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Promoting Health, Protecting the Environment

January 29, 1991

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

Re: Public Notice, Federal Register  
Vol. 55, No. 233, December 4, 1990

Dear Mr. Kennedy:

In regards to the Low-Level Radioactive Waste Policy Amendments Act provisions for states to take title and possession to waste by January 1, 1993, and with penalty by January 1, 1996, the S.C. Department of Health and Environmental Control, Bureau of Radiological Health offers the following comments to the specific questions outlined in the public notice.

The Commission should consider these as responses that will require further research by a state, and may not represent the state's final position.

1. What factors should the Commission consider in deciding whether to authorize on-site storage of low-level waste (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 Commission, at minimum, should consider the following in deciding whether to authorize on-site storage:

- a. The types and amounts of waste, and their relevant health and safety consequences.
- b. The availability of storage facilities at different sites and the economic impact on the activity that may be required to develop storage capacity, and the financial ability of the entity to build storage facilities.
- c. All associated environmental statutes e.g. NEPA, local and state laws and ordinances.
- d. Public participation, hearings, forums, etc.

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- e. Consideration of mandatory waste reduction techniques, and encourage 10 CFR Part 20.201 and below regulatory concern disposals.
  - f. Consideration to require an activity that produces waste to discontinue its operations, and the socio-economic impact the curtailment of the activity would have.
  - g. Consider options available to states such as disposal at federal facilities, possible continued operation of existing sites beyond 1992, exportation of waste to other countries under international policy.
2. What are the potential health and safety and environmental impacts of increased reliance on on-site storage of low-level waste?

There are numerous health, safety and environmental impacts that will need to be considered for the increased reliance on on-site storage. These issues have been addressed in NUREG/CR-4062, Extended Storage of Low-Level Radioactive Waste: Potential Problem Areas published by the NRC in December 1985. In addition, the DOE's Technical Coordinating Committee is currently addressing this issue and will have a report prepared in the near future. The most notable issues will be radiation exposure, radiolytic decomposition and gas generation, container degradation, fire potential, and possible release of liquids resulting in groundwater contamination.

3. Would low-level waste storage for other than operational needs beyond January 1, 1996, have an adverse impact on the incentive for timely development of permanent disposal capacity?

We support the contention that low-level waste storage will have an adverse impact on the incentive for timely development of permanent disposal capacity, and that storage of low-level waste should not be allowed for more than five (5) years after January 1, 1993.

4. What specific administrative, technical, or legal issues are raised by the requirements for transfer of title?

This state has not had the opportunity to study the specific administrative, technical and legal issues which will be raised by the requirement for transfer of title and possession. Specific legislation may be required by this state in order to legally address this issue. In addition, federal statutes may require amending to give states a better foundation to develop their laws to avoid conflicts

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with Interstate Commerce provisions in the Constitution and address liabilities for damages which may incur upon that state.

5. What are the advantages and disadvantages of transfer of title and possession as separate steps?

Again, this state has not had an opportunity to study or formulate a position on the advantages and disadvantages of transfer of title and possession. There needs to be further discussion between the NRC and the Agreement States regarding this issue.

6. Could any State or local laws interfere with or preclude transfer of title or possession of low-level waste?

Although research of state and local laws has not been conducted in this state, there exists a possibility that state or local laws could interfere with or preclude the transfer of title or possession of low-level waste. For economic reasons, court injunctions and lawsuits could be served on the state and regulatory agencies which may have an adverse impact on the transitions.

7. What assurances of the availability of safe and sufficient disposal capacity for low-level waste should the Commission require and when should it require them? What additional conditions, if any, should the Commission consider in reviewing such assurance?

The Commission should consider all reasonable assurance of the availability of safe and sufficient disposal capacity and closely monitor the compact's or state's progress in this regard. Although milestones were formulated in the Act, the deadlines for actual site development and becoming operational have been delayed significantly. The Commission should require the assurance with realistic schedules before they grant storage authorization to any state as an initial prerequisite. The Commission should particularly use those requirements specified in the Act and require specific evidence as the sited states did in their reviews for milestone compliance.

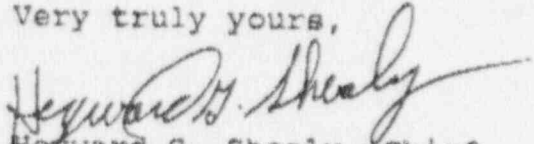
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8. Are there any other specific issues that would complicate the transfer of title and possession, as well as on-site storage, of low-level waste and mixed (radioactive and chemical hazardous) waste?

Specific issues that would complicate the transfer of title, possession and storage of waste will require further study by this state. However, the resolution of the mixed waste issue between NRC and EPA would go far to eliminate unnecessary complications.

We appreciate the opportunity to provide our comments. Should you have any questions, please do not hesitate to contact me or Mr. Virgil Autry of my staff at (803) 734-4633, Fax 799-6726.

Very truly yours,

  
Hayward G. Shealy, Chief  
Bureau of Radiological Health

VRA/em

cc: Mr. Vandy Miller, State Agreements Program