

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the matter of )  
 )  
Proposed Rulemaking on the )  
Storage and Disposal of )  
Nuclear Waste )  
(Waste Confidence Rulemaking) )

PR-50, 51  
(44 F.R. 61372)

6 OCT 80



THE ATOMIC INDUSTRIAL FORUM'S  
SUGGESTIONS FOR FURTHER PROCEEDINGS

On October 18, 1979, the Nuclear Regulatory Commission ("NRC" or "Commission") approved a Notice of Proposed Rulemaking in the captioned proceeding to reassess its degree of confidence that radioactive wastes produced by nuclear facilities can be safely disposed of when necessary, or stored until safe disposal is available. 44 Fed. Reg. 61372 (October 25, 1979). The Commission indicated in that notice that the rulemaking proceeding would be divided into two phases. For the first phase, a presiding officer was appointed to oversee the filing of written Statements of Position and Cross-Statements of Position by interested parties and to rule on preliminary matters.

The Presiding Officer held a prehearing conference on January 29, 1980 and issued a first prehearing conference Order on February 1, 1980, setting forth a schedule for submitting the Statements and Cross-Statements. The

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Presiding Officer subsequently afforded a one-month extension for filing both Statements and Cross-Statements, until July 7 and September 5, 1980, respectively. Further, in a May 28, 1980, Memorandum and Order, the Commission established an NRC "working group" to advise the Commission on the adequacy of the record developed in the first phase of the proceeding, to identify key issues, to determine if further information should be gathered, and to recommend how that information should be obtained in the second phase of the rulemaking. In addition, the Commission provided that the Presiding Officer may at any time identify additional areas in which the working group could provide assistance, and that the Commission would consider modifying the working group's tasks.

The Commission stated in the Notice of Proposed rulemaking that the second phase of the proceeding is to commence following issuance by the Commission, with the assistance of the Presiding Officer, of a second prehearing order which is to set forth the procedures to be followed for the remainder of the proceeding. The Presiding Officer has asked (Order Extending Time, May 29, 1980) that participants in the proceeding submit their suggestions regarding the second phase of the rulemaking (viz: as to the nature and scope of further proceedings, additional

areas of inquiry or further data or studies) by October 6, 1980. Accordingly, the Atomic Industrial Forum submits the following suggestions for further proceedings in this rulemaking.

It appears to us that the record is adequate for a Commission decision and that no supplementation is required. Whether or not additional written submissions<sup>1/</sup> should be made depends entirely on whether the Commission has questions it wants one or more participants to address or otherwise identifies a need for supplementation of the record. An examination of the statements and cross-statements reveals that there are many areas of disagreement among the participants. But that is not to say that all such disagreements present issues for which supplementation of the record is necessary to permit an informed decision, or even that they present material disputes. Most of the areas of disagreement result because one or more parties, without supporting documentation, contradict the thoroughly documented statement of another party. Because of the legislative nature of this proceeding, because the task of the Commission is inherently predictive, and because of the multiplicity of participants, it appears that the Presiding Officer and the Commission should "take the first cut" at identifying key issues,

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<sup>1/</sup> In our view, the record to date indicates no reason for oral hearings.

at determining whether further information, if any, is required to resolve those issues, and at proposing how any such information could best be obtained. The alternative of asking each of the numerous participants to propose issues would probably result in little more than a rehash of cross-statements.

We recommend that the Commission issue for comment by participants a tentative statement of proposed issues, of any areas where more information may be required, and of any questions to participants (or proposed other means of obtaining any needed supplemental information). The participants would then be focused on a common basis for further comment. We suggest that the Commission defer the obligation of the participants to address the nature of any further proceedings until after the final issues, areas of supplementation and questions are adopted. It is difficult to speak confidently as to what procedures are appropriate until the issues are established. Stated another way, procedures<sup>2/</sup> should be adapted to substance.

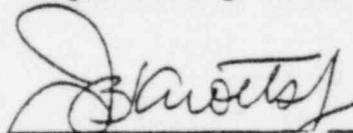
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<sup>2/</sup> E.g. oral versus written statements and, if oral, before what body and with what, if any, procedures for questions directed to other participants, etc.

Further, in the interest of compiling a complete record and to provide a basis for discriminating among conflicting opinions, we urge the Commission to request that those offering opinions on key issues submit information regarding their professional background. The Commission might also request information regarding the basis for those opinions, i.e., particular studies or analyses performed which were not referenced in the Statements or Cross-Statements, and the scope of any such studies or analyses. The submission of this information in this legislative-type proceeding need not involve the formalities attendant to adjudicatory proceedings, e.g., affidavits, etc., but could take the form of supplements to Statements or Cross-Statements, and consist of only the qualifications and bases referred to above.

After the entire record is compiled (directly upon the adoption of issues if no supplementation of the record is required or invited), the participants should be given an opportunity to prepare and file proposed findings in the form of a recommended decision.

Respectfully submitted,



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Date: October 6, 1980



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of:

PROPOSED RULEMAKING ON THE STORAGE	)	Docket No. PR-50, 51
AND DISPOSAL OF NUCLEAR WASTE	)	(44 F.R. 61372)
	)	
(Waste Confidence Rulemaking)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of "The Atomic Industrial Forum's Suggestions for Further Proceedings" in the above captioned matters, were served upon the following persons by deposit in the United States mail, first class postage prepaid this 6th day of October, 1980.

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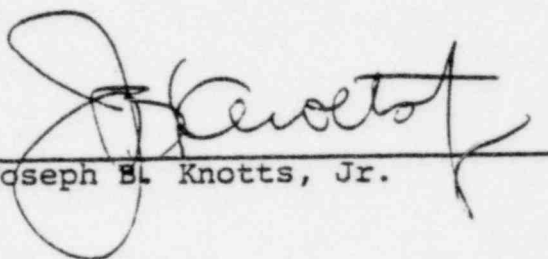
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