

PHILADELPHIA ELECTRIC COMPANY

LIMERICK GENERATING STATION

P. O. BOX A

SANATOGA, PENNSYLVANIA 19464

(215) 327-1200 EXT. 2000

December 21, 1990
 Docket No. 50-352
 License No. NPF-39

M. J. MCCORMICK, JR., P.E.
 PLANT MANAGER
 LIMERICK GENERATING STATION

U.S. Nuclear Regulatory Commission
 Attn: Document Control Desk
 Washington, DC 20555

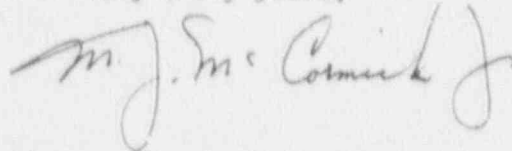
SUBJECT: Licensee Event Report
Limerick Generating Station - Unit 1

This LER reports a condition prohibited by Technical Specifications (TS) due to a missed Surveillance Requirement for two Intermediate Range Monitors and the required Ts Actions not being taken within the required time. The event was caused by programmatic deficiencies coupled with outage related scheduling problems and lack of communication between I&C personnel and supervision.

Reference: Docket No. 50-352
 Report Number: 1-90-028
 Revision Number: 00
 Event Date: November 26, 1990
 Report Date: December 21, 1990
 Facility: Limerick Generating Station
 P.O. Box A, Sanatoga, PA 19464

This LER is being submitted pursuant to the requirements of 10 CFR 50.73 (a)(2)(i)(B).

Very truly yours,



DCS:rgs

cc: T. T. Martin, Administrator, Region I, USNRC
 T. J. Kenny, USNRC Senior Resident Inspector, LGS

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LICENSEE EVENT REPORT (LER)

FACILITY NAME (1)										DOCKET NUMBER (2)										PAGE (3)											
Limerick Generating Station, Unit 1										0 5 0 0 0 3 5 2										1 OF 0 14											
TITLE (4) Missed Technical Specifications Surveillance Requirements for two IRMs due to programmatic deficiencies																															
EVENT DATE (5)						LER NUMBER (6)						REPORT DATE (7)						OTHER FACILITIES INVOLVED (8)													
MONTH		DAY		YEAR		YEAR		SEQUENTIAL NUMBER		REVISION NUMBER		MONTH		DAY		YEAR		FACILITY NAMES						DOCKET NUMBER(S)							
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OPERATING MODE (9)						THIS REPORT IS SUBMITTED PURSUANT TO THE REQUIREMENTS OF 10 CFR 5: (Check one or more of the following) (11)																									
4						20.402(b)						20.405(a)						50.73(a)(2)(i)						73.71(b)							
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LICENSEE CONTACT FOR THIS LER (12)																															
NAME																		TELEPHONE NUMBER													
G. J. Madsen, Regulatory Engineer, Limerick Generating Station																		AREA CODE 2 1 5 3 2 7 - 1 2 0 0													
COMPLETE ONE LINE FOR EACH COMPONENT FAILURE DESCRIBED IN THIS REPORT (13)																															
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SUPPLEMENTAL REPORT EXPECTED (14)																		EXPECTED SUBMISSION DATE (15)						MONTH DAY YEAR							
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ABSTRACT (limit to 1400 spaces, i.e., approximately fifteen single-space typewritten lines) (18)

On November 26, 1990, at approximately 0900 hours, Instrumentation and Controls (I&C) personnel discovered that Unit 1 Technical Specifications (TS) required Surveillance Requirements (SR) were not met for two Intermediate Range Monitors (IRM) and the associated TS Actions were not taken within the specified time period. Surveillance Test (ST) procedures ST-2-074-615-1, "IRM F Channel Functional Test," and ST-2-074-615-1, "IRM H Channel Functional Test," were scheduled for performance on November 22, 1990, and exceeded the allowable grace period (+ 25% of required periodicity), on November 24, 1990. Shift Supervision was notified by I&C personnel at 0907 hours on November 26, 1990, upon discovery of the missed ST Surveillance Requirement. The TS required action of suspending all core alterations and inserting all insertable control rods was immediately taken, and I&C personnel were directed to complete the ST procedures. The ST procedures were completed at 1227 hours that same day. The total inoperable time for the two IRMs was 44 hours. There were no adverse consequences and no release of radioactive material as a result of this event. The six redundant IRM channels were operable. The cause of this event was programmatic deficiencies coupled with outage related scheduling difficulties. An I&C ST overdue list did not have these ST procedures on it and performance of the ST procedures was not included in the Unit 1 outage work schedule. These ST procedures and similar ST procedures will be included on the ST overdue list.

LICENSEE EVENT REPORT (LER) TEXT CONTINUATION

U.S. NUCLEAR REGULATORY COMMISSION

APPROVED OMB NO. 3150-0104

EXPIRES 8/31/85

FACILITY NAME (1) Limerick Generating Station, Unit 1	DOCKET NUMBER (2) 0 5 0 0 0 3 5 2 9 0	LER NUMBER (6)			PAGE (3)		
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TEXT IF more space is required, use additional NRC Form 366A's (17)

Unit Conditions Prior to the Event:

Unit 1 Operating Condition was 4 (Cold Shutdown) at 0% power level.

Unit 1 was nearing the end of its third refueling outage. On November 21, 1990, a full scram was manually inserted by Operations personnel to support performance of the Integrated Leak Rate Test (ILRT). On November 23, 1990, following completion of the ILRT, the full scram was reset, and stroking and venting of individual Control Rod Drives was commenced.

Description of the Event:

On November 26, 1990, at approximately 0900 hours, Instrumentation and Controls (I&C) personnel discovered that Unit 1 Technical Specifications (TS) Surveillance Requirements (SR) were not met for two Intermediate Range Monitors (IRM) (EIIS:MON) and the associated TS actions were not taken within the required time. Surveillance Test (ST) procedures ST-2-074-613-1, "IRM F Channel Functional Test," and ST-2-074-615-1, "IRM H Channel Functional Test," were scheduled for their weekly performance on November 22, 1990, and exceeded the allowable grace period (+ 25% of required periodicity), on November 24, 1990, at 1627 hours. The 'F' and 'H' IRMs therefore became inoperable at that time.

Limerick Generating Station (LGS) Unit 1 TS Section 3.3.1.1, requires a minimum of three operable IRM channels per Reactor Protection System (RPS) (EIIS:JC) trip system. There are two RPS trip systems with four IRM channels in each system (IRMs A, C, E and G in the 'A' trip system; IRMs B, D, F and H in the 'B' trip system). In this instance, the SRs were not met for the 'F' and 'H' IRMs thereby rendering these IRMs inoperable and resulting in less than the minimum operable IRM channels in the 'B' trip system. Following completion of the ILRT and prior to identification of the missed TS SR, Control Rod Drive (CRD) (EIIS:AA) stroking and venting was being performed. The associated TS Table 3.3.1.1-1 Action 3, to suspend all operations involving core alterations and insert all insertable control rods within one hour, was not satisfied, because Operations personnel were not aware that the IRMs were not in surveillance, and therefore inoperable.

Upon discovery of the missed TS SR, I&C personnel notified Shift Supervision at 0907 hours on November 26, 1990. The TS action of suspending all core alterations (specifically CRD stroking and venting) and inserting all insertable control rods was immediately taken by Shift Supervision. I&C personnel were directed to complete the missed ST procedures. The ST procedures were successfully completed at 1227 hours that same day. The total inoperable time for the two IRMs was 44 hours.

Because the IRMs were inoperable without the associated TS action being taken within the required time, this event resulted in a condition prohibited by TS.

LICENSEE EVENT REPORT (LER) TEXT CONTINUATION

U.S. NUCLEAR REGULATORY COMMISSION

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EXPIRES 8/31/85

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TEXT (If more space is required, use additional NRC Form 306A-2 (17))

This report is being submitted in accordance with the requirements of 10CFR 50.73(a)(2)(i)(B).

Analysis of the Event:

Upon performance of the ST procedures, the two inoperable IRMs were confirmed to be functioning properly. Therefore, although they were not in surveillance, they were available and capable of performing their design function. All remaining IRM channels and the RPS system were operable and additionally Operations personnel could have manually initiated a scram if necessary. This event would be less significant during power operation as the IRMs are then not required to be operable. There was no release of radioactive material to the environment as a result of this event. Therefore, the actual and potential consequences of this event were minimal.

Cause of the Event:

The cause of this event was programmatic deficiencies coupled with outage related scheduling difficulties and lack of adequate communication between I&C personnel and supervision. Investigation revealed that on Wednesday, November 21, 1990, I&C personnel attempted to begin performing the ST procedures on the two IRMs. To support the performance of the ILRT, a full-scram had been manually inserted by Operations personnel, and consequently the I&C ST procedures could not be performed. On Thursday, November 22, the due date for performance of the ST procedures, the ILRT was continuing, the full-scram was still inserted, and I&C personnel were still unable to perform the ST procedures. On Friday, November 23, the ILRT was completed and the scram was reset, but the ST procedures were not performed.

The I&C overdue ST list, which is generated during the normal work week (Monday thru Friday), documents those ST procedures that are approaching the end of their allowable grace period. The list developed for the week of November 19, 1990, did not have these particular IRM ST procedures on it. The I&C overdue ST list did not contain these tests since the list is normally generated from monthly ST procedures approaching overdue status. Weekly Nuclear Instrumentation (NI) ST procedures are generated and completed too quickly for the standard computer tracking system to be effective for accurately tracking performance of these tests. During normal operation the NI ST procedures are performed routinely and repetitively, following a prescribed schedule. Conversely, the IRM ST procedures are generated only during plant startups and shutdowns, during the period when reactor power level requires operability of the IRMs. Therefore, the IRM ST procedures are not included in the normal tracking mechanism for weekly NI ST procedures. On Saturday, November 24, these ST procedures did not appear on the I&C overdue ST list and therefore the urgency of their performance was not recognized by the I&C Shift Foreman. At 1627 hours, the grace period for performance expired.

LICENSEE EVENT REPORT (LER) TEXT CONTINUATION

U.S. NUCLEAR REGULATORY COMMISSION

APPROVED OMB NO. 3150-0104

EXPIRES: 03/85

FACILITY NAME (1) Limerick Generating Station, Unit 1	DOCKET NUMBER (2) 0 5 0 0 0 3 5 2 9 0 — 0 2 8 — 0 0 0 0 4 OF 0 4	LER NUMBER (6)			PAGE (3)	
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Other contributing factors to this event were, I&C support staff was less than adequate in the monitoring of the work, the I&C Shift Foremen were not made aware of the urgency of these NI ST procedures, and the ST procedures were not specifically shown on the outage work schedule.

Corrective Actions:

The Maintenance Section Guideline 23, "ST Coordinator Guidelines," has been revised to require listing the weekly NI ST procedures on the overdue list and to maintain a separate NI ST procedure list during plant outages. A plan is being developed to schedule windows in the outage work schedule for performance of NI tests such that conflict with other outage activities (such as an ILRT) can be foreseen ahead of time. This plan will be implemented prior to the next major outage (Unit 2 refueling outage is scheduled for March, 1991). Correction of these programmatic deficiencies will lessen the impact of communication difficulties and less than full staff support during holidays or outages. Additionally, this deficiency will be included in the Unit 1 outage critique to identify and correct problems that adversely impacted the satisfactory completion of the outage. Inclusion in the outage critique will aid in prevention of this or similar events in future outages. A review of the programs for scheduling and tracking of all other weekly ST procedures revealed no similar programmatic deficiencies therefore this condition does not represent a generic concern.

Previous Similar Occurrences:

Limerick Generating Station Unit 1 LER's 1-87-54, 1-88-003, 1-89-001 and 1-89-044 involved missed surveillance tests due to errors by surveillance test program personnel. LER's 1-86-056, 1-86-057, 1-87-007, 1-89-015, involved missed surveillance tests due to various other causes. The corrective actions for these events could not have prevented this event as the causes were different.

Tracking Codes: E3 Breakdown of surveillance test program
A7 Failure to properly communicate



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

December 17, 1990

Ms. Cindy Monaco
Cortland County Low-Level
Radioactive Waste Coordinator
Cortland County Low-Level
Radioactive Waste Office
P.O. Box 5590
County Office Building
60 Central Avenue
Cortland, New York 13045

Dear Ms. Monaco:

I am responding to your October 31, 1990 letter in which you question the consistency of the Nuclear Regulatory Commission's (NRC's) policy on long-term storage of low-level radioactive waste (LLW) with the NRC's Waste Confidence Decision with respect to storage of spent fuel at reactor sites around the country. We believe that specific NRC actions on LLW and spent fuel storage at reactor sites, which reflect these policies and are based on case-specific evaluations, are consistent in that they provide for the protection of the public health and safety and the environment. Furthermore, the Commission supports the timely disposal of both high-level and low-level radioactive wastes.

Your reference to our apparent willingness to reevaluate our policy on spent fuel storage in light of delays in the national high-level radioactive waste (HLW) management program is not a valid comparison to the LLW storage issue. Although we have in fact updated our 1984 Waste Confidence Decision, we conducted this five-year re-evaluation because we committed to do so when we issued the Decision in 1984, not because of delays in the HLW management program. In meeting our earlier commitment, we of course had to take into account delays in the HLW program that developed in the five years since the Decision was issued. We also note that this policy position does not address changes in how applicable law should be implemented but rather expresses our view on the timing of the availability of an HLW repository and long-term storage of spent fuel. Based on this re-evaluation, the Commission affirmed and updated its Waste Confidence Decision, which was published in the Federal Register on September 18, 1990.

With respect to your suggestion that the NRC take a more realistic approach to LLW storage and disposal in the U.S., we emphasize that the issue is neither whether it is possible to store LLW safely on-site at any NRC or Agreement State licensed facility nor whether on-site storage is the direction in which the Nation should proceed. The U.S. Congress has already established a framework with milestones and penalties to ensure the timely development of LLW disposal facilities in enacting the Low-Level Radioactive Waste Policy Act

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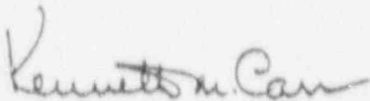
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(LLRWPA) and its amendments. Similarly, the Commission has already implemented a realistic regulatory framework for LLW that is consistent with applicable law and the NRC's mission of protecting the public health and safety. The Commission believes its policy on LLW storage reflects the intent of Congress in the LLRWPA, as amended, which encourages States to take appropriate actions to ensure that disposal capacity is available by January 1, 1996. This position, along with the technical and policy basis for it, was set forth in my previous letter to you of July 20, 1990.

Nevertheless, we recognize that there are issues in connection with LLW storage that remain to be resolved. In that regard, the Commission is currently examining the storage issue in the context of the LLW title transfer and possession provisions of the Low-Level Radioactive Waste Policy Amendments Act of 1985. The NRC staff has already provided recommendations to the Commission on how best to discharge the NRC's responsibilities in these areas (see Enclosure 1). The Commission has also solicited public comments on the staff's recommendations and a series of specific questions through a notice of availability in the Federal Register (see Enclosure 2).

We appreciate the comments you have provided to date on LLW storage and would welcome any additional views you may care to offer in response to the Federal Register notice. I want to assure you that the Commission will consider your comments in evaluating the title transfer and possession provisions and the topic of long-term storage of LLW in general.

Sincerely,


Kenneth M. Carr

Enclosures:

1. SECY-90-318
2. Federal Register notice

cc: Eugene J. Gleason
New York State Liaison Officer
New York State Energy Office



POLICY ISSUE

(Notation Vote)

SECY-90-318

September 12, 1990

For: The Commissioners

From: James M. Taylor
Executive Director
for Operations

Subject: LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT TITLE
TRANSFER AND POSSESSION PROVISIONS

Purpose: This paper responds to the Commission Staff Requirements Memorandum (M900117) to provide the Commission with information on the issues concerning the waste title transfer and possession provisions set forth in the Low-Level Radioactive Waste Policy Amendments Act (LLRWPA) of 1985 and provide options for Commission action.

Category: This paper covers policy issues requiring Commission consideration and approval.

Summary: The staff has evaluated issues raised by the waste title transfer and possession provisions of the LLRWPA. Major issues raised relate to States taking possession of low-level waste (LLW) after 1993 or 1996, and licensing of such possession (storage) by the U.S. Nuclear Regulatory Commission (NRC) and Agreement States. Before a State can take possession of the waste, a specific license from either NRC or an Agreement State will be required. Existing regulations in 10 CFR Parts 30, 40, 50, and 70 and comparable regulations in Agreement States are adequate for licensing short-term interim storage. Guidance on storage in Generic Letters 81-38 and 85-14 and Information Notices 89-13 and 90-09 has been transmitted to NRC licensees and Agreement States and is also adequate for licensing of short-term interim storage. This guidance includes consideration of keeping storage to limited periods of time (i.e., five years or less) and places emphasis on shipment of LLW for final disposal. After analyzing the issues for

NOTE: TO BE PUBLICLY RELEASED 10/24/90
WITHOUT ENCLOSURE 1

Contact:
Stephen N. Salomon, NMSS
(301) 492-0569

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Commission action and the advantages and disadvantages of four approaches, staff recommends that, as a first step, a letter be sent to Governors that reviews the 1993 and 1996 provisions of the LLRWPA and transmits existing NRC guidance on storage of LLW. Staff would authorize storage only for a single five-year period using existing guidance, whether at a generator's facility or a state facility. Authorization for storage for additional periods would require an evaluation of the adequacy of existing guidance and an assessment of possible generic impacts. Staff will also continue to monitor the States' progress in establishing new disposal capacity and address questions and issues as they arise, including development of further guidance or rulemakings as they are identified.

Background:

On January 17, 1990, the staff briefed the Commission on the status of the Governors' certifications submitted to NRC as required by the 1990 milestone of the LLRWPA. As a result of discussions during this briefing, the Commission issued a staff requirements memorandum dated February 14, 1990, which requested the staff: (1) to evaluate the issues raised by the waste title transfer provisions of the LLRWPA; (2) to evaluate the advantages and disadvantages of various conceptual approaches available to NRC for fulfilling any responsibilities it may have in implementing these provisions of the LLRWPA; and (3) to develop a schedule for proceeding with the development of necessary regulations or regulatory guidance so that the framework for implementing these provisions would be in place by January 1, 1993.

Section 5(d)(2)(C) of the LLRWPA sets forth the 1993 and 1996 deadlines which contain the requirements for title transfer to, and possession of, LLW by States. This section of the LLRWPA provides that if a State or compact cannot provide for the disposal of its LLW after January 1, 1993, any generator in that State (compact) may request that the State in which the generator is located take title to and possession of the waste generated or assume liability for the failure to do so. This 1993 deadline, in comparison to the 1996 deadline, allows the State to elect not to take legal responsibility. In this case, however, the LLRWPA imposes a financial penalty on the States, in that surcharge rebates will go to generators, not to the States. Nearly all the Governors' Certifications submitted to meet the 1990 milestone indicated the State planned on interim storage by waste generators during the 1993 through 1996 period. However, after the final deadline of January 1, 1996, the States, upon proper notice by the generator or owner, shall take title to and be obligated to take possession. The State is liable for all damages directly or indirectly

incurred by the generator or owner if it fails to take possession as soon after January 1, 1996, as the generator or owner notifies the State that the waste is available for shipment. With title and possession, the State is responsible for safely managing the radioactive waste it possesses.

The failure of some States to meet milestones of the LLRWPA (e.g., Vermont), the lack of progress of other States to site a new LLW disposal facility (e.g., Michigan) and the plans of most non-sited States to store LLW after 1992 until new sites are established, will lead to significant increases in NRC and Agreement State licensee reliance on storage of LLW. Such storage is being considered not only at individual licensee facilities but also at new central facilities (e.g., New York). Some licensees having excess storage space may also be asked by States or other licensees not having sufficient storage space to store waste for multiple licensees. The expected duration of such storage in some States will approach the five year time frame set out in existing NRC guidance and is likely to exceed the 1996 deadline established in the LLRWPA for the establishment of new disposal capacity.

Discussion:

In response to the first SRM request, the staff considered a range of far-reaching issues possibly resulting from the title transfer provisions of the LLRWPA. Many issues, however, clearly are tied to the national program established by the LLRWPA and lead to other issues tied to alternatives not envisioned by the LLRWPA, such as long-term or indefinite-term storage. While staff recognizes that some States or Compacts may not have new disposal facilities operational by 1993 or 1996, staff also concludes that it is not appropriate at this time to speculate that such facilities will not be established. Thus, in response to the first SRM request, the staff evaluated the following three issues raised by the title and transfer provisions of the LLRWPA:

1. Adequacy of the existing regulatory framework to enable States to take title and possession of low-level waste.
2. The staff issuance of licenses for storage after 1996 and the question of whether such actions will remove incentive for States to achieve the permanent disposal objectives of the LLRWPA.
3. The length of time for such storage approval.

The first issue is whether the existing regulatory framework is adequate. Office of the General Counsel staff analyzed Section 5 of the LLRWPA in order to determine NRC's responsibilities associated with the 1993 and 1996 deadlines (see Enclosure 1). Since 10 CFR Parts 30, 40 and 70 each contain a general license authorizing any person, including a State, to be an owner of ("take title to") radioactive materials, the legal formality of States taking title to LLW for storage will focus on the laws of the various States pertaining to transfer of ownership of personal property. Consequently, there appear to be no significant legal regulatory issues germane to NRC for the transfer of title for LLW to States. Possession of LLW, however, will require a specific license from either NRC or an Agreement State before a State can take possession of the waste. Existing regulations in 10 CFR Parts 30, 40, 50, and 70 and guidance on storage in Generic Letters 81-38 and 85-14 and Information Notices 89-13 and 90-09 are adequate for licensing. Generic letter 81-38 and Information Notice 90-09 include consideration of keeping storage to limited periods of time (i.e., five years or less) and place emphasis on shipment of LLW for final disposal. Thus, on the first issue, it is determined that NRC has an existing regulatory framework for licensing title transfer and interim storage. The Agreement States also have an adequate regulatory framework. They have received NRC guidance and have been encouraged to adopt similar guidance for their licensees.

The second issue is whether the staff should issue licenses for storage after 1996 and whether such an action will remove incentive for States to achieve the permanent disposal objectives of the LLRWPA. The third issue is the period of time for such storage approval. Although the LLRWPA does not impose implementation responsibilities on NRC regarding the 1996 deadline, it would be contrary to the national policy expressed in the LLRWPA to take actions which could be seen as relieving States from the need to accomplish the overall objective for permanent disposal of low-level waste. The staff believes that the Commission's statement in the February 14, 1990, Staff Requirements Memorandum that it "will not look favorably on long-term on-site storage after January 1, 1996," is consistent with the national policy. Consistent with Commission guidance, staff will authorize interim (short-term) storage beyond 1996 based on need while disposal capacity is being developed. Storage approvals, needed in 1993, would be authorized for only a single five-year period using existing guidance, whether at a generator's facility or a state facility. This period of time should be sufficient to allow for the establishment of new sites by States or Compacts without access to a site

on January 1, 1993. While no law or regulation prohibits storage of wastes for periods of time in excess of five years and beyond 1996, authorizing storage for a period which extends beyond 1998 could be construed as being inconsistent with current national policy. Thus, for future requests for authorization to store LLW for additional five-year periods beyond 1998, staff should consider the adequacy of the use of existing guidance, should evaluate the appropriate and necessary license requirements to assure safety, and should assess the possible generic impacts of storage beyond a single five-year period.

The second item in the SRM requested the staff to examine the advantages and disadvantages of various conceptual approaches to address the title transfer and possession provisions of the LLWPAA. The staff has examined a number of approaches. They are:

1. Amend Parts 30, 40, and 70 to codify NRC's position and requirements that would be applied in licensing storage as they pertain to the LLWPAA 1993 and 1996 deadlines.
2. Issue a letter to the Governors summarizing NRC's position, regulations, and guidance for LLW storage as they pertain to the LLWPAA 1993 and 1996 deadlines. Follow national progress on the development of new disposal facilities, and if a need is identified, develop NRC safety guidance for longer term storage after consulting with the Commission.
3. Issue a policy statement containing information similar to that contained in Alternative 2.
4. Take no action.

The advantages and disadvantages of each are discussed in Enclosure 2.

The review reveals that existing guidance for interim short-term storage by reactor and non-reactor licensees is adequate and the need for additional guidance involving storage for longer, more indefinite periods of time can be addressed as needs are identified. Thus, a rulemaking action is not required at this time.

In reviewing the second and third approaches, the staff recommends that NRC provide guidance to the Governors. The guidance would address the various regulatory and technical considerations associated with the title transfer and

possession provisions of the LLRWPA with particular emphasis on storage issues. The option of issuing a policy statement appears less desirable to staff. The development and issuance of a policy statement can be an intensive and lengthy process. A policy statement may also demand a much more immediate and detailed resolution of a broader range of issues involving storage at a time when such action could possibly limit or constrain future options. Thus, a letter to the Governors, signed by the Chairman, is the preferred alternative.

The letter would emphasize interim short term storage issues and requirements for obtaining a license authorizing possession of radioactive materials in the form of LLW. The letter would also emphasize that design of a facility for longer term storage would likely be considerably more complex and may be subject to safety controls that go well beyond the measures identified in NRC guidance for periods up to five years. Enclosure 3, "Guidance for Governors," contains the proposed letter. Upon approval by the Commission, the Staff will issue the subject letters.

The no action approach calls only for NRC to monitor States' progress in establishing new disposal capacity and react in response to developments. For this last approach, the advantages of NRC resource savings and allowing NRC the maximum flexibility in addressing issues are outweighed by the disadvantages of not reemphasizing NRC's policy and guidance on LLW storage in the context of the LLRWPA 1993 milestone.

The third SRM item called for schedules to develop necessary regulations or guidance. Since no additional regulations or guidance appear necessary for the LLRWPA 1993 milestone, schedule development is not necessary.

Future Plans:

The staff will continue to monitor progress of the States in establishing new disposal capacity and address questions and issues regarding storage as they arise. Such opportunities are available through the LLW Forum, the Technical Coordinating Committee, the Agreement States, the State Liaison Officers, and workshops. The staff will identify and take action to address areas requiring further guidance or rulemaking as they are identified. Such action now could possibly limit the range of future actions available to the Commission. It might also preclude opportunity for input from future State actions and other actions such as the recent State challenges to the constitutionality of taking title and possession of LLW pursuant to the LLRWPA.


The staff will continue to reaffirm NRC's position in correspondence and meetings, namely, that NRC does not look favorably on extended long term storage of LLW. Authorizations for storage up to five years, and beyond the 1996 deadline, will be allowed if needed for safe management of LLW while disposal capacity is being developed by the States. The staff will also coordinate with the Agreement States and encourage Agreement State regulatory agencies to adopt and carry forward a similar position.

Coordination:

This paper has been coordinated with the Office of Governmental and Public Affairs. This paper has been reviewed by the Office of the General Counsel which has no legal objection.

Recommendation:

- 1) That the Commission approve issuance of the proposed Guidance to Governors (Enclosure 3).
- 2) That the Commission approve the staff plans to continue to utilize existing guidance to authorize storage for a single five-year period beginning in 1993.


James M. Taylor
Executive Director
for Operations

Enclosures:

1. OGC Analysis
2. Alternatives
3. Guidance for Governors

Commissioners' comments or consent should be provided directly to the Office of the Secretary by COB Wednesday, September 26, 1990.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Wednesday, September 19, 1990, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

DISTRIBUTION:

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ENCLOSURE 1

NOT PUBLICLY AVAILABLE

ENCLOSURE 2

ALTERNATIVES

1. Amendments to 10 CFR Parts 30, 40 and 70

NRC would initiate a rulemaking to amend 10 CFR Parts 30, 40, and 70, to codify NRC's position and requirements that will be applied in licensing storage of LLW as it pertains to the 1993 and 1996 milestones while disposal capability is developed. This alternative provides a number of advantages, including the following:

- a. An advanced notice of proposed rulemaking would allow for a 60-day comment period, potentially reach a broader audience than the Guidance for Governors or Policy Statement options, and allow for consideration of public comments in the development of the proposed rule. Such a process would also importantly provide a forum for airing of the policy issues associated with storage for periods of time beyond five years and provide a definitive basis for safety or environmental requirements for longer term storage.
- b. The proposed rulemaking process would provide opportunity for States and compacts to provide input on the regulatory process to be used by NRC in dealing with issues involving waste possession by States and disposal of stored waste.

Rulemaking at this time would likely not be able to cover all possibilities which may occur over the next several years, such as the results of recent State challenges to the Act or future State activities to address their responsibilities under the Act. A rulemaking could also inappropriately limit the options of NRC in dealing with future waste storage and disposal scenarios. Given the complexity and uncertainties in the program, many scenarios are possible. It would also be difficult to initiate such rulemaking without appearing to impact upon the 1993 and 1996 deadlines of the LLRWPA. Codifying requirements could be construed as establishing new deadlines beyond 1996. Such requirements would allow States to continue to store LLW without having to establish final disposal capacity. This rulemaking would likely have to address NRC's confidence in the ability of licensees or States to safely store waste for long or indefinite periods of time, which could be construed as undermining the LLRWPA. Such action could delay some States in making progress in the siting, construction, and operation of disposal facilities. Finally, existing guidance for interim short-term storage by reactor and non-reactor licensees is adequate and the need for additional guidance involving storage for longer, more indefinite periods of time can be addressed as needs are identified.

ENCLOSURE 2

2. Guidance for Governors

NRC would issue guidance to the Governors, as issues and needs are identified. The guidance would be transmitted by letter, with attachments, and signed by the Office Director, EDO, or Chairman as determined by the significance and magnitude of the issues being addressed. Initial guidance would be sent to the Governors in a letter signed by the Chairman. It would address the various regulatory and technical considerations associated with the title transfer and possession provisions of the LLRWPA with particular emphasis on storage. It would include copies of the current guidance documents and regulations NRC would apply in the licensing of storage. Such an approach was followed by NRC in the issuance of guidance for the Governors' certifications. The letter, being signed by the Chairman, would communicate a Commission level position on how NRC intends to facilitate the goal set by Congress in the LLRWPA. This alternative would also enable NRC to continue to monitor national progress in the development of new disposal capacity and to develop and issue additional guidance as needs are identified. This alternative would not, however, formally codify in a rule NRC's position or the requirements NRC would apply for issuing a license to a state for possession and storage of LLW beyond the 1996 deadline.

3. Policy Statement

NRC would publish a policy statement providing information similar to that provided in item 2 above. It would note NRC recognizes that licensee authorizing storage for limited periods of time (i.e., five years or less) and for very limited periods of time beyond 1996 may be necessary while new disposal capacity is developed. This statement would emphasize NRC's concerns regarding the States' commitment to disposal and problems with longer term storage of LLW. A policy statement will communicate a Commission level position on how NRC intends to facilitate the goal set forth by Congress in the LLRWPA. However, a policy statement would not codify NRC's position or the requirements NRC would apply for issuing a license to a State for possession and storage of LLW beyond the 1996 deadline. A policy statement may also be more time intensive and difficult to develop than a letter to the Governors. It may also be a more difficult mechanism in which to present positions that require subtle discussion and treatment such as the timeframe over which NRC will authorize storage after 1996. A policy statement may also demand a more detailed and immediate resolution of a broader range of issues involving storage at a time when such action could possibly limit or constrain future options.

4. No Action

NRC would take no action at this time, but rather would continue to monitor States' progress in establishing new disposal capacity and would react to specific circumstances demanding NRC action such as issuance of licenses to possess and store LLW. States failing to develop disposal capacity may turn to the waste generators to store their waste, pending development of a disposal facility. In such instances, NRC would apply existing guidance, assess the need for additional guidance and address individual licensee requests on a case-by-case basis to satisfy public health and safety considerations. It is difficult to predict accurately all possible scenarios of this nature. The main advantages of the no action approach are that no additional NRC resources are required at this time and the staff has flexibility to address each situation as it believes is appropriate. The major disadvantage to this course of action is that taking no action does not make known or emphasize NRC's policy and existing guidance and may place the agency in the position of reacting to regulatory questions rather than pro-actively addressing them.

ENCLOSURE 3



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

The Honorable Rose Mofford
Governor of Arizona
State House
Phoenix, Arizona 85007

Dear Governor Mofford:

This letter is a follow on to Robert M. Bernero's February 10, 1989, letter that provided you with guidance and other relevant information to assist your State in meeting the 1990 milestone requirements of the Low-Level Radioactive Waste Policy Amendments Act (LLRWPA) of 1985.

The LLRWPA sets forth milestones, incentives, and penalties designed to ensure that States or regional compacts achieve the goal of development of new disposal capacity for all LLW generated within their borders. If a region or a non-member State of a compact cannot provide for the disposal of its waste after January 1, 1993, any generator in that region or State may request that the State in which the generator is located take title to and possession of the waste or assume liability for the failure to do so. Alternatively, a State may elect not to take legal responsibility with the consequence being that generators are repaid a part of the surcharges that were collected earlier. At the final milestone, January 1, 1996, States are required to provide disposal capacity or to assume title to and take possession of LLW generated within their borders, on proper notice by generators or owners.

The transfer to States of the title to LLW, and the possible assumption of possession of that waste, raise certain regulatory issues. With respect to title transfer, applicable NRC regulations (Title 10, Code of Federal Regulations, Parts 30, 40, and 70) contain a general license authorizing any person, including a State, to be an owner of (i.e., take title to) radioactive materials. Thus, the legal formality of States taking title to LLW for storage will focus on the laws of the various States pertaining to transfer of ownership of personal property. Consequently, there are no significant health and safety regulatory issues germane to NRC for the transfer of title for LLW to the States. Possession of LLW, however, will require a specific license from either NRC or an Agreement State before a State can take possession of the waste.

I am therefore enclosing the regulations, 10 CFR Parts 30, 40, and 70, and four NRC guidance documents on interim LLW storage for fuel cycle and materials licensees and for power reactors for your information and use. In addition, I am enclosing an assessment prepared for NRC by the Brookhaven National Laboratory of technical problems attendant to the extended storage of LLW. We would be pleased to answer any questions you may have on the management and disposal of LLW or, if you are an Agreement State, to assist in answering any questions your Agreement State regulatory agency may have.

If you expect to take possession of LLW in 1993, you should plan on filing an application within twelve months of that date. If you plan on relying on generators to store waste and they have concluded amendment of their NRC license is required to cover such storage, they should similarly apply for license amendment within twelve months of 1993. NRC will review each application following the enclosed guidance and will authorize storage for a single five year period. Longer term LLW storage in excess of five years has been discouraged by the Commission in support of national policy, to reduce radiation exposures to personnel and to assure control of radioactive material. Thus, storage for a longer period of time may be subject to safety controls that go beyond the measures identified in the enclosed guidance for periods up to five years. This should be a consideration in your planning if you expect to take title and possession of LLW in 1996 which may have already been stored several years.

Should you or your staff have questions regarding the information contained here or should you wish to consult with us, please contact Richard L. Bangart, Director, Division of Low-Level Waste Management and Decommissioning. Mr. Bangart can be reached at (301) 492-3340.

Sincerely,

Kenneth M. Carr

Enclosures:

1. 10 CFR Parts 30, 40,
and 70
2. NRC Information
Notice No. 90-09
3. NRC Information
Notice No. 89-13
4. Generic Letter 85-14
5. Generic Letter 81-38
6. NUREG/CR-4062

**LOW-LEVEL RADIOACTIVE WASTE POLICY
AMENDMENTS ACT TITLE TRANSFER AND
POSSESSION PROVISIONS**

OCTOBER 29, 1990

RICHARD L. BANGART

Contact: Richard L. Bangart
Phone: 49-23340

BRIEFING OVERVIEW

- 0 COMMISSION REQUEST**
- 0 BACKGROUND**
- 0 EVALUATION OF ISSUES**
- 0 EVALUATION OF CONCEPTUAL APPROACHES**
- 0 FUTURE STAFF ACTIONS AND
RECOMMENDATIONS**

COMMISSION REQUEST

- 0 EVALUATE ISSUES
- 0 EVALUATE ADVANTAGES AND DISADVANTAGES
- 0 DEVELOP SCHEDULE FOR NRC ACTIONS

BACKGROUND

- O 1993 AND 1996 DEADLINES OF LOW-LEVEL RADIOACTIVE WASTE POLICY AMENDMENTS ACT (LLRWPA)**
- O GOVERNORS CERTIFIED RELIANCE ON STORAGE**
- O STORAGE PERIOD MAY EXTEND BEYOND 1996**

ISSUES

- 0 AMENDMENTS ACT INTENT ACHIEVABLE
- 0 STAFF EVALUATION
 - REGULATORY FRAMEWORK ADEQUACY
 - ISSUANCE OF STORAGE LICENSES AFTER 1996
 - LENGTH OF TIME FOR STORAGE APPROVAL

EXISTING REGULATORY FRAMEWORK

- 0 OFFICE OF THE GENERAL COUNSEL REVIEW**
- 0 EXISTING REGULATIONS AUTHORIZE OWNERSHIP**
- 0 POSSESSION REQUIRES LICENSE**
- 0 EXISTING REGULATIONS AND GUIDANCE ADEQUATE FOR INTERIM STORAGE**

**ISSUANCE OF STORAGE LICENSES AFTER 1996
AND LENGTH OF TIME FOR STORAGE**

- O 1993 STORAGE APPROVALS AUTHORIZED FOR
SINGLE FIVE-YEAR PERIOD**
- O NO PROHIBITION AGAINST STORAGE BEYOND
1996**
- O LONG-TERM OR INDEFINITE PERIOD STORAGE
APPROVALS INCONSISTENT WITH LLRWPA
NATIONAL POLICY**

CONCEPTUAL APPROACH ADVANTAGES AND DISADVANTAGES

- 0 AMEND REGULATIONS
- 0 LETTER TO GOVERNORS AND OVERSEE
NATIONAL PROGRESS
- 0 ISSUE POLICY STATEMENT
- 0 NO ACTION

AMEND REGULATIONS

- O EXISTING REGULATIONS AND GUIDANCE
ADEQUATE FOR INTERIM STORAGE**
- O RULEMAKING UNNECESSARY**

LETTER TO GOVERNORS

- 0 GUIDANCE WOULD ADDRESS REGULATORY AND TECHNICAL ISSUES ASSOCIATED WITH TITLE AND POSSESSION
- 0 PRECEDENT ESTABLISHED BY LETTERS TO GOVERNORS PRIOR TO LLRWPAA 1990 MILESTONE
- 0 CHAIRMAN'S SIGNATURE UNDERSCORES IMPORTANCE OF ISSUE
- 0 FAVORED BY STAFF

ISSUE POLICY STATEMENT

- 0 TIMEFRAME LENGTHY
- 0 RESOURCE INTENSIVE
- 0 POSSIBLY PREMATURE

NO ACTION

- O CALLS FOR MORE FOR ROLE ONLY**
- O NEED TO EMPHASIZE NRC'S POSITION ON STORAGE**

RECOMMENDATIONS

- 0 COMMISSION APPROVE ISSUANCE
OF LETTERS TO GOVERNORS
- 0 COMMISSION APPROVE PLANS TO
AUTHORIZE STORAGE USING EXISTING
GUIDANCE
- 0 STAFF CONTINUE TO MONITOR
PROGRESS AND IDENTIFY ISSUES

which may require sleeving, the licensee could not provide an estimate of the total occupational dose for the sleeving activities. However, the licensee did provide information by letter dated November 21, 1990 that the estimated dose would be approximately 95 mrem per sleeve. While this is somewhat higher than the estimated dose for plugging tubes, the alternative repair method currently approved for use at the facility, this compares favorably with industry experience for similar repairs. In addition, it is expected that the dose for the proposed sleeving action would fall within the expected range for annual occupational exposure experienced at nuclear power plants. On this basis, the staff believes that the proposed action will not involve a significant increase in individual or cumulative radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed change to the TS involves systems located within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on October 19, 1990 (55 FR 42526). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Donald C. Cook Nuclear Plant

Units 1 and 2, dated August 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated June 27, 1990 and a supplement dated October 9, 1990, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland, this 27th day of November 1990.

For the Nuclear Regulatory Commission,

Robert C. Pierson,

Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-28379 Filed 12-3-90; 845 am]

BILLING CODE 7590-01-M

Recommendations on the Title Transfer Provisions of the Low-Level Radioactive Waste Policy Amendments Act of 1985

AGENCY: Nuclear Regulatory Commission.

ACTION: SECY 90-318 for comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing the availability of SECY 90-318 "Low-Level Radioactive Waste Policy Amendments Act Title Transfer and Possession Provisions" (dated September 12, 1990) for public comment. SECY 90-318 is available in the NRC Public Document Room, 2120 L Street, Washington, DC, telephone (202) 634-3273.

DATES: The comment period expires January 31, 1991.

ADDRESSES: Send written comments to James Kennedy, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or hand deliver comments to 11555 Rockville Pike,

Rockville, MD between 7:30 a.m. and 4:15 p.m.

FOR FURTHER INFORMATION CONTACT: James Kennedy, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone (301) 492-3401.

DISCUSSION: The Nuclear Regulatory Commission (NRC) staff has prepared an analysis of the issues associated with the waste title transfer and possession provisions of the Low-Level Radioactive Waste Policy Amendments Act (LLRWPA) of 1985. The staff's analysis also identifies options for discharging the Commission's responsibilities under the Atomic Energy Act and LLRWPA. Major issues related to these provisions include States taking possession of commercial low-level radioactive waste (LLW) after 1993 or 1996 in accordance with the LLRWPA and licensing of such possession (including interim storage of the LLW until disposal facilities are available) by NRC and Agreement States. These issues and staff's recommendations were summarized in SECY 90-318 and discussed in a public meeting of the Commission on October 29, 1990.

During the meeting, the Commission decided to solicit the views of the public on the staff recommendations provided in SECY 90-318. The Commission will consider these views in deciding on an appropriate course of action. In addition to the public's general views on the title transfer and possession provisions of the LLRWPA, the Commission is particularly interested in comments in response to the following questions:

1. What factors should the Commission consider in deciding whether to authorize on-site storage of LLW (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, 1992?
2. What are the potential health and safety and environmental impacts of increased reliance on on-site storage of LLW?
3. Would LLW storage for other than operational needs beyond January 1, 1992, have an adverse impact on the incentive for timely development of permanent disposal capacity?
4. What specific administrative, technical, or legal issues are raised by the requirements for transfer of title?
5. What are the advantages and disadvantages of transfer of title and possession as separate steps?
6. Could any State or local laws interfere with or preclude transfer of

title or possession of LLW?

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

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

Dated at Rockville, Maryland, this 26th day of November, 1990.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 90-28382 Filed 12-3-90; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide and NUREG; Issuance, Availability

The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft of a new guide planned for its regulatory guide series together with a draft of the associated standard review plan for license renewal. This draft guide and the associated standard review plan are being issued to involve the public in the early stages of the development of regulatory guidance in the area of license renewal.

The draft guide, temporarily identified by its task number, DG-1009 (which should be mentioned in all correspondence concerning this draft guide), is titled, "Standard Format and Content of Technical Information for Applications To Renew Nuclear Power Plant Operating Licenses," and is intended for Division 1, "Power Reactors." The draft regulatory guide establishes a uniform format and content acceptable to the staff for structuring and presenting the technical information to be compiled and submitted by an applicant for a renewed operating license. More specifically, this draft regulatory guide describes (1) the content of technical information to be included in license renewal applications, (2) the criteria for selection of structures, systems and components important to license renewal for which age-related degradation should be assessed and accounted for, (3) guidance for the evaluation of design, operational, and environmental factors that contribute to age-related degradation, (4) the identification of aging mechanisms and specific degradation locations, and (5) the attributes of established effective

programs and acceptable actions taken or to be taken to assess and manage age-related degradation. Additionally, detailed guidance for identifying, assessing and managing age-related degradation is contained in Appendix A to this draft regulatory guide.

The NRC is developing the draft "Standard Review Plan for License Renewal," (SRP-LR) for use by the NRC staff when performing safety reviews of applications for the renewal of power reactor licenses. The use of the SRP-LR when reviewing license renewal applications provides a framework for the staff to determine whether or not (1) the application is sufficient to allow the timely renewal provisions of 10 CFR 2.109 to apply, (2) systems, structures, and components important to license renewal have been identified, (3) significant age-related degradation has been identified and its effects evaluated, and (4) programs for age-related degradation management have been or will be implemented such that the current licensing basis will be maintained during the renewal term. The draft SRP-LR has been developed to enable the staff to identify areas and issues requiring review, and provides acceptance criteria to assist the reviewers.

The review criteria in the SRP-LR were developed by the NRC staff with assistance from experienced technical experts at both Pacific Northwest and Idaho National Engineering Laboratories. The criteria represent current knowledge and technical judgments on aging phenomena and age-related degradation management strategies. Although, in many instances, review procedures and acceptance criteria are not specified in detail, general guidance is provided. The staff expects that the SRP-LR will be periodically revised to include additional detail based on our review of the pilot-plant applications and the industry technical reports.

Public comments are being solicited on the draft regulatory guide and the draft standard review plan for license renewal. Comments should be accompanied by supporting data. In particular for the draft SRP-LR, written comments are desired in the following areas:

(1) Are there specific additional review criteria or review procedures for a system, structure, or component? Provide the supporting technical basis for these items.

(2) Are there specific review criteria or review procedures already in the document that should be modified?

DATES: The comment period expires March 8, 1991. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW, (lower level), Washington, DC.

The draft regulatory guide and the draft SRP-LR are available for inspection at the Commission's Public Document Room, the Gelman Building 2120 L Street NW, (lower level), Washington, DC. Requests for single copies of the draft guide and draft SRP-LR (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Information Support Services. Telephone requests cannot be accommodated. Regulatory guides and NUREGs are not copyrighted, and Commission approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT: For information concerning the draft regulatory guide contact Mr. Jitendra Vora, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492-3854. For information regarding the draft SRP-LR contact Mr. John Thoma, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492-3146.

Dated at Rockville, Maryland, this 26th day of November, 1990.

For the Nuclear Regulatory Commission,

Lawrence C. Shao,

Director, Division of Engineering, Office of Nuclear Regulatory Research.

Dennis M. Crutchfield,

Director, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-28376 Filed 12-3-90; 8:45 am]

BILLING CODE 7590-01-M

Cortland County
Low-Level Radioactive Waste Office

County Office Building 60 Central Avenue
P.O. Box 5590
Cortland, New York 13045
Telephone (607) 756-3444

Cindy M. Monaco
LLRW Coordinator

Denise Cote-Hopkins
Assistant LLRW Coordinator

October 31, 1990

Kerneth M. Carr
Chairman
United States Nuclear
Regulatory Commission
Washington, D.C. 20555

Dear Chairman Carr:

Your letter dated 20 July 1990 concerning the issue of long-term storage of low-level radioactive waste (LLRW) after 1 January 1996 warrants comment.

In the abovementioned correspondence you state: "NRC approval of long-term on-site storage as a substitute for development of new disposal capacity would clearly be inconsistent with the 1985 Act (LLRWPA)." I find it interesting that the NRC is so dedicated to enforcing the provisions of federal legislation regarding low-level wastes, while at the same time not at all rejecting the idea of long-term on-site storage of high-level radioactive waste (HLRW). The Nuclear Waste Policy Act provides the directive for the development of a national HLRW repository. As you are well aware, substantial delays in this program have been encountered. Seemingly in response to these delays, the NRC has reevaluated its policy concerning prolonged HLRW storage at reactor sites. As you must also be aware, the NRC recently published a revision to its 1984 Waste Confidence Decision. The NRC found that "spent fuel generated in any reactor can be stored safely and without significant environmental impact for at least thirty years beyond the licensed life (of the power plant) at the reactor's fuel storage basin, or at either onsite or offsite independent spent fuel storage installation." (1990 Annual Report Section of Public Utility Law, American Bar Association, p.93) Thus, it is obvious that the NRC is promoting policies which are, at best, completely inconsistent with one another. Moreover, given the much higher curie content of HLRW when compared to LLRW, the illogic of the policies is particularly striking.

Discussions held at the Department of Energy's most recent Waste Management Conference (August 28 & 29, Chicago,

90/228095

Illinois) demonstrated quite plainly that on-site storage of LLRW is not limited by technical considerations. That is, safe storage of LLRW at reactor sites is undoubtedly technically feasible. The question is not whether it is possible, but, rather, whether we want to go in that direction. (In fact, in Ontario at the Bruce Site and at AECL's Chalk River location, successful on-site storage programs have been in place for quite some time.) In my initial correspondence to you, I requested that you provide the NRC's technical basis and rationale for its policy against on-site storage. A frank response to this query would have been appreciated. Unfortunately, you neglected to provide such a response.

I trust that you recognize the serious nature of the nation's LLRW storage/disposal situation. For the sake of this country's citizenry, it is imperative that the NRC take a realistic approach to the situation. As I mentioned in my previous letter to you, NRC policy statements will not alter reality. The necessity for long-term on-site storage already exists, and the situation will most assuredly not improve over the next several years. If the NRC is, indeed, concerned primarily with public health and safety, then I suggest that it face the facts, revise its policy, and assist the states in preparing for the inevitability of point of generation storage.

Sincerely,

Cindy Monaco

Cindy Monaco
Cortland County LLRW Coordinator

cc: Michael Weber
Dr. John Randall
Governor Mario Cuomo
Frank Murray
Dr. Paul Merges
Gene Gleason
Richard Tupper
Mr. Tom Combs