

January 18, 1991

Mr. James Kennedy
Office of Nuclear Materials Safety
and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the matter of:
55 FR 50064; SECY 90-318

Dear Sir:

These comments are submitted for the Pennsylvania Chapter of Sierra Club, which has an interest in the safe management of low-level radioactive waste and the impacts of on-site waste storage, title, possession, and liability as these issues may affect the Commonwealth of Pennsylvania and our Chapter members.

We request a thirty-day extension of the public comment period on this Federal Register Notice, which had appeared at the start of the holidays for many of us and could not be brought to the attention of our members until mid-January. These issues on which the NRC seeks comment are of vital importance in our Compact Host State and they merit careful public review. No significant interests will be adversely affected by affording the longer comment period.

In response to the issues raised by the Commission, we believe that reduction of radioactive waste generation is the first requirement in order to attain safe isolation. Our Chapter urges the Federal government to adopt all means to encourage rapid deployment of alternative energy sources and strict conservation measures to minimize the need for nuclear-generated electricity.

If the States are to be mandated by Congress to provide for the disposal of low-level radioactive wastes, then the States must also be fully empowered to carry out this responsibility. Federal preemption in matters of radiological safety and radiation standards should be removed. States must be able to set standards and regulations to meet their own needs for protecting their citizens from radiation exposures, and these needs vary from state to state.

We do not advocate on-site storage of wastes that will impose added risk to populations living near nuclear facilities. Some generating sites are clearly unsuitable for long-term waste storage. In other instances, an extended on-site option should be retained. Neither do we advocate moving dangerous radioactive wastes unless necessary for health and safety, nor do we approve of contaminating new sites. We urge NRC to adopt waste management strategies that may vary from place to place but that best protect from harm.

Because low-level waste facility development is proving to be more difficult than expected, we recommend that the NRC take all possible measures to extend and liberalize Federally mandated milestones. The best solutions may take the longest to achieve. The NRC should adopt policies that encourage and assist States to do the best job possible of waste disposal. No state should be denied the option of extended long-term storage of low-level radioactive waste. No State should be forced to accept responsibility for these wastes in the absence of certain capability that they can and will be kept out of the environment.

The NRC must permit the states to determine their interim waste management procedures; there is no need for NRC to take additional action in this matter.

Our responses to the Commission's specific questions follow:

1. What factors should the Commission consider in deciding whether to authorize on-site storage of LLW (other than storage for a few months to accommodate operational needs such as consolidating shipments or holding for periodic treatment or decay) beyond January 1, 1996? The foremost factor is safety for people and the surrounding environment. No weight should be given to the economics of this option. If a licensee chooses to generate radioactive wastes, that licensee should pay fully all costs for isolating the wastes at whatever site is selected for short or long-term storage.
2. What are the potential health and safety and environmental impacts of increased reliance on on-site storage of LLW? In the event of storage failure, other accidents on-site, war, or civil disorder, severe negative health, safety, and environmental effects could be experienced by nearby residents and, in the longer term as the wastes may disperse and diffuse in the environment, by others as well. Since, according to the recent BEIR V Report and other research conclusions, there appears to be no threshold of "safe" dose and any exposure to radiation may increase the risk of cancer or other illnesses or genetic injury, the build-up of LLW anywhere is an added risk to the public and the environment.
3. Would LLW storage for other than operational needs beyond January 1, 1996, have an adverse impact on the incentive for timely development of permanent disposal capacity? Probably not, in our opinion. The best incentive, however, would be to halt waste generation so that a state would know how much waste it will have to manage in long and short term isolation and then be able to plan most effectively to provide for its long-term needs.
4. *What specific administrative, technical, or legal issues are raised by the requirements for transfer of title?* Administration and money are rapidly increasing burdens; our regulators face fiscal and personnel reductions that will hamper their inspection and enforcement abilities. States lack depth in technical staff to assume the full burdens of radioactive waste ownership and possession. It is not clear that the Federal government can legally impose title, possession, and liability, so long as the Federal government claims the right of preemptive power over the States to license and regulate generators of low-level radioactive wastes. There are also unresolved legal issues relating

to the relationships among the states; the right of one state to force upon another state actions that are contrary to the laws of the latter is of dubious validity. These issues all affect and are affected by the title transfer issue.

5. *What are the advantages and disadvantages of transfer of title and possession as separate steps?* This question should not be included because it assumes that wastes should continue to be created. After generation ceases, we may be prepared to answer this question. A preliminary response would be the two steps are separate matters and should not necessarily be linked.

6. *Could any State or local laws interfere with or preclude transfer of title or possession of LLW?* It should be within the power of the States and local governments to preclude and interfere with title transfer and possession of LLW so long as they cannot interfere with, control, or preclude waste production.

7. *What assurances of the availability of safe and sufficient disposal capacity for LLW should the Commission require and when should it require them? What additional conditions, if any, should the Commission consider in reviewing such assurances?* No license to produce radioactive wastes should be issued in the absence of fully proven disposal capability. All operating licenses should be revoked until and unless disposal of wastes already generated has been proven successful in the long term. It is folly to continue to produce these wastes if we cannot guarantee their isolation from the environment and biosystems.

8. *Are there any other specific issues that would complicate the transfer of title and possession as well as on-site storage, of LLW and mixed (radioactive and chemical hazardous) waste?* Lack of facilities, money, and political stability complicate LLW title and possession. The same is true for mixed wastes. All are vulnerable to war, sabotage, and other disorders. Questions remain concerning the legal right and economic privilege for private companies to engage in activities that produce hazardous and radioactive wastes for which society at large, or sectors of society, must assume permanent disposal responsibility.

There are safer ways to generate electricity and to conduct many other activities that now generate radioactive waste. We urge the NRC to take regulatory actions that will avoid the adverse environmental, constitutional, political, economic, health, and safety effects of continued reliance on nuclear power and other uses of atomic energy. This source inevitably creates dangerous problems of accidental releases, wastes, and national security. Turning over title, possession, and liability to the States will inevitably increase the seriousness of these numerous related issues.

Submitted by

Barbara D Hays

Barbara D. Hays, Chair
Pennsylvania Chapter of Sierra Club