioned activities are complete, the term may be appropriate.

2. 60.2(e) and 60.21(c)(12)

By definition, there will be "no intent to retrieve HLW for resource values," however, 60.21(c)(12) requires "a description of plans for retrieval and alternate storage . . ." If retrieval capabilities have to be incorporated into such facilities, the definition of "disposal" should be made consistent with that intent.

3. 60.2(i)

We recommend that the definition of HLW be made consistent with IRG's definition which says (in part): "HLW are either intact fuel assemblies that are being discarded after having served their useful life in a nuclear reactor . . ." The concept of "discard" is missing in NRC's definition.

4. 60.11(f)

It is indicated that the Department may prepare an environmental impact statement; however, per 10 CFR 51, this is a function of the NRC for other licensing actions under Part 50, 70, etc.

The process of site characterization should not require the submittal of an EIS. Using 60.2(n)'s definition of site characterization, it seems likely that this activity would be exempted from NEPA procedures under 10 CFR 1021.5 which provides NEPA exemption for classes of DOE activities, specifically 1021.5(d)(9) information gathering, analysis and dissemination and 1021.5(d)(11) actions in the nature of conceptual design or feasibility studies.