

COMMENTS ON EIGHT SPECIFIC QUESTIONS ASSOCIATED WITH SECY 90-318

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In responding to the following questions posed by NRC, I am using the terms "onsite storage" and "permanent disposal" to refer to two alternative strategies for long-term waste management. Thus, in using these terms, I do not mean to endorse the idea that storage is an interim strategy which would eventually lead to permanent disposal, nor do I believe that "permanent" disposal would necessarily provide permanent isolation of wastes from the biosphere. The terms are those employed by NRC, and I use them here to avoid unnecessary confusion.

1. Three main factors to be considered in deciding whether to authorize onsite storage of LLW are:

a) The high reliance on human judgment and human control which is inherent in onsite storage schemes.

b) The high reliance on physical containment which is inherent in permanent disposal schemes. Such reliance is based on the idea that physical containment can be designed to function indefinitely without human intervention.

c) The frequency or probability of unforeseen events.

Unforeseen events have often been the mode of failure in permanent disposal schemes. Human judgment is usually the best defense against unforeseen events, but this must be balanced against the question of whether human judgment and control can be relied upon for thousands of years.

2. Health, safety, and environmental impacts of onsite storage may occur if humans fail to exercise responsible judgment and control. Conversely, health, safety, and environmental impacts of permanent disposal may occur if the human designers fail to anticipate modes of failure.

3. NRC should consider onsite storage on its merits and should compare it to permanent disposal. To judge onsite storage on the basis of its possible "adverse impact" on permanent disposal capacity is to prejudge the issue.

4. Transfer of title to an unwilling recipient should not be required or allowed.

5. If transfer of title and possession are separate steps, questions of liability may arise in the event that a leak or other release of wastes occurs while the wastes are held by someone other than the owner.

6. State and local laws should be allowed to prevent transfer of title to an unwilling recipient.

7. NRC should not automatically require permanent disposal capacity; the alternatives of onsite storage and waste reduction should be considered as well.

8. Generators of hazardous wastes remain liable for damages traceable to those wastes. Transfer of title for mixed waste may not extinguish such liability claims.

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