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THE COMMONWEALTH OF MASSACHUSETTS

LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT BOARD
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XX USNRC

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May 22, 1990

The Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attn: Docketing and Service Branch

Dear Sir or Madam:

Enclosed are the comments of the Massachusetts Low-Level
Radioactive Waste Management Board on the proposed revisions to the
guidelines for NRC review of Agreement State Radiation Control
Programs.

A copy of these comments are also being sent to you via the U.S.
mail.

Sincerely,

Carol C. Amick
Carol C. Amick
Executive Director

Enclosure

CCA:smh

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May 21, 1990

Comments of the Massachusetts Low-Level Radioactive Waste Management Board on the proposed Revision to Guidelines for NRC Review of Agreement State Radiation Control Programs

The Massachusetts Low-Level Radioactive Waste Management Board is responsible for planning and effecting the management of low-level radioactive waste in the Commonwealth. The Board was created by the passage of M.G.L. c.111H, which also assigned critical regulatory responsibilities to the Department of Public Health's Radiation Control Program.

Under M.G.L. c.111H, the Radiation Control Program establishes and implements regulations for LLW source and volume minimization and storage for decay programs; and regulations for facility licensing, development, operation, closure, post-closure observation and maintenance, and institutional control.

At the same time c.111H was approved, the Governor also signed into law amendments to the Radiation Control Program's statutory authority. These amendments enable the state to take the actions necessary to become an Agreement State under section 274 of the Atomic Energy Act of 1954.

Because Agreement State status is an essential component of full implementation of c.111H, the Management Board submits these comments regarding the Nuclear Regulatory Commission's proposed revisions of its guidelines for reviewing Agreement State Radiation Control Programs.

The Management Board is in agreement with the concept embodied in the proposed guideline revision which separates the regulatory authority from the low-level waste management and facility development authority. This policy, which has been in effect in Massachusetts since the passage of M.G.L. c.111H, is crucial to ensure the proper separation between the agency charged with managing LLW and the one responsible for regulating radioactive materials users and any disposal facility.

The Management Board has no difficulty with the proposed guideline revision to bring NRC staff on-site every year for an Agreement State review and every two years for a "total assessment" of the Agreement State Program.

The Management Board is also supportive of the NRC's proposed expansion of the indicator, Technical Quality of Licensing Actions, to include such guidelines as:

- (1) waste product and volume

- (2) facility personnel qualifications
- (3) facilities and equipment
- (4) operating and emergency procedures
- (5) operator's financial qualifications
- (6) closure and decommissioning procedures
- (7) institutional arrangements with other institutions

Each of these guidelines is an important component in the licensing activity, and with the exception of (7) above, M.G.L. c.111H requires their inclusion in the Massachusetts siting process.

The Management Board is also pleased that the NRC revision proposes to retain earlier language:

"The success of a state program in meeting the overall objective of the indicator does not depend on literal adherence to each recommended guideline." (p.24)

and

"If no serious performance problems are found in an Agreement State program and if its standards and program procedures are compatible with the NRC program, a finding of adequacy and compatibility is made." (p.26)

We urge you to retain that language in the final revision.

In addition, the Management Board finds no difficulty with the remaining proposed changes in the Agreement State evaluation guideline, with one exception. That exception is the recommendation under Staffing Level (Category II) which would require Radiation Control Program staff of 3-4 technical person-years to regulate a LLW disposal facility during its operation. The Board urges NRC to clarify the requirement for this additional staff in the context of the language, contained in the same "indicator," that further staff or consultants should be available at peak periods during all phases of the facility. It is not clear to the Management Board whether these two separate "additional" staff references represent one set of new staff, or two.

The Management Board recommends a clarification which allows each state the flexibility to assign additional staff necessary during each phase of the facility, based upon the facility size, type of technology employed, number of months of operation each year, etc. The Board urges you to replace the 3-4 technical person-years provision with language which sets a higher level of staff for a state regulated facility, but assumes the NRC and the state will negotiate on the specific staff needs once the specifics of the facility are established.