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SOUTHWEST RESEARCH AND INFORMATION CENTER

March 3, 1980

Secretary of the Nuclear Regulatory Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
ATTENTION: Docketing and Service Branch

RE: Disposal of High-Level Radioactive Wastes in Geologic Repositories;
Proposed Licensing Procedures (44 Fed. Reg. 70408, December 6, 1979).

Herein are the further comments of Southwest Research & Information Center (SRIC) on the proposed rules on licensing of high level nuclear waste repositories. SRIC is a private, non-profit organization, providing educational and scientific information to the public at large and to community groups on various public interest issues. Over the past seven years we have been carefully studying the need for safe nuclear waste disposal. We have been particularly involved with researching issues related to the federal government's proposed WIPP Project.

We feel that adequate controls to protect public health and safety from the long-term effects of nuclear waste are essential. Our experience indicates that the Department of Energy (DOE) cannot and will not adequately protect public health and safety, nor will it encourage and support necessary public participation and a legitimate role for state and local government agencies in nuclear waste management programs. Therefore, we welcome these proposed NRC rules and find them superior in many ways to the original proposed General Statement of Policy, released in November 1978.

Nevertheless, we feel that various important inadequacies remain. These problems must be resolved before the NRC can play an essential role in nuclear waste management and begin to rebuild the public's confidence in the nation's overall nuclear waste management program. Our major concerns relate to site characterization, NEPA requirements, consultation and concurrence with states, and public participation.

Acknowledged by card 3-14-80

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- 1) Not all necessary information has been included in the provisions related to site characterization.

We believe that NRC should re-think its entire concept of site selection and site characterization.

a) Criteria for selection of potential sites are very important. While we understand that the Commission's technical criteria are still under development, it is not at all clear the the site characterization report requires discussion of several crucial issues: mineral resource conflicts, geologic conditions below the repository level, and regional geologic conditions. For example, in the case of the proposed WIPP site, conflicts with large potash, oil and gas reserves, deep salt dissolution and regional geologic uncertainties have effectively disqualified the site. Thus, such a site should never qualify for site characterization, as the proposed rule defines it. It is not clear, however, that site characterization as defined in §60.2(n) would lead to a site characterization analysis with specific, major objections from the Director.

b) Before NRC can make determinations about site characterization, it must require in its rules that DOE provide detailed information about all sites examined--presumably at least 10-12 locations before 4 or more are selected for further work. Such numerical goals for sites considered should be specified in the rule as the minimum requirement. The site characterization report(s) from DOE must include a detailed review of all sites examined and evaluated. Only through such a complete review can NRC know how well the technical criteria are actually followed.

c) Site characterization should be defined to include preliminary borings and geophysical testing, rather than those features included in the proposed definition in §60.2(n), which are more correctly identified as "site development." We feel that this change in definition is justified for three reasons. (1) The scale of insitu testing apparently being contemplated could clearly disqualify a site if improperly done, as the proposed rule recognizes. Such insitu testing is a much different level of work than preliminary site characterization work that does not require NRC approval. Such insitu testing should be done only if there is a high probability that such work will be the first stage in actual mine construction--i.e., that the actual shafts for the repository would be the same (or just enlarged versions) of the development shaft(s). (2) "Site development" work will actually cost many times more than the \$20 million estimate mentioned (44Fed. Reg. 70410). This assertion is based on the WIPP experience where almost \$100 million has already been spent and no shafts have been constructed, as well as on the basis of uranium

mining costs which indicate that one shaft alone would likely cost at least \$20 million.¹ (3) There is strong legal precedent for seeing actual mining and development work as part of the actual site construction, thereby requiring an EIS. Such construction should require concurrence from NRC and the host state before proceeding. The rule, therefore, should recognize that insitu work, under whatever name, is very important and should be undertaken only after alternatives have been considered and stringent technical criteria have been met.

2) The proposed rule does not adequately reflect the requirements of NEPA

Both site characterization and Licensing of nuclear waste depositories are significant federal actions under NEPA. Therefore, the EIS process must be followed at both stages. An Environmental Impact Statement should be submitted with the Site Characterization Report. Such an EIS is necessary to establish the environmental impacts of actual site characterization as well as provide the public with adequate data in order to evaluate the Site Characterization Report. Thus, §60.11(f) should be re-written to require that an EIS be submitted, and not just leave it to the discretion of the Department. Potential environmental impacts associated with site selection and site characterization must be carefully evaluated before the NRC can approve any site characterization report.

3) The essential role of state consultation and concurrence must be required in the proposed rule.

The historic role of the AEC/ERDA/DOE have left state and local governments and the public legitimately skeptical about the federal government's nuclear waste disposal policy and its implementation. Thus, states have in the past sometimes tried to prevent the federal government from even looking for possible waste repositories in their state. Such a situation is unacceptable, but this reality can be overcome only by ensuring a reasonable role for states and the public in all aspects of the federal waste management program. Specifically, a recognized consultation and concurrence role for states is essential.

Therefore §60.11(b) should require consultation and concurrence of the state at all parts of the site selection and characterization process, as well as in the actual repository construction and operation. Furthermore, §60.61 must require that NRC staff be readily available to the states to provide technical assistance and information to any state that requests it. Such a process can facilitate an adequate scientific analysis by the states and encourage their strong participation in--and thereby their likely acceptance of--waste repository siting in their state.

¹See for example, Betty L. Perkins, An Overview of the New Mexico Uranium Industry, Santa Fe, N.M., Energy & Minerals Department, 1979, p.85.

- 4) Public participation must not be left just to the states, but rather must be required of the Department and the states, as well as by NRC.

Similarly to the states, the public is highly skeptical of past federal government efforts at nuclear waste disposal. Thus, most public opinion surveys show strong opposition to nuclear waste disposal sites, even among those people who favor nuclear power. To begin to acknowledge and respond to this public concern, stringent standards for public participation must be met by all agencies involved in the nuclear waste management program.

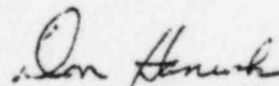
§60.62(c)(4) seems to imply that public participation be left exclusively to the states. NRC's rule should indicate that both the DOE and the states are expected to solicit and respond to citizen input. Specifically, §60.11(a)(6) should indicate that not only the means used to obtain public input but also the substance of such input and the Department's response to such comments be reported.

Furthermore, NRC should have public participation in its proceedings, including funding for such participation. At a minimum, a reimbursement method of citizen funding, similar to that used in the Public Utility Regulatory Policy Act (PURPA) should be included so that those citizen groups who are substantially involved in licensing proceedings can be reimbursed. Such involvement is necessary for a sound, scientific program which can merit public confidence.

Public participation should include opportunity for all intervenors to present testimony and cross-examine witnesses in any formal proceedings. Through such a process it will be clear whether information from all sides is accurate and can withstand scrutiny.

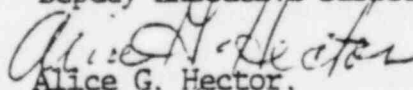
Finally, information must be readily available to the public, and not only through the NRC Public Document Room. Various public document rooms should be established throughout a potential host state. Public, university and state libraries can well fill this role. Additionally, important documents should be made available directly to citizen organizations who have demonstrated an interest in nuclear waste disposal issues. Such groups should be put on a mailing list and receive documents as they become available.

Thank you for your careful consideration of these comments.



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