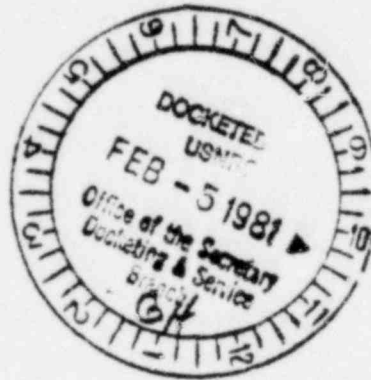


DOCKETED
PROPOSED RULE 61
45FR 13104

USEcology

January 30, 1981

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Low-Level Waste Licensing Branch
Division of Waste Management
U.S. NRC
Washington, D.C. 20555
M.S. 905-SS



Dear Paul:

Transmitted herewith are US Ecology's comments on your June 23, 1980, draft of 10CFR61: Disposal of Low-Level Radioactive Waste and Low-Activity Bulk Solid Waste.

I trust that you will find our comments helpful.

Sincerely,

Charles F. Eason
Director for Governmental Affairs

CFE:lpp
OGA:81-54

Enclosure



L-4-1, P+61

COMMENTS ON 10 CFR 61

61.12 - pg. 1

Should address "brokers" and others who may perform decontamination or dismantling for others but use their own license.

61.14 - pg. 3

"Candidate Sites" - to require the candidate sites to be "among the best," places an open-ended burden on an applicant. The question can always be asked, "Are there other better sites?" The requirement should be "to be adequate for the intended purpose."

61.14 - pg. 4

"Decommissioning (3)" - Does this imply that an operator will be permitted to operate the disposal of waste without stabilizing emplaced waste until final closure?

"Disposal" - definition precludes shallow land burial. Delete the words "permanent isolation, or removal of radioactive waste from mankind and his environment."

"Engineered barriers" - why the emphasis on water? NUREG 0456 identified the airborne pathway as the most important.

61.14 - pg. 5

"environmentally preferred alternate site" - definition leaves too much to question; should require clear and convincing evidence that that alternate site is substantially superior.

"Free liquid" - this includes absorbed liquid on soil, absorbent paper, rags, etc., all of which are not bound but mechanically trapped.

"free-standing" waste form - how is contaminated sand such as zirconium sand incorporated into the definitions?

61.14 - pg. 6

"Low-Level Radioactive Waste" -

- a. Are all irradiated fuels prohibited? What about Natural Uranium used in sub-critical piles? Irradiated fuel needs a definition.
- b. Naturally occurring and accelerator produced material must be addressed.

61.14 - pg. 10

"slate of candidate sites" - needs a maximum as well as a minimum.

"Waste solidification" - definition is too broad. Biologically and radiolytically stable solid may not be achievable or provable for any waste.

61.20(a)(2) - pg. 11

Should not Part 71 be also referenced? What about agreement state licenses?

61.20(b) - pg. 12

Siting criteria is too restrictive. The criteria should permit siting anywhere but title must be transferred to state or federal government prior to issuance of license. Provision should be made to notify applicant of intent to issue a license so that title can be passed as the final act prior to license issuance.

61.22 - pg. 12

Too open-ended. Exemptions should be emergency based only when a declared emergency exists. Such declaration shall be made only by the President or the Commission itself. The Commission may not delegate this responsibility.

61.24 - pg. 12

Appears to include other than disposal site operators within its scope which would appear to be unnecessary in that they are adequately treated in other parts of Chapter 1 of 10 CFR.

61.26 - pg. 13

Requires submission of a "notice of intent" NRC three months prior to tendering of an application.

We fail to see any necessity for this requirement.

61.28 - pgs. 15-18

(a) Requires submission of financial information far beyond that which could conceivably be necessary to the licensing process. Inasmuch as NRC requires ownership of a site by either a federal or state government, any perpetual care and maintenance program or closure plan should be left to the government agency which owns the site and the lessee as a matter of contractual negotiation. There have been several legislative proposals in Congress to estab-

lish a fund expressly for this purpose, and it certainly is not within NRC's authority to review such agreements as may be developed under such legislative programs.

(b) It is not known whether such surety arrangements are available.

(c) This is a major change. Must the operator maintain the site for 100 years? A 1% real rate of interest is unrealistic. Two percent is a more reasonable figure and justifiable on historic grounds.

61.30 - pgs. 18-25

Seems to emphasize multiple sites and NRC will decide which one will be used. This is inconsistent with good regulatory practice which says the regulators will approve, make recommendations or disapprove a proposed applicant action but will not make decisions for an applicant.

61.32 - pg. 25

Does this restrict periodic changes to properly update the manual to current operational and safety practices or must these necessary changes await the normal long time frame approval process?

61.34 - pg. 25

Why is this a separate application? This should be part of the operational license application and be invoked at the discretion of the owner and operator acting in concert.

61.36 - pg. 26

Footnote C in the table found in Section 61.36 indicated that physical security plans should be held exempt from public scope pursuant to 10 CFR 2.790(D). If a generic finding on the Commission's part is intended that security plans are exempt, then that should be made clear and not be an additional burden placed on the licensee to make application and justification thereof.

61.56(b)(1) - pg. 37

Does this paragraph preclude a licensee from going out of business or declaring bankruptcy?

61.56(b)(5) - pg. 38

Does this mean NRC will approve training in agreement states?

61.60 - pg. 40

This is a well thought out section and is workable. It appears to conflict with 61.32.

61.66 - pg. 44

Why an application? All of this information should be committed to in the initial closure plan. Licensee should notify NRC of intent to implement closure.

61.72 - pg. 47

Too broad. Such test must be permitted to interface with Operations or utilize site operator personnel unless NRC pays for the service or loss of business.

61.78 - pg. 48

Section 61.78 refers to the Figure 1 which is not a part of the draft package. Any manifest required under NRC regulation should be uniform across all sites, even those in agreement states, and should be compatible with existing DOT and EPA regulations.

61.80(c) - pg. 51

Requires the filing of certified financial statements which is wholly unjustified.

61.86 - pgs. 53-57

Seems to be duplicative of existing DOT regulations. Every attempt should be made to minimize regulations, and particularly, conflicting requirements between DOT and NRC regulations.

61.90 - pg. 57

The phrase "eliminate the potential" is inappropriate in any regulation since it requires the absolute prohibition of the action perceived or expected. As such, this cannot be achieved at any nuclear facility unless all radioactive material is eliminated from such facilities. A more appropriate phrase might be "minimize the potential to the extent practicable."

61.96(d)(6) - pg. 62

This requirement may preclude the co-location of a disposal facility with other nearby nuclear facilities and substantially increase the siting difficulties for the low-level waste disposal facility. The low-level waste facility may well be the least environmentally significant facility. However, the requirement to not mask environmental monitoring and surveillance program may well preclude such co-location of facilities.

61.96(d)(8) - pg. 62

The definition of the facility site must be further defined since this section would appear to eliminate any location in the United States if any of the listed formations appear at any depth--at 100 feet or 5000 feet below the site.

61.96(d)(9) - pg. 62

This paragraph is overly restrictive in that a large area site may only have small areas that are acceptable for burial. However, the entire land area is defined as the site. Such land areas may well have ponding areas or saturated soil areas but these areas do not directly affect buried waste. However, these areas may well affect any surface or subsurface migration of radionuclides once the radionuclides have migrated from the trench to these particular areas. The overriding criteria should be those of meeting the specified limits at the site boundary and not that these topographic features may cause an "increase in potential" for migration.

61.98(c) - pg. 63

The requirement that the facility be required to "improve" the ability of the natural characteristics is burdensome. Many areas such as the Armagosa Desert or the Hanford Reservation have sufficient natural characteristics to adequately to confine the waste. The requirement to improve should not be imposed on these facilities. Other topography may require improvement. The requirement should be to enhance or improve the natural characteristics if necessary to ensure continued and adequate confinement of the waste.

61.98(g)(h)(1) - pg. 67

It should be noted that daily inspections should be on workdays only and not on holiday or weekend periods.

61.102 - pg. 69

The requirement for one full year of environmental data prior to any construction is overly burdensome. The background data could be adequately obtained prior to the handling of any radioactive material. The requirement for one year of data is reasonable; however, the site construction period should be permitted during the one year of collecting environmental data.

61.104(a)(4) - pg. 72

Background level has not been defined. It should be noted that the emplacement of any gamma emitting source will increase the radiation level above the level existing at the time the radioisotopes was emplaced or entombed. As such, this paragraph would prohibit the burial of any waste.