

NUCLEAR REGULATORY COMMISSION

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ORIGINAL

COMMISSION MEETING

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In the Matter of: PUBLIC MEETING

DISCUSSION OF 10 CFR PART 61 "LICENSING  
REQUIREMENTS FOR LAND DISPOSAL OF RADIO-  
ACTIVE WASTE" FINAL RULE

(WITH VIEWGRAPHS)

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DISCUSSION OF 10 CFR PART 61  
"LICENSING REQUIREMENTS FOR LAND DISPOSAL  
OF RADIOACTIVE WASTE"

FINAL RULE

PUBLIC MEETING

Nuclear Regulatory Commission  
Room 1130  
1717 H Street, N. W.  
Washington, D. C.

Friday, October 22, 1982

The Commission convened, pursuant to notice, at

10:05 a.m.

COMMISSIONERS PRESENT:

- NUNZIO PALLADINO, Chairman of the Commission
- VICTOR GILINSKY, Commissioner
- JOHN AHEARNE, Commissioner
- THOMAS ROBERTS, Commissioner
- JAMES ASSELSTINE, Commissioner

STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

- W. DIRCKS
- J. ZERBE
- J. MARTIN
- D. SMITH
- R. BROWNLEE
- R. CUNNINGHAM
- S. TRUEBATCH

DISCLAIMER

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P R O C E E D I N G S

1  
2 CHAIRMAN PALLADINO: Good morning, ladies and  
3 gentlemen.

4 The Commission meets this morning to hear a  
5 discussion from the staff on the final rule for low  
6 level waste disposal, 10 CFR Part 61. The Commission  
7 last met on this subject in July of this year. The  
8 purposes of today's meeting are to receive any update or  
9 new information since the last meeting, and to answer  
10 Commissioner questions that remain, so that we can  
11 proceed, hopefully, to vote on the rule.

12 Do any of my fellow Commissioners have opening  
13 remarks?

14 COMMISSIONER AHEARNE: No.

15 CHAIRMAN PALLADINO: If not, let me turn the  
16 meeting over to Mr. Dircks.

17 MR. DIRCKS: This is one of those  
18 long-standing activities we have been engaged in for  
19 many years. It started off, actually, when I was  
20 Director of NMSS, and I am happy to see that it has  
21 progressed to where we have it today.

22 We are asking Commission approval to issue it  
23 in final form. As you have mentioned, we have had  
24 meetings on it with the Commission, and we have met with  
25 individual Commissioners. We have gone through a round

1 of public comment. We have had Dale Smith, who has made  
2 a career out of it and now has moved on to head-up our  
3 Denver office, but he has graciously come back to go  
4 through it again, with you. Jack, of course, has  
5 followed it as long as any one of us has.

6           Jack, do you want to make a few points, and  
7 then Dale can go through the details of the thing. I  
8 suppose, if you want to ask my involvement, I will have  
9 to scratch my head because it has been so many years  
10 since I have been involved in the details of it.

11           MR. MARTIN: I think what we want to do today  
12 is just very, very briefly review how we got to where we  
13 are, and deal with the comments that we have got from  
14 the last meeting, then, we also have with some of you  
15 individually.

16           There have been a couple of letters come in  
17 since the last meeting. We will just try to bring  
18 everyone up to date as to what has happened as a result  
19 of the last meeting, and what has happened since the  
20 last meeting, and deal with comments and any further  
21 questions.

22           At this point, I think, Dale, will you just  
23 walk through the slides?

24           MR. SMITH: Okay, thank you.

25           I think you all have the handout material that

1 we sent down.

2 COMMISSIONER AHEARNE: Has this also been  
3 distributed to the audience?

4 MR. SMITH: Yes, I think they have also been  
5 made available to the rest of the group here.

6 On the slide No. 2, this simply gives us a  
7 recap of the chronology. We are at the point where we  
8 have briefed the Commission earlier, in July. We  
9 responded to several questions and comments that arose  
10 as a result of that.

11 We have also, through staff initiative and  
12 through some outside influences, examined a few issues,  
13 and it is those issues that I would like to address this  
14 morning.

15 Generally, the reaction from the public to the  
16 publication of 82-204, the staff paper that presents the  
17 rule in its proposed final form, has been mixed. We  
18 have had very little actualy public comment or follow-up  
19 concerns. The few that have been expressed were  
20 addressed.

21 There does appear to be a very high level of  
22 interest from the people that we have talked with. The  
23 people we normally contact to do business with,  
24 industry, the universities, the State people, all are  
25 concerned and interested as to when the rule will be

1 out, and that we can get on with it.

2           COMMISSIONER AHEARNE: In fact, haven't we  
3 received at least one formal expression from a group of  
4 states, the States Conference, requesting us to?

5           COMMISSIONER GILINSKY: Requesting what?

6           COMMISSIONER AHEARNE: That we move forward  
7 with the rule.

8           MR. MAFTIN: The Western Governors Association  
9 recently did.

10          MR. SMITH: In general, the things that we  
11 have looked at since we last talked turned out to be  
12 issues that were not necessarily new. They were things  
13 that we had considered, but perhaps we needed to take a  
14 second look at, with an eye towards clarification and  
15 reexamination of these issues.

16          As I mentioned, these things came about not  
17 only as a result not only of our our presentation to the  
18 Commission and discussion related to that, but also  
19 outside people from industry.

20          COMMISSIONER ROBERTS: Could you give us  
21 examples of editorial and clarifying changes?

22          MR. SMITH: Yes, I can, and I think that as we  
23 go through there will be some examples. For example, in  
24 the environmental impact, and we transmitted the changes  
25 down to you, we have a number of pen and ink changes to

1 show clarification in language, things that just weren't  
2 coming across clear enough.

3 COMMISSIONER AHEARNE: Dale, that is 204A?

4 MR. SMITH: Yes, 204A, and then there was a  
5 supplement that came down in July that transmitted some  
6 of that.

7 I have a package of the minor editorial  
8 comments that we are proposing to make, and I will touch  
9 on some of these things. For example, we had used  
10 language relative to the noticing of an opportunity for  
11 a hearing, and we had perhaps carelessly called that an  
12 invitation to a hearing. We are proposing that we would  
13 make those kinds of changes, to get it back into its  
14 legal terminology.

15 COMMISSIONER AHEARNE: Do I understand that  
16 you have another package of changes?

17 MR. SMITH: We have a package of pen and ink  
18 changes that, if you wish, we can submit to show you.  
19 It was one of these things that we judged, for the most  
20 part, to be of such a minor nature as to not submit it  
21 until final action, and then we would submit it to the  
22 Secretary as part of his review of the changes that were  
23 made.

24 COMMISSIONER AHEARNE: These are all, in your  
25 judgment, non-substantive?



1 MR. SMITH: Non-substantive, yes.

2 In our earlier discussion, there were two  
3 things relative to time periods that raised questions.  
4 One had to do with the amount of time that a host or a  
5 compact state would be allowed in order to submit its  
6 request for participation in our rulemaking process.  
7 After discussion, it became rather apparent that the 15  
8 days we had proposed in the rule would not be  
9 sufficient, and we would propose to raise that time to a  
10 time of 45 days.

11 Also, as we had mentioned earlier, at the time  
12 that we submitted the rule in its proposed final form,  
13 we had had some preliminary meetings with the agreement  
14 states as to the amount of time it would take to get  
15 this in place, and we had some preliminary discussions  
16 with industry. We had allowed in the rule a delay of  
17 120 days for those provisions in Part 20 that affected  
18 the waste generator.

19 The Part 61 requirements affect only the  
20 disposal operator, and there would be no particular  
21 reason to delay those requirements. But those things  
22 that had to do with waste form, waste characteristics,  
23 and the manifest system are going to take more time to  
24 prepare for implementation.

25 We are, again, suggesting that those

1 provisions be delayed for one year, rather than the 120  
2 days that we had proposed in the paper.

3 CHAIRMAN PALLADINO: Does not Part 61 have an  
4 impact on the waste generators?

5 MR. SMITH: Part 61 has an impact on waste  
6 generators through the waste classification scheme. The  
7 place in the regulations that these requirements are  
8 laid on the waste generator is in Part 20. Part 20 is a  
9 regulation that is universally applicable to all waste  
10 generators. There is a section in Part 20 on waste  
11 disposal procedures.

12 We chose to put the manifest requirement, and  
13 the requirements that any waste that is prepared for  
14 delivery to a disposal site must meet the waste  
15 classification requirements that are spelled out in Part  
16 61.

17 CHAIRMAN PALLADINO: Do you think that these  
18 classifications A, B, C, are clear enough for both the  
19 waste generator and the disposal site operator?

20 As I recall, the last time, I had trouble  
21 understanding what A meant, until in the meeting it was  
22 clarified, and it seemed much more straightforward. Is  
23 that worth clarifying further in the regulation?

24 MR. SMITH: As you notice, Sir, we have  
25 completely rewritten the section on waste classification

1 in an attempt to make it clearer than it was in the  
2 draft rule.

3           CHAIRMAN PALLADINO: Where is that? Maybe I  
4 am reading old stuff, then.

5           MR. SMITH: If you will turn to Section 61.55,  
6 which you will find on page 115 in the 204 document. If  
7 you will turn to page 115.

8           COMMISSIONER AHEARNE: Of Enclosure A?

9           MR. SMITH: Of Enclosure A.

10           If you will notice, for example, on page 114,  
11 the big table with the line drawn through it was the  
12 waste classification table as it was presented in the  
13 proposed rule. It was rather complicated with a large  
14 number of footnotes.

15           In attempting to clarify that, we have created  
16 the tables that you see a few pages back, on pages 118  
17 and 119, and have eliminated almost all of the footnotes  
18 and put them into the text. We have made the text a  
19 walk-through, step-by-step, set of instructions as best  
20 we could.

21           Now, I can't claim that it is totally  
22 understandable because there are a number of people who  
23 say they still have trouble. I won't argue with that  
24 one. One of the lessons I was taught a long time ago  
25 is, no matter how much you think you have written it

1 properly, if somebody says they don't understand it,  
2 they don't understand it, and we do something.

3           We have attempted to be as responsive to all  
4 the comments we have had as was possible. I am always  
5 open to any further suggestions that the Commission may  
6 have on ways to clarify it.

7           MR. MARTIN: We do have the guide that is  
8 being issued simultaneously explaining even further.

9           CHAIRMAN PALLADINO: Is that a guide, or a  
10 branch technical position?

11           MR. MARTIN: It is a staff technical position  
12 that has been out for comment to many of the licensees,  
13 that amplifies and gives examples as to how all this  
14 works.

15           CHAIRMAN PALLADINO: From time to time in here  
16 it refers to branch technical positions, and I was  
17 wondering, why not make them reg guides?

18           MR. MARTIN: Because there really hasn't been  
19 anybody in research to work on them. That is the simple  
20 answer. I would like to make them reg guides.

21           MR. SMITH: It also is a matter of timing.

22           CHAIRMAN PALLADINO: That's good.

23           So you do agree in principle that they should  
24 be reg guides?

25           MR. MARTIN: Yes.

1           COMMISSIONER AHEARNE: Dale, the slide No. 5  
2 that you were speaking from, is this an example of --  
3 Are these slides listing the new substantive changes, or  
4 is this an example of what you previously said were  
5 non-substantive changes?

6           MR. SMITH: These are more examples of those  
7 things that we have considered to be substantive enough  
8 to bring back to the Commission.

9           COMMISSIONER AHEARNE: So you are bringing  
10 back every substantive change?

11          MR. SMITH: Those that we have judged to be  
12 substantive, yes.

13          COMMISSIONER AHEARNE: Okay.

14          MR. SMITH: We have mentioned on slide five  
15 the need for more time for implementation of some of  
16 these requirements. I might bring you up to date on  
17 where we stand with the three agreement states that have  
18 operating sites.

19                 We have meant with the agreement states and  
20 the potential agreement states that will have disposal  
21 sites, and have gone over the rule with them, and have  
22 general agreement on the rule.

23                 We have met twice with the State of South  
24 Carolina to develop interim procedures that they would  
25 implement through their regulatory authority in the way

1 of license conditions, and instructions, to be able,  
2 once Part 61 becomes an effective rule, to be able to  
3 start some of these systems, like the manifest  
4 requirement, prior to the time that would be necessary  
5 for them to promulgate a full set of regulations.

6           They have to go through a rather long and  
7 elaborate procedure themselves. They have the ability  
8 to implement certain -- in fact, many of these features  
9 are already in place. They have the ability to  
10 implement provisions through license conditions and the  
11 like.

12           We have met with South Carolina twice now to  
13 prepare draft license conditions, and prepare to get  
14 some of these things underway over the next year. We  
15 have meetings schedules with the States of Nevada and  
16 Washington.

17           Next week, as a matter of fact, we are having  
18 an all-agreement state conference here, and we will be  
19 taking advantage of the fact that these representatives  
20 will be here. We intend to meet with them next week.

21           COMMISSIONER AHEARNE: Does Nevada still  
22 intend to run a low level size?

23           MR. SMITH: That is questionable. The thing  
24 is tied up in all kinds of litigation. We are  
25 continuing to deal with the state on the basis that they

1 have a site. If they choose to close it down, then that  
2 is one less that we have to deal with.

3 CHAIRMAN PALLADINO: Do you have severe  
4 problems with the states, or do they generally support  
5 this?

6 MR. SMITH: The states are very generally  
7 supportive of the regulation. They have not expressed  
8 any serious concerns or identified any serious obstacle  
9 to the adoption of it.

10 COMMISSIONER AHEARNE: Other than a serious  
11 concern that they need it out.

12 CHAIRMAN PALLADINO: They need it out?

13 MR. SMITH: They need it.

14 CHAIRMAN PALLADINO: Yes.

15 MR. SMITH: We are down to minor procedural  
16 aspects in terms of things that are yet to be resolved.

17 Beyond the three existing sites, we are  
18 looking toward adoption of a regulations by other  
19 agreement states, and to that end the Conference of  
20 Radiation Program Control Directors has set up a task  
21 force to take Part 61, once it is issued, and convert it  
22 into a model state regulation that uses the right kind  
23 of language for states, rather than Federal  
24 regulations.

25 The task force is set up and ready to proceed

1 on this. This will greatly facilitate adoption by the  
2 agreement states, since it puts it in adoptable  
3 language. It also turns out to be a little bit more  
4 politically acceptable to the agreement states if it  
5 comes from their own conference of directors.

6 COMMISSIONER GILINSKY: Would this, at this  
7 point, apply to those states that we regulate directly?

8 MR. SMITH: Yes.

9 COMMISSIONER GILINSKY: Then it is up to the  
10 agreement states to accept it or not?

11 MR. SMITH: It is up to the agreement states  
12 to become compatible with Part 61.

13 CHAIRMAN PALLADINO: Could they become more  
14 stringent in their requirements? Is there anything that  
15 would prevent them from becoming more stringent, if some  
16 of them were interested in that?

17 MR. SMITH: As best I have been able to  
18 determine in talking to state program people and the  
19 legal people, for those things other than the primary  
20 radiation standards, it is a possible for a state to  
21 become more restrictive in the way they do business if  
22 they choose.

23 CHAIRMAN PALLADINO: But on radiation  
24 requirements they couldn't?

25 MR. SMITH: On radiation requirements, the



1 equivalent of those things that are in Part 20, they are  
2 standard that we make.

3           COMMISSIONER GILINSKY: Are there any active  
4 land burial sites to which this would now apply?

5           MR. SMITH: Not directly, no.

6           CHAIRMAN PALLADINO: You make a statement --

7           MR. SMITH: I say not directly, I am sorry.  
8 We have an active special nuclear material license at  
9 Barnwell, and we are renegotiating the S&M license at  
10 Hanford. These rules would apply to those licenses.  
11 since those licenses represent such a very small  
12 fraction of what goes on at those sites, we would be  
13 working through the states, through the implementation  
14 of requirements on the state material, and we would  
15 apply it.

16           COMMISSIONER GILINSKY: Because that portion  
17 of waste disposal has not been delegated?

18           MR. SMITH: That is right.

19           COMMISSIONER GILINSKY: Because it involves  
20 greater than critical mass?

21           MR. SMITH: Greater than critical mass  
22 possession limits.

23           COMMISSIONER GILINSKY: So at this point,  
24 leaving that aside, the real importance of this is new  
25 sites?

1           MR. SMITH: New sites, and the basis for  
2 states to develop their regulations for new sites in  
3 agreement states.

4           CHAIRMAN PALLADINO: You did say that  
5 applicability of the requirements of Part 61 to  
6 commission disposal facilities, licenses in effect on  
7 the effective date of the rule will be determined on a  
8 case by case basis. Does that mean that you are going  
9 to bring them into compliance?

10          MR. SMITH: Yes. The applicability on a case  
11 by case basis, there are some aspects of the rule that  
12 you don't backfit, it will be more a matter of forward  
13 fitting for procedures and things.

14          For example, we have looked at the existing  
15 sites, the state licensed sites, and our participation  
16 in those sites. We are pretty well agreed that these  
17 existing sites can meet the performance objectives that  
18 are laid before us in the rule.

19          We have looked at most all of the technical  
20 requirements that are in the rule, and as we look down  
21 the list, at those that have to do with site suitability  
22 in terms of backfitting, essentially those are moot  
23 issues at this point because the site is there and it is  
24 in operation.

25          We then have to look more toward the things

1 like design and operations, and we find that the  
2 existing sites, both under our license and under the  
3 state licenses, are complying with most all of the  
4 design and operation features that are in the rule. The  
5 one exception is the need to implement the waste  
6 classification scheme, which from the disposal site  
7 operator means he has to develop some procedures and  
8 some designs for segregating class A waste from the  
9 others, and for emplacing the class B and C wastes in a  
10 manner that is prescribed. Other than that, most all of  
11 the design and operational requirements are met. Things  
12 like environmental monitoring programs are already in  
13 place, and they are satisfactory.

14           Site closure plans for these existing sites,  
15 the two licenses that constitute roughly 99 percent of  
16 the disposal capacity have in place a set of license  
17 conditions for site closure and stabilization. The  
18 license conditions were based on our earlier branch  
19 positions, and actually form the basis for the features  
20 that are in the rule relative to site closure.

21           Nevada, because of their legal difficulties,  
22 has not reissued a license in some time, but they have  
23 similar provisions in place through their lease  
24 arrangements, and others.

25           We look at things like the institutional and

1 financial aspects, and we find those to be in fairly  
2 good shape, because the sites are on either state or  
3 federally owned land, as required by the rule, and  
4 financial arrangements are in place at these sites.

5           Both the Washington and South Carolina  
6 facilities have rather elaborate funding arrangements  
7 for sureties, and for closure costs. Nevada's is not  
8 quite as elaborate, but there are funding arrangements  
9 in that state as well.

10           So in looking at the existing state sites and  
11 our own sites, we feel that the transition under these  
12 rules is a very simple one, and it is only in the area  
13 of operational changes to accommodate the waste  
14 classification scheme that we see anything really that  
15 need to be done.

16           COMMISSIONER GILINSKY: Will this be  
17 incorporated into the inspection scheme of the various  
18 regions?

19           MR. SMITH: We, through our regional  
20 inspection, do continue to inspect the special nuclear  
21 material licenses that we regulate. Through the  
22 agreement state program, and the program review for  
23 agreement states, in those states that have waste  
24 disposal facilities, the review of the waste disposal  
25 program constitutes a major part of the program review

1 for Nevada, Washington, and South Carolina.

2           COMMISSIONER GILINSKY: But for the ones that  
3 we would regulate, I don't know if you can speak to  
4 this, but is this something that is incorporated into  
5 the regional inspection package?

6           MR. SMITH: Yes.

7           MR. MARTIN: The simple answer is yes.

8           MR. DENTON: The separation of the waste at  
9 the generator, the place of origin, that will be  
10 incorporated. That is under Part 40 licenses, and will  
11 now be picked up in our regional inspection program.

12           COMMISSIONER GILINSKY: You need some sort of  
13 QA system to make sure that that is done properly.

14           MR. DIRCKS: Yes.

15           If you go back when we had the crisis and the  
16 shutdown of the sites back in 1979-1980, I guess, the  
17 biggest complaint of the states that had these sites was  
18 that they were getting poorly packaged waste, unlabeled  
19 waste, poorly transported waste. They were saying that  
20 unless the Federal government did something about it,  
21 they were going to close these sites down.

22           COMMISSIONER GILINSKY: I remember, we had to  
23 send inspectors.

24           MR. DIRCKS: So this will be in the  
25 regulation.

1           COMMISSIONER GILINSKY: How does this get  
2 incorporated into the regional inspection format?

3           MR. DIRCKS: That is being picked up.

4           MR. SMITH: It becomes part of the generator's  
5 license, and Then we will have to work with the regions  
6 to rewrite the inspection plan to conform more the  
7 license. Those inspection plans will have to be  
8 updated.

9           MR. DIRCKS: Yes.

10          COMMISSIONER GILINSKY: Is this something that  
11 is on your schedule?

12          MR. MARTIN: It is on our list of things to  
13 do.

14          MR. DIRCKS: In effect, there is another  
15 mechanism, too, for enforcement action, because there  
16 are only three -- two point something sites receiving  
17 waste, and at the most there won't be a half a dozen in  
18 the country.

19                 These receiving sites that all this waste  
20 funnels through, they have an inspection and reporting  
21 system that will feed back into our system. So if they  
22 pick up violations of packaging and transportation, we  
23 have those arrangements with those states to give us the  
24 information, so we can take action against the  
25 generator.

1           COMMISSIONER GILINSKY: We prefer to stop it  
2 at the source.

3           MR. DIRCKS: Yes, but there is another line of  
4 defense.

5           CHAIRMAN PALLADINO: Do you want to go on,  
6 Dale.

7           MR. SMITH: On slide seven, one of the things  
8 that came up during our discussions the last time that  
9 needed clarification was the impact of the 300-year  
10 institutional control period that the Department of  
11 Energy had suggested. We attempted to clarify this in a  
12 memo that we sent to you back in August.

13           Basically, our conclusion was that for the  
14 commercial waste generation, the kind of waste that is  
15 generated in the commercial sector, and the fact that  
16 the burden for institutional control falls largely on  
17 the state, our initial position was still the correct  
18 position that the 300-year institutional control period  
19 that DOE proposed does allow more waste to be called  
20 class A than would be the case under our rule. It does  
21 not affect the upper-limits for what can be disposed of  
22 by shallow land burial, only the split between the A and  
23 the B categories.

24           The 100-year institutional period was chosen  
25 by us largely on the basis of public consensus that was

1 obtained through our series of workshops that involved  
2 states, industry people, people concerned with public  
3 interest groups. The question was not how long do you  
4 expect society to last, or how long can you expect  
5 governments to last, but how long should you expect them  
6 to be pay attention and do something about waste. There  
7 was a general consensus that 100 years was probably as  
8 long you would want to burden a state, or any other  
9 governmental unit, with this kind of obligation.

10           In looking at the general situation, the  
11 amount of additional waste that could be disposed of as  
12 class A waste, if we were to go to a 300-year period,  
13 would turn out to be a relatively small percentage, and  
14 in reality would have very little effect because of  
15 existing restrictions at disposal sites it would still  
16 have to go in as solidified waste under the present  
17 schedule.

18           In our discussion with Commissioner Ahearne,  
19 after the main session, there were some questions raised  
20 as to some of the data that was presented in the  
21 environmental impact statement, the 204A paper. In our  
22 August 20th memo, we sent down some pen and ink changes  
23 that we hope clarified the questions that were raised  
24 there.

25           Another question that came up in the



1 discussions had to do with the ability of the Federal  
2 government, particularly the Department of Interior and  
3 the Bureau of Land Management, to own and maintain  
4 custody of a closed site. In our memo to you of August  
5 20th, we present two points.

6           Actually, it is our legal view that even  
7 though there appears to be some conflict within their  
8 regulations and their statutes, it is possible for them  
9 to do this. However, discussions with Department of  
10 Interior staff indicate that they are not very anxious  
11 to do this.

12           The result of all of this is that we will not  
13 be issuing a license without some clear commitment on  
14 the part of the landowner that they, indeed, are willing  
15 to take on this responsibility. If the Department of  
16 Interior, with their lands, at that time are not willing  
17 to take it on, that eliminates that as a potential  
18 site.

19           What it tends to do, it seems to me, is to  
20 drive the selection of sites more toward state-owned  
21 than federally-owned land, or maybe federal-land that  
22 end up being transferred to the state ownership, but not  
23 federally-owned sites for long-term custody.

24           COMMISSIONER ASSELSTINE: Dale, is that  
25 something that the states understand? Do they

1 understand that the practical effect of this rule is  
2 going to be, for all intents and purposes, the states  
3 are the ones that are going to have to provide the land  
4 for these disposal sites in the future?

5 MR. SMITH: I think they do. It is not  
6 something that I have discussed, but as I see what the  
7 states are doing and the way that they are approaching,  
8 it is very clear that they are taking this Low Level  
9 Waste Policy Act seriously and are taking on the  
10 responsibility for the compacts for the development of  
11 the sites.

12 I am not aware of any trend towards trying to  
13 build these things strictly on federal lands. In fact,  
14 in Colorado, which is one of the first indications we  
15 have seen of new site development, a certain portion of  
16 the land on their proposed site is federal land, and  
17 they are working with the Bureau of Land Management to  
18 have that land transferred from the Federal government  
19 to the state for ownership.

20 COMMISSIONER ASSELSTINE: It might be useful,  
21 when you have those meetings that are coming up, to make  
22 sure that the people do understand that, so that it  
23 doesn't come as a surprise.

24 MR. SMITH: Yes.

25 COMMISSIONER AHEARNE: The reason I had raised

1 the issue, to which they responded, was the way the rule  
2 was, they had to have a permanent agreement with the  
3 permanent owner, and I was just curious as to whether or  
4 not the Federal government was prepared and could do  
5 that.

6 MR. SMITH: Some of the questions that were  
7 raised had to do with legal views on whether or not  
8 waste that exceeded the class C limits in Part 61  
9 automatically became high level waste. The answer to  
10 that question is, no, they don't.

11 High level waste is a legally defined term  
12 that is based on the source of the waste and not on its  
13 radiological properties. The class A, B, C  
14 classifications are largely based on radiological  
15 properties, and thus it is possible to have a waste that  
16 exceeds the class C limits, but did not originate from  
17 that source that has been legally defined as a source of  
18 high level waste. Therefore, it is not high level  
19 waste, but simply a low level waste that exceeds the  
20 class C limits.

21 CHAIRMAN PALLADINO: Where does that go?

22 MR. SMITH: We have provided at this time in  
23 Part 61 for consideration of these kind of waste  
24 disposals on a case by case basis. We have had very few  
25 of these in the past, and they do constitute at this

1 time a fairly small percentage of the total.

2           We would look at them on a specific basis,  
3 taking into account where it would be disposed, the  
4 method that they would propose, and we would apply the  
5 performance objectives of Part 61 to see that they were  
6 met.

7           COMMISSIONER AHEARNE: Would that essentially  
8 be, perhaps, waste from a reactor accident?

9           MR. SMITH: The closest that we have come to  
10 that so far are some of the high activity resins that  
11 have gone to Hanford from Three Mile Island.

12           Special provisions were made there in that  
13 below the normal depth of the trench, they excavated  
14 further compartments for placement of this high activity  
15 waste, backfilled it, and then piled waste that had been  
16 solidified with cement on top of that deeply buried  
17 waste to provide a further barrier. And being a dry,  
18 arid site, where the migration problems are  
19 non-existent, we judged that, along with the State of  
20 Washington, to be a suitable way of disposing of that  
21 particular kind of waste.

22           (Commissioner Gilinsky left the meeting.)

23           COMMISSIONER AHEARNE: I found interesting, in  
24 part of the response that you sent up on July 23rd,  
25 obviously it is an accurate statement, that low level

1 waste is waste containing source byproduct and special  
2 nuclear material not specifically defined as some other  
3 kind of waste.

4           CHAIRMAN PALLADINO: But sometimes you can't  
5 do better than that.

6           COMMISSIONER AHEARNE: Right, but it  
7 guarantees then that you have everything covered.

8           MR. DIRCKS: Not otherwise identified by name  
9 is low level waste.

10           MR. SMITH: A couple of questions we responded  
11 to relative to the legal authority for financial  
12 assurances. The bottom line there is, for those periods  
13 of time where we have active licensing responsibility,  
14 we have the authority to require the financial  
15 assurances, and this would take it through the  
16 operation, the closure, and the post-closure period.

17           Beyond that, when the responsibility for the  
18 site transfers to the custodian, our authority begins to  
19 erode. The approach that we have taken in the rule is  
20 to require evidence up-front that some arrangements had  
21 been made between the site operator and the eventually  
22 custodian for financial support for this institutional  
23 control period. That is the extent of that.

24           COMMISSIONER AHEARNE: Basically, as you  
25 pointed out earlier, that essentially is the state.

1 MR. SMITH: Yes, it is the state.

2 COMMISSIONER AHEARNE: So as you point out in  
3 your response, such an arrangement must be effected by  
4 the state and be reviewed and approved by the NRC before  
5 a license is issued.

6 MR. SMITH: The final point in that response  
7 had to do with Indian tribes as related to the  
8 provisions of our regulations. By a long process of  
9 elimination, the lawyers have concluded that they fall  
10 into the "other entity" category.

11 COMMISSIONER AHEARNE: My question was, I  
12 wanted to be sure that the Indian tribes were included  
13 in the provisions of the regulation, and it wasn't  
14 obvious to me that they were, and could therefore have  
15 the right to the state. The lawyers have constructed  
16 this argument.

17 COMMISSIONER ROBERTS: Do you concur with the  
18 thrust of the argument?

19 COMMISSIONER AHEARNE: Yes. More  
20 particularly, we now have a memo from the legal side of  
21 the NRC saying, yes, they are in there, and here is  
22 how. At one of those state planning council meetings I  
23 sat through, I got sensitized to the need of the Indian  
24 tribes.

25 MR. SMITH: We received a piece of

1 correspondence from Sol Harris, who is a committee  
2 chairman of the Health Physics Society, in which he  
3 expressed several concerns. We talked with Mr. Harris  
4 and found that his primary concern is with the need for  
5 a de minimis category, those kinds of wastes that are of  
6 such low consequences to not merit regulatory control.

7           We have taken the position in the rule, and we  
8 reiterated this to Mr. Harris, that we are committed to  
9 dealing with these problems on a waste stream by waste  
10 stream basis, that we are not prepared to incorporate  
11 the in Part 61 at this time, and we did not want to hold  
12 the rule up as a result.

13           But we are committed to examining those waste  
14 streams that are brought to our attention, and that we  
15 ferret out, too, from our own knowledge, things that  
16 could be disposed of by less restrictive methods, and  
17 including methods that are not under NRC regulatory  
18 control.

19           An example of one that we have already done  
20 this with is the liquid assimilation waste, where the  
21 radioactivity content of the waste was so low as to be  
22 no problem. We have essentially deregulated it, and it  
23 has become more of a question of how do you dispose of  
24 xylene and toluene, and other organic chemicals.

25           COMMISSIONER AHEARNE: What, then, is the NMSS

1 position with respect to the question of a de minimis  
2 level?

3 MR. MARTIN: The position on that is that we  
4 should not approach it generically, but we should  
5 identify target waste streams, work through a dozen or  
6 so of these things and see if a pattern emerges.

7 COMMISSIONER AHEARNE: What you are saying is  
8 that you do agree with the concept of getting to a de  
9 minimis level.

10 MR. MARTIN: Yes.

11 COMMISSIONER AHEARNE: But that your approach  
12 is to do it by --

13 MR. MARTIN: On a case by case basis for a  
14 while.

15 COMMISSIONER AHEARNE: Case by case being  
16 waste stream by waste stream?

17 MR. SMITH:

18 MR. MARTIN: Yes. We went over that with  
19 Harris in some detail and confirmed it in a letter. I  
20 think it is safe to say that he is satisfied.

21 MR. SMITH: Yes.

22 COMMISSIONER AHEARNE: That also, then,  
23 somewhat addresses some of the concerns that Matusick  
24 raised?

25 MR. MARTIN: Yes.



1           CHAIRMAN PALLADINO: After you develop some  
2 experience with these various streams, you may develop a  
3 de minimis rule?

4           MR. SMITH: Yes.

5           MR. MARTIN: There was a Federal Radiation  
6 Policy Council that was in effect a couple of years  
7 ago. They looked at the same question, and also  
8 concluded that if we tried to now proceed on a generic  
9 front, we would probably wind up with limits that are so  
10 conservative that they don't help anybody. So we should  
11 look at it individually and then see where we are in a  
12 year or so.

13           That has built into a substantial portion of  
14 the Low Level Waste Branch's efforts. For the next  
15 couple of years, we are going to be doing just that.

16           COMMISSIONER ASSELSTINE: Does that mean that  
17 someone has to come in for an exemption from the rule?

18           MR. MARTIN: They can propose an exemption, or  
19 hopefully we are going to identify some targets  
20 ourselves and work through. It could be either way.

21           COMMISSIONER ASSELSTINE: For example, how  
22 about the assimilation waste, where you have already  
23 made that determination.

24           MR. MARTIN: We did that on our own  
25 initiative.

1           COMMISSIONER ASSELSTINE: So no other action  
2 is required.

3           MR. MARTIN: No.

4           COMMISSIONER ASSELSTINE: As far as that is  
5 concerned, this rule doesn't change the requirement.

6           MR. MARTIN: No.

7           MR. SMITH: In talking with Mr. Harris, who  
8 happens to be the chairman of the De Minimis Committee  
9 within the Health Physics Society, we encouraged him and  
10 others to identify to us those things that they wanted  
11 us to address. We also clarified with him that it is  
12 that it is not necessary for each and every licensee to  
13 come in with a petition for rulemaking in order to get  
14 this done.

15           The next three issues have to do with waste  
16 treatment, waste form, and I would ask that Bob Brownlee  
17 come up and address those.

18           MR. BROWNLEE: The first issue on page 12 has  
19 to do with a concern expressed to us by an industry  
20 group called Utility Nuclear Waste Management Group,  
21 with regard to how we intended to implement the waste  
22 classification part of the rule.

23           They were concerned that it could be  
24 interpreted to require detailed analyses of every  
25 individual package that went out of the plant. We have

1 tried to make it clear through our meetings with them,  
2 and our branch technical position which will go out  
3 parallel with the rule, that that is not the case, that  
4 there are other alternative ways of doing it.

5           We have had one meeting with them. We have  
6 actually visited the Yankee, as we have indicated here  
7 in the response. In the case of the Yankee plant, they  
8 have in place a system for analyzing their waste and  
9 knowledge of what their waste streams are that looks  
10 like they will be able to comply without any additional  
11 changes at all.

12           We have lined up visits to other plants. For  
13 example, the Duke people have asked us to come down and  
14 work with them to make sure that there is a viable,  
15 practical system for providing the degree of assurance  
16 required that we know what is in the waste streams.

17           COMMISSIONER AHEARNE: But it is true, is it  
18 not, that any waste package must be labeled as to what  
19 the waste is?

20           MR. BROWNLEE: That is right.

21           COMMISSIONER AHEARNE: It is also true, isn't  
22 it, that the waste package as a whole must fit within  
23 the category that it is so labeled.

24           MR. BROWNLEE: Yes.

25           MR. MARTIN: I think the main concern here

1 was, do we have to put every package through a  
2 spectrometer or something. We have taken the position,  
3 no, there are a lot of ways of dealing with this. You  
4 can do that if you want to, but more likely you would  
5 qualify the waste stream, and as long as you didn't  
6 change anything, you don't have to measure every single  
7 package. There are a number of ways like that that are  
8 now working out with the waste generators, and it seems  
9 to be going smoothly.

10 MR. BROWNLEE: I would expect that by the time  
11 the rule becomes effective at the waste generator part  
12 of the thing that we would have walked through enough  
13 examples and included them in our branch technical  
14 position that the concern that we will impose some  
15 system on them that is just not implementable would go  
16 away.

17 The next issue is the question that was raised  
18 from the Dow Chemical Company and Mr. Bill Bader of CRB  
19 Associates with regard to the limit that we have in the  
20 standard of 1 percent free liquids in dewatered wastes,  
21 their primary concern being the resins that come from  
22 reactor plants as a waste stream.

23 Their point is that technologies exist that  
24 would give assurance that the amount of free liquid in  
25 the waste that is offered for disposal is significantly

1 less than 1 percent. However, our analyses and our  
2 reviews indicate that the basis for imposing a tighter  
3 limit, even though it is technically feasible, just  
4 isn't there when you consider the cost impacts, the  
5 impacts on the disposal, and the impact on the  
6 transportation. We have proposed to leave the limit at  
7 the particular point where it is.

8           It is interesting to note that the analysis  
9 that we have done, or that the Department of Energy has  
10 actually done on the Three Mile Island wastes, which are  
11 at the upper limit of these kinds of wastes, where they  
12 have actually taken two of the liners to  
13 Battelle-Columbus Laboratory, and analyzed the contents  
14 in detail, confirms the conclusion that the amount of  
15 liquid is actually low, it is not high, if you use good  
16 dewatering practices, and the radioactive content of  
17 that liquid is very low. It shouldn't be surprising  
18 because that is why we use the resin, to clean up the  
19 water, to take the radionuclides out of the water and  
20 put them on the resins.

21           The data coming out of the DOE experiments say  
22 that this remains the case with longer periods of time.  
23 So during the period that the liners, with the small  
24 amount of liquid, would be either in storage or in the  
25 transportation mode, the radioactive content of that

1 liquid would be very small.

2           COMMISSIONER AHEARNE: What percentage of free  
3 water was in the Battelle examinations?

4           MR. BROWNLEE: I don't remember the exact  
5 number. It was less than 0.5 percent.

6           I think that it should also be noted that our  
7 plan in implementing this rule would be along the lines  
8 of ALARA in that waste generators that have these waste  
9 streams would demonstrate the capability to dewater the  
10 resins to levels probably lower than the 1 percent, or  
11 at least as low as they can.

12           The industry that presents that service to the  
13 utilities, in designing their containers, are designing  
14 them with dewatering capability. Then they run a  
15 qualification program, in effect, where they take a  
16 liner, treat it as if it were radioactive, pump the  
17 water out, let it sit, pump some more water out, let it  
18 sit, and devise a plan of pumping and waiting that would  
19 give the degree of assurance that the amount of liquid  
20 is significantly below the 1 percent.

21           COMMISSIONER AHEARNE: Let me ask you two  
22 questions, Bob.

23           Correct me if I am wrong, but my memory was  
24 that at one point in recent past years, it was NMSS's  
25 position that they should try to do away with

1 free-standing water in the waste.

2           MR. BROWNLEE: It still is our position. We  
3 would like to minimize the amount of free-standing  
4 liquid that is in the container. The limits that are  
5 imposed are based on what the reasonable  
6 state-of-the-art is today.

7           COMMISSIONER AHEARNE: This gets to the second  
8 question.

9           You mention here on this slide, and as you  
10 just mentioned, this represents what is reasonably  
11 achievable using current technology. Is it a misreading  
12 of the Dow argument that they are saying that beyond  
13 that is current technology. If that is not a  
14 misreading, then are they incorrect?

15           What they propose would lead the reader to  
16 believe that it is possible with current technology to  
17 do much better.

18           MR. BROWNLEE: The technology that they are  
19 referring to is a solidification technology. In other  
20 words, if we were to lower the limits today, the  
21 practical reality of that would be, everyone would have  
22 to solidify their resins in order to meet the limit.

23           COMMISSIONER AHEARNE: Right.

24           MR. BROWNLEE: We have analyzed it and said  
25 that, from a disposal standpoint, we can't justify the

1 extra cost.

2 MR. MARTIN: Let me answer the question.

3 I think the answer is, yes, that if you wanted  
4 to get --

5 COMMISSIONER AHEARNE: The answer to which  
6 question?

7 MR. MARTIN: Is it technologically feasible to  
8 get to lower quantities of water. The answer is, yes.  
9 Using the Dow process is one way to do it, and there is  
10 a number of other ways.

11 On the other hand, in checking what it would  
12 cost to do this, we are talking about, on the average,  
13 the utility spending \$10 to \$20 million to go from a  
14 small amount of liquid in a container to an even smaller  
15 amount.

16 You are correct that originally, when we  
17 started off looking at this question, our natural bias  
18 was, let's get it as low as we can. But then when  
19 examined the problem, what is the problem with the  
20 free-standing water; is it a public health and safety  
21 issue, or what is the issue here, and we dissected that  
22 problem, it primarily turns out to be a nuisance item  
23 that during shipment sometimes you have leaks that are  
24 not a public health, but they are an irritant.

25 CHAIRMAN PALLADINO: To whom are they an



1 irritant?

2 MR. MARTIN: They are an irritant to the  
3 shipper. They are an irritant to the state that runs  
4 the burial ground. They raised a big issue about  
5 getting leaking shipments.

6 MR. DIRCKS: Public perception, too, I think.

7 MR. MARTIN: There is a perception problem.  
8 So after we looked at these enormous costs, frankly we  
9 did not realize that we were talking about that amount  
10 of money, and we talked to the utilities about, "If you  
11 do a good job dewatering these, and really work at it,  
12 what can you do?" It looks like it is reproducible to  
13 get 1 percent, and we can't make a case that there is  
14 any major incentive to go much below that.

15 CHAIRMAN PALLADINO: Bob said that they were  
16 going to try to get people to go as low as they.

17 MR. BROWNLEE: Or demonstrate that they can.

18 MR. MARTIN: Show that it can be done without  
19 spending a lot more money.

20 CHAIRMAN PALLADINO: It wasn't all that  
21 clear.

22 MR. BROWNLEE: For example, it is not really  
23 in the utility's interest to stop dewatering when it is  
24 just at the 1 percent level because the odds are that  
25 more would be generated during the transportation mode.

1           COMMISSIONER AHEARNE: I understand. What I  
2 was focusing on is that the slide says, "The revised 10  
3 CFR 61 free liquid limits represents what is reasonably  
4 achievable using current technology." I think that you  
5 just said, Jack --

6           MR. MARTIN: That is not strictly accurate.  
7 It is using present methods.

8           COMMISSIONER AHEARNE: There would be an  
9 economic factor put in because, I think, as you have  
10 said, in the certification, you can actually go to much  
11 lower limits.

12          MR. MARTIN: Right.

13          MR. DIRCKS: It is the old debate of using the  
14 best available technology versus the best practical  
15 technology.

16          COMMISSIONER AHEARNE: I was just trying to  
17 clarify.

18          MR. MARTIN: You are correct.

19          COMMISSIONER AHEARNE: So that our limit is  
20 based on cost/benefit analysis?

21          MR. MARTIN: It puts us in the position --  
22 frequently I get accused of being on the other side of  
23 the question. We are in a position of, okay, you have  
24 technologies available and it costs a lot of money, but  
25 is it really necessary? We have concluded, no, it is

1 not necessary.

2           COMMISSIONER AHEARNE: My concern was, if our  
3 regulations described as "this is the best that can be  
4 done with the technology," I don't think that it is an  
5 accurate description.

6           MR. MARTIN: No, it is not.

7           MR. BROWNLEE: There is technology available  
8 that would get it below the 1 percent with a high level  
9 of assurance.

10          CHAIRMAN PALLADINO: In pointing out the  
11 economics, you still have to rely on the fact that this  
12 doesn't impose a health and safety problem, therefore,  
13 economics can apply.

14          MR. MARTIN: That is right.

15          CHAIRMAN PALLADINO: Congressman Albosta wrote  
16 to us and also raised questions on this point. He says,  
17 if we don't reduce it, he would like to know the reason  
18 for it. I gather, also, he is looking at it from the  
19 perspective of transportation, if I understand, he is on  
20 one of the transportation committees.

21          COMMISSIONER AHEARNE: As Jack has pointed  
22 out, over the past several years, or Bill pointed out,  
23 the difficulties that have arisen with respect to low  
24 level wastes have primarily been due to water leaking  
25 out of packages and being identified, either during

1 transit or when it gets to the low level waste site.

2 MR. BROWNLEE: I think that one of the worst  
3 incidents, if you can characterize the worst, in the  
4 case of an actual leakage during transportation, was in  
5 fact related to an improperly solidified package using  
6 the urea formaldehyde solidification technique which  
7 results in highly acidic liquids if it is not done  
8 properly. The acid actually ate through the carbon  
9 steel liner and leaked during shipment.

10 COMMISSIONER ROBERTS: When was that?

11 MR. BROWNLEE: That was in 1979, it was about  
12 the time when the states started getting excited about  
13 the improperly packaged waste going to the sites. It is  
14 not a recent incident. As a matter of fact, although  
15 they have tried to continue to improve the process, all  
16 the burial sites have now banned that solidification  
17 technique, so it is not being used any more.

18 CHAIRMAN PALLADINO: One of my staff members  
19 got a call the other day from a staff member of  
20 Congressman Albosta voicing concern about the proposed  
21 10 CFR 61. It says, "Their interest was initially  
22 sparked by Dow Chemical, but they appear more concerned  
23 with safety problems in the transport of nuclear waste,  
24 rather than disposal areas. The more recent question  
25 posed concerned whether or not we have any test data

1 available on the capability of high integrity containers  
2 to withstand fires or drops."

3           As separate issue from that, what is the  
4 relationship between 10 CFR Part 61 and DOT  
5 regulations. Is there a connection?

6           MR. MARTIN: Dick Cunningham, would you mind?  
7 He is our transportation expert.

8           CHAIRMAN PALLADINO: I would like to get him  
9 over here. I would like his response to get this  
10 question answered.

11           MR. MARTIN: I might say, on that letter, when  
12 we prepared the response, we prepared it pretty general,  
13 since we didn't know what the Commission's position  
14 was. We could go through it point by point.

15           CHAIRMAN PALLADINO: He is raising questions  
16 that really relate to transportation, and the  
17 interrelation between the two would be of interest.

18           MR. CUNNINGHAM: The first point is that the  
19 term "high integrity" pertains to waste disposal. It is  
20 not a term used in the transport system.

21           Basically, the transport system has two types  
22 of containers, the type A container, and the type B  
23 container. The A container having the smaller amounts  
24 of radioactive materials. DOT regulates type A  
25 containers. They specify the design criteria in its

1 regulations.

2           Basically that container has to withstand the  
3 normal conditions of transport, that is, it has to be  
4 able to withstand drops from a forklift, the vibration,  
5 and so forth.

6           CHAIRMAN PALLADINO: This is type A?

7           MR. CUNNINGHAM: Type A. Type B containers  
8 are the ones which we at NRC certify. Those containers  
9 must withstand accident conditions. The Type B  
10 container varies depending on what is put into it, but  
11 the type B container is one that could store high level  
12 waste also.

13           COMMISSIONER AHEARNE: Or spent fuel.

14           MR. CUNNINGHAM: Spent fuel, high level waste,  
15 and some of the materials that came out of TMI.

16           COMMISSIONER AHEARNE: Is it correct that the  
17 only categories that are in the low level waste rule  
18 that would require type B, would be possibly some of the  
19 C wastes.

20           MR. MARTIN: Yes.

21           MR. CUNNINGHAM: Yes, and there might be under  
22 that special provision in the rule where you examine  
23 things on a case by case basis. You might have type B  
24 containers. Hospital sources, for example, might  
25 require type B containers.

1           MR. MARTIN: For example, a control rod would  
2 probably be a B waste, but would still require pretty  
3 careful shipment. So it could be B or C, the higher  
4 category.

5           MR. CUNNINGHAM: All I can say about the high  
6 integrity container is that we at NRC have not been  
7 asked to examine it in terms of certification as a type  
8 B container. Typically, the container, as I understand  
9 this high integrity container, it is the inner-most  
10 container that would actually contain the waste  
11 material. These would probably be shipped as liners to  
12 an overpack that would withstand the accident and  
13 provide protection against accidents in transportation.

14           Most type B containers are sufficiently  
15 expensive that you don't throw the whole container  
16 away. You have an inner-liner that contains the waste  
17 and then you remove that at the burial ground.

18           MR. MARTIN: I think that is the answer, the  
19 high integrity container has high integrity, or what we  
20 mean by high integrity, after it is in the burial  
21 ground. But for purposes of shipment, you rely on the  
22 type B container that you have put this thing inside of  
23 it, and don't rely on it for anything during shipment.

24           CHAIRMAN PALLADINO: As long as we are on  
25 transportation, just one more question.

1           Can type A go in cardboard boxes? I am sorry,  
2 can type A wastes, can they go in cardboard boxes to the  
3 burial?

4           MR. CUNNINGHAM: Yes, they can. They can be  
5 transported in that provided that it meets the design  
6 criteria for DOT, and this consists of certain vibration  
7 tests and four-foot drop tests, and so forth.

8           CHAIRMAN PALLADINO: They have to meet that?

9           MR. CUNNINGHAM: They have to withstand that  
10 kind of tests.

11          CHAIRMAN PALLADINO: I gather that some of the  
12 problems that there have been with shipments, they have  
13 been with those in fiberboard or cardboard.

14          MR. MARTIN: I point out, Mr. Chairman, that  
15 the transport regulation would permit it, but one of the  
16 features in Part 61 is that you shouldn't use cardboard  
17 boxes anymore because of all the hassle that we have had  
18 over crushed and broken containers.

19          CHAIRMAN PALLADINO: That is why I asked the  
20 question, because of my recollection.

21          MR. MARTIN: It is not a transport  
22 requirement.

23          CHAIRMAN PALLADINO: You are discouraging it?

24          MR. MARTIN: Yes.

25          COMMISSIONER ROBERTS: What does a type B



1 shipping container cost?

2           MR. CUNNINGHAM: It varies considerably  
3 depending on what it is intended to contain. An  
4 irradiated fuel container would cost millions of  
5 dollars. Smaller containers, I suppose you could design  
6 some for tens of thousands of dollars. They tend to be  
7 expensive, and part of the expense is a result of the  
8 design and analysis to show that it can withstand  
9 accidents.

10           MR. BROWNLEE: Just to try to put that into  
11 perspective, the reactor plant resins that are presently  
12 being shipped as dewatered resins, or previously were  
13 being shipped as lewatered resins, would typically be  
14 shipped in the carbon steel liner on the order of 0.25  
15 inches thick.

16           COMMISSIONER AHEARNE: But that is not a B.

17           MR. CUNNINGHAM: That would not meet the  
18 requirements of a type B shipping container, or a B or C  
19 category waste at the disposal site, in that it wouldn't  
20 provide stability.

21           The integrity containers that are presently  
22 coming on the market are replacing that carbon steel  
23 liner with a high density polyethylene liner on the  
24 basis that the tests that have been run to date indicate  
25 that that would provide the long-term stability, a

1 long-term integrity much longer than the carbon steel  
2 drum would.

3           COMMISSIONER AHEARNE: But that would still  
4 not be a type B.

5           MR. CUNNINGHAM: It would still not be a type  
6 B shipping container, unless it were designed to be, and  
7 they are typically not designing them to be. They are  
8 designing them to be something that is disposable, but  
9 yet still provide the stability at the disposal site.

10           That sort of leads into page 14, which was the  
11 other Dow Chemical Company and Mr. Baier raised with  
12 regard to the high integrity container, their point  
13 being that they didn't think that the data that was  
14 available provided assurance that the high integrity  
15 container was a proven alternative to certification.

16           The dilemma there, as our regulation isn't in  
17 effect, is that no one has submitted a high integrity  
18 container to meet our criteria. But the State of South  
19 Carolina has received three applications for high  
20 integrity containers under their state license  
21 condition, which they have approved on what I would  
22 refer to as sort of a tentative kind of approval to  
23 start getting a body of experience on dealing with the  
24 relatively method.

25           Those liners are high density polyethylene.

1 They are manufactured by Chem-Nuclear, Hitman, and the  
2 Philadelphia Electric Company has gotten an approved  
3 design for their waste container. The primary incentive  
4 is to allow the use of high density polyethylene.

5           Although no one has formally submitted the  
6 information to us, based on the information that we have  
7 seen, it looks like South Carolina has taken a step in  
8 the right direction to allow the use of these liners.  
9 But line any new technology, you would like to get some  
10 experience under your belt in dealing with it, to make  
11 sure that there aren't any hidden flaws that the test  
12 data that exists to date has not revealed.

13           The basis for allowing it in the regulation is  
14 not that we had had in mind a particular high integrity  
15 container. We are not endorsing the high density  
16 polyethylene container as meeting our requirements. We  
17 wanted to allow the concept of an alternative way to  
18 providing stability at the burial site as an alternative  
19 to solidification.

20           Really, this was a new concept which we hadn't  
21 had in mind when we were dealing with the first stages  
22 of the Three Mile Island resin wastes. It certainly  
23 seems like a reasonable concept that allows the waste  
24 generators some flexibility on how they go about meeting  
25 the performance objectives that is important at the

1 disposal site.

2           As the slide indicates, the regulation allows  
3 that flexibility by allowing either the waste form, if  
4 someone elected to solidify it and put in solid  
5 monolith, that would be one acceptable way. In other  
6 words, the Dow process is a perfectly acceptable  
7 process, apparently, for providing that stability.  
8 Another way would be to provide the stability via the  
9 waste container itself. The third would be to provide  
10 it at the disposal site via some disposal facility  
11 structure.

12           The net result is, we have concluded that we  
13 did not want to change the rule to eliminate the  
14 flexibility that would be allowed by the different  
15 concepts.

16           MR. MARTIN: I think that brings us to the end  
17 of an up-to-date, I would hope.

18           CHAIRMAN PALLADINO: Okay.

19           MR. MARTIN: If you have questions.

20           CHAIRMAN PALLADINO: I have a few questions.  
21 I will start with them, and then turn the questioning  
22 over to others.

23           One page 11 of Enclosure A of 204 -- my  
24 questions are all going to be related to 204 -- we again  
25 face the question of EPA standards. We have had

1 problems proceeding without EPA standard.

2 MR. SMITH: Yes.

3 CHAIRMAN PALLADINO: It is not clear to me  
4 when there is a requirement imposed on us that we must  
5 have EPA standards and when there is not. The  
6 implication I get here is that the EPA standards don't  
7 exist, but the range that you cover would not require a  
8 change in the Part 61.

9 MR. SMITH: What we did there, Mr. Chairman,  
10 we went to EPA and we said, "Look, here is what we are  
11 doing. Is there anything in here that you would find  
12 objectionable; or is there anything in here that you  
13 would see any future activities that you might undertake  
14 being in conflict?" They came back and they said, no.

15 There is no law requiring EPA to prepare a low  
16 level waste standard.

17 CHAIRMAN PALLADINO: That is what I meant.

18 MR. SMITH: It is not the same as the  
19 mill-tailings.

20 CHAIRMAN PALLADINO: That explains the  
21 difference in our posture between the high level waste  
22 and the --

23 MR. SMITH: Yes.

24 Off and on, we have done some internal  
25 planning about getting cranked up and doing something in

1 the low level waste area, and we have been discouraging  
2 them from that mainly because there are a lot of states,  
3 time is short, we need more burial capacity, and what we  
4 don't need to do is provide another reason not to  
5 proceed.

6           COMMISSIONER AHEARNE: I can think of another  
7 receiving for convincing them not to and that is they  
8 have --

9           MR. SMITH: It may never happen.

10           COMMISSIONER AHEARNE: No. They haven't  
11 managed to do the things they are supposed to do.

12           CHAIRMAN PALLADINO: My question really was,  
13 is there any law that says they have got to come out  
14 with a schedule, and how does it affect our posture on  
15 low level waste.

16           MR. SMITH: That is notably missing from any  
17 legislation.

18           MR. DIRCKS: But they do have the authority,  
19 and if they did come out with standards that differed  
20 from our rule, we would be in trouble.

21           MR. SMITH: That is right.

22           MR. MARTIN: I think the real question is, how  
23 does the NRC proceed in the absence of an EPA standard,  
24 and does the NRC do something that looks like it is  
25 infringing on the EPA's authority.

1           CHAIRMAN PALLADINO: Right now it doesn't  
2 appear to be infringing on a requirement of theirs to  
3 come out with a standard. I don't know that we are  
4 infringing their authority, because if they come out  
5 with one, we will have to comply.

6           MR. SMITH: Yes.

7           CHAIRMAN PALLADINO: Incidentally, on the top  
8 of page 12, it that EPA had expressed this opinion that  
9 it was inappropriate to apply the EPA drinking water  
10 standard that is proposed in 51.41. Why was that?

11          MR. MARTIN: That is because the EPA drinking  
12 water standard is strictly written -- strictly speaking,  
13 it is written to apply to people who run drinking water  
14 facilities.

15          If you were in the drinking water business, or  
16 had a reservoir that was drinking water, that would  
17 apply to you. It would not rigorously be applicable to  
18 releases from low level waste burial grounds, and they  
19 argued that you ought to take it out.

20          CHAIRMAN PALLADINO: Then how do you give  
21 attention to drinking water problems?

22          MR. MARTIN: We have dose limits in the rule  
23 itself saying that you shall not have releases from the  
24 site that would result in more than 25 millirem to any  
25 individual outside the boundary, including people that

1 sink wells for water. That is the way we get to that  
2 one.

3 CHAIRMAN PALLADINO: On page 18, you talk  
4 about that you could not co-locate low level waste with  
5 high level waste facilities, but should no-mingle the  
6 wastes. Would there be any problem if low level wastes  
7 were implaced in a high level facility?

8 MR. SMITH: No.

9 CHAIRMAN PALLADINO: It is the other way  
10 around.

11 MR. SMITH: Yes.

12 CHAIRMAN PALLADINO: I just wanted to make  
13 sure that I hadn't missed something.

14 On page 82, there seems to be a conflict, it  
15 may be the way things are worded, between the top of 82,  
16 where it says: "These persons shall file an application  
17 with the Commission and obtain a license as provided in  
18 this part before commencing construction of a land  
19 disposal facility," and page 2 of Enclosure B. It may  
20 be that I am misreading it. It says, "Finally,  
21 discussed many alternatives to --

22 What I am getting at, it says, "There are  
23 examples that will illustrate whether licensing should  
24 be a one-step or two-step process. A one-step process  
25 was chosen, eliminating the construction authorization



1 phase."

2           If you are going to eliminate the construction  
3 authorization phase, how do you go about not beginning  
4 construction until you get the permit?

5           MR. MARTIN: The problem on page 82 is at the  
6 top?

7           CHAIRMAN PALLADINO: Yes, at the top of the  
8 page.

9           MR. SMITH: I think the question that we  
10 addressed back in Enclosure B is whether or not the  
11 licensing process ought to be a two-step affair, as it  
12 is with a reactor where you make a decision on  
13 construction and allow them to construct, and then make  
14 a decision on operation.

15           We chose not to go that way, but rather to  
16 have a one-step licensing process which, when completed,  
17 would authorize both the construction and the  
18 operation. However, we put in this provision back here  
19 on page 82 that says, "Don't start that construction  
20 until you have got a license. Otherwise it jeopardizes  
21 our decision-making for environmental impact."

22           CHAIRMAN PALLADINO: So you are saying that  
23 there is no inconsistency.

24           MR. SMITH: No, there is no inconsistency.

25           CHAIRMAN PALLADINO: I have one or two more.

1           On page 88 where it talks about record  
2 keeping, you say that since this is going to affect less  
3 than ten persons, we don't have to comply. How do you  
4 know you are going to affect less than ten persons, we  
5 don't know how many different disposals there might be.

6           MR. SMITH: Our judgment is that the total  
7 number of facilities that will be created and that are  
8 needed, and need has a lot to do with their creation,  
9 will be less than ten.

10           COMMISSIONER AHEARNE: Persons in this sense.

11           CHAIRMAN PALLADINO: But I was not sure what  
12 they meant.

13           MR. SMITH: The number of persons --

14           CHAIRMAN PALLADINO: You might have more than  
15 ten facilities.

16           MR. SMITH: But the number of persons may be  
17 and probably will be less than with various  
18 organizations operating more than one facility.

19           MR. MARTIN: I guess we can't know for sure,  
20 but if we ever ran into that problem, that will be a  
21 happy day.

22           (General laughter.)

23           CHAIRMAN PALLADINO: What would happen if we  
24 did run into that problem?

25           MR. MARTIN: We would have to go to OMB.

1           CHAIRMAN PALLADINO: I think one final one, if  
2 you will bear with me for a minute.

3           On page 121, you say, "Waste must not be  
4 package for disposal in cardboard or fiberboard boxes,  
5 yet, they could be shipped in those." How would you  
6 handle it?

7           MR. SMITH: We were just simply saying that it  
8 is Part 61 where we have addressed this issue, but the  
9 transporter would have allowed it.

10          CHAIRMAN PALLADINO: They are allowed to ship  
11 it, but you won't allow them to accept.

12          MR. MARTIN: We will not allow it at the  
13 burial ground. So, in effect, they will not be any more  
14 cardboard boxes.

15          CHAIRMAN PALLADINO: That is why I raised the  
16 question earlier, because that was in there.

17          That is all I have. Do you have other  
18 questions?

19          COMMISSIONER AHEARNE: I just have one, and  
20 the one question relates to the change that was sent up  
21 on July 23rd, or July 22nd.

22          In addition to 204 and 204A, there is one  
23 additional change, and that was sent in on July 22nd,  
24 and it was a replacement of page 141 of Enclosure A of  
25 204. It essentially deleted a section, and I wondered

1 if, Dale or Jack, you could explain what was deleted and  
2 why it was deleted.

3 MR. MARTIN: Dale, do you have the letter?

4 MR. SMITH: I don't have the letter here. The  
5 item that was deleted was a proposed new paragraph that  
6 was in the proposed rule that had to do with Commission  
7 of Board findings before the Office Director could be  
8 permitted to issue a license. It is in the Section  
9 2.764, which has to do with immediate effective of the  
10 initial decision.

11 COMMISSIONER AHEARNE: The previous version  
12 would track more with procedure that we have with  
13 respect to reactors?

14 MR. SMITH: Yes.

15 COMMISSIONER AHEARNE: Where the Commission  
16 would have to agree that the license should issue.

17 MR. MARTIN: Yes, and we changed it to check  
18 more in line with the material licenses.

19 COMMISSIONER AHEARNE: Could you say a few  
20 words as to why. As I recall, in previous debates it  
21 had been put in, so I wonder why you reached the  
22 decision that you should take it out.

23 MR. SMITH: Jack.

24 MR. MARTIN: I think the conclusion was that  
25 there is nothing we could see about a low level waste

1 site that would be of such importance that it merited  
2 going through the Commission review.

3 We diin't see that there was much difference  
4 than a uranium node or fuel fabrication plants, and it  
5 seemed an unnecessary burden on an already Commission,  
6 so we decided to take it out, or proposed taking it  
7 out.

8 COMMISSIONER AHEARNE: What great grief would  
9 it cause if it went back in?

10 MR. MARTIN: None.

11 CHAIRMAN PALLADINO: This is the July 27th  
12 memo?

13 COMMISSIONER AHEARNE: The memo of July 22nd.

14 CHAIRMAN PALLADINO: The 22nd.

15 COMMISSIONER AHEARNE: The 22nd.

16 CHAIRMAN PALLADINO: Where is it from?

17 COMMISSIONER AHEARNE: It is just from the  
18 Secretariat. It says, "Correction Notice to 204.  
19 Please replace."

20 CHAIRMAN PALLADINO: I didn't catch up with  
21 it.

22 Do you have any other questions?

23 COMMISSIONER AHEARNE: No questions, but a  
24 comment.

25 CHAIRMAN PALLADINO: All right.

1           COMMISSIONER AHEARNE: I would like to move  
2 that the Commission vote to approve it, and I would  
3 replace the previous section.

4           CHAIRMAN PALLADINO: I was going to urge that  
5 we pull out our vote sheets and do it within the next  
6 couple of days.

7           COMMISSIONER AHEARNE: Could I move to vote to  
8 approve it subject to that one issue, then.

9           CHAIRMAN PALLADINO: Yes.

10          COMMISSIONER AHEARNE: It has been with us  
11 such a long time that I would like to move it as close  
12 as possible --

13          MR. MARTIN: If we could get a vote putting  
14 that back it, it would look a lot more attractive.

15          (General laughter.)

16          COMMISSIONER ROBERTS: What did you say?

17          COMMISSIONER AHEARNE: He said he would be  
18 willing to trade.

19          COMMISSIONER ROBERTS: Why do you want to put  
20 it back in?

21          COMMISSIONER AHEARNE: You see, I feel that  
22 there are only a few, as it was just discussed, there  
23 will only be a few sites.

24          COMMISSIONER ROBERTS: Yes.

25          COMMISSIONER AHEARNE: So getting a low level

1 waste site into a state, I expect, will nevertheless  
2 still be a major local issue. Therefore, I think that  
3 it would be appropriate for the Commission to take  
4 action and vote on it, similar to the Commission voting  
5 on immediate effective for a reactor.

6           COMMISSIONER ROBERTS: Is there a perception  
7 in that?

8           COMMISSIONER AHEARNE: I guess it is a  
9 combination of -- As I see the whole waste area, it is  
10 primarily one of institutional problems, whether it is  
11 high level waste or low level waste. It is not so much  
12 a technical issue. So it is a number of people being  
13 willing to stand out and say, yes, we are willing to  
14 take the responsibility for it.

15           So, I would expect that similarly, as the  
16 governor of a state is going to have to do that, I think  
17 it is appropriate for us to do it on siting a waste  
18 site. That is why I thought it was better to do it.

19           MR. MARTIN: I don't think we have any problem  
20 with that.

21           CHAIRMAN PALLADINO: I am willing to vote,  
22 reserving on this.

23           COMMISSIONER AHEARNE: Can we vote on it  
24 reserving?

25           CHAIRMAN PALLADINO: Then, as soon as I get a

1 chance, to look at that.

2           COMMISSIONER ASSELSTINE: I am prepared to  
3 vote to accept the rule. I guess I am not persuaded  
4 that we ought to retain the authority for the low level  
5 waste sites on that item, but as far as the balance of  
6 the rule goes, yes.

7           CHAIRMAN PALLADINO: What are you saying about  
8 that?

9           COMMISSIONER ASSELSTINE: I am not prepared to  
10 agree to John's proposal, I don't think, at this point,  
11 on adding in that element. But I am prepared to vote on  
12 the balance of the rule.

13           CHAIRMAN PALLADINO: All right.

14           (Voting was unanimous.)

15           CHAIRMAN PALLADINO: You have four votes.

16           COMMISSIONER AHEARNE: We will vote later on  
17 on that other.

18           CHAIRMAN PALLADINO: I will try to do that, if  
19 possible today.

20           COMMISSIONER ASSELSTINE: I have just one  
21 other quick comment, and that is on that EPA standard  
22 problem. I wonder whether we continually see these  
23 recurring problems where EPA has standard setting  
24 authority, where we hear that they might exercise that  
25 authority at some point down the road.



1           We have other areas where we clearly need  
2 standards, and we keep getting promises that these  
3 standards are going to be forthcoming and they are not.  
4 We have written letters on high level waste standards.  
5 As far as I am aware there has been no motion on that.

6           I wonder whether we ought to consider asking  
7 Ms. Gorsuch and Dr. Hernandez to come ove to talk about  
8 the problem of standards, and working out a formal --

9           COMMISSIONER AHEARNE: If you wish to have  
10 someone come over, I don't think that it is the right  
11 location on high level waste. I think it is a building  
12 a lot closer than the EPA headquarters, if you really  
13 want to have someone over here to discuss that problem.

14           CHAIRMAN PALLADINO: I participated in a  
15 meeting, I don't know whether it was yesterday or the  
16 day before, where we tried to see if we could do some  
17 blasting, at least on the high level waste. All that I  
18 can say is that people dug into their positions harder  
19 than ever, OMB feeling that the guidelines should not be  
20 a part, and the EPA feeling they should, and that is  
21 where t..e issue is.

22           COMMISSIONER ASSELSTINE: The high level  
23 waste, there may be that special incentive there.

24           I guess one of the things that I am interested  
25 in in the other areas is that we have areas like low

1 level waste, decommissioning, disposal of low level  
2 waste. I think that it might not be a bad idea to try  
3 and work out a more formal understanding with EPA on  
4 what areas they are going to establish standards in, and  
5 when they are going to establish those standards,  
6 because, I think, depending upon those standards, some  
7 of those we really do need.

8           CHAIRMAN PALLADINO: Sure.

9           COMMISSIONER ASSELSTINE: Other ones are not  
10 that essential.

11           COMMISSIONER AHEARNE: My comment, though, was  
12 not a facetious one. I am not a defender of EPA. I  
13 have criticized them quite bluntly in front of the  
14 Congress and elsewhere. But if we are going to try to  
15 reach some agreement with EPA as to what they are going  
16 to do and when, we have got to bring other people  
17 involved.

18           COMMISSIONER ASSELSTINE: I agree.

19           COMMISSIONER AHEARNE: They don't have the  
20 freedom we do.

21           CHAIRMAN PALLADINO: Why don't we look at  
22 that.

23                   Is there anything more that should come before  
24 us?

25                   I think we have set a new record. That clock

1 says 11:30, and that the announced ending time. We will  
2 stand adjourned.

3 (Whereupon, at 11:30 a.m., the meeting  
4 adjourned.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the  
COMMISSION MEETING

in the matter of: PUBLIC MEETING - DISCUSSION OF 10 CFR PART 61  
"LICENSING REQUIREMENTS FOR LAND DISPOSAL OF RADIOACTIVE WASTE"

Date of Proceeding: October 22, 1982

Docket Number: \_\_\_\_\_

Place of Proceeding: Washington, D. C.

were held as herein appears, and that this is the original transcript thereof for the file of the Commission.

Patricia A. Minson

Official Reporter (Typed)

Patricia A. Minson

Official Reporter (Signature)

10 CFR PART 61

"LICENSING REQUIREMENTS FOR LAND DISPOSAL  
OF RADIOACTIVE WASTE"

FINAL RULE

U.S. NUCLEAR REGULATORY COMMISSION

1982

## BACKGROUND

0	OCTOBER 1978	ADVANCE NOTICE
0	NOVEMBER 1979	PRELIMINARY DRAFT
0	1980	FOUR REGIONAL WORKSHOPS
0	JULY 1981	PROPOSED RULE
0	OCTOBER 1981	DRAFT EIS
0	JANUARY 1982	END OF COMMENT PERIOD ON RULE AND DEIS
0	MAY 1982	SECY-82-204 (FINAL RULE)
0	JULY 1982	SECY-82-204A (FINAL EIS)
0	JULY 1982	COMMISSION BRIEFING
0	JULY 23, 1982	ELD INFORMATION MEMO
0	AUGUST 20, 1982	EDO INFORMATION MEMO

PUBLIC RESPONSE TO SECY-82-204

- 0 MUCH INTEREST IN STATUS AND WHEN WILL RULE BE PUBLISHED
  
- 0 FEW PUBLIC FOLLOW-UP COMMENTS OR PROBLEMS

ISSUES ADDRESSED SUBSEQUENT  
TO SECY-82-204

0 GENERAL NATURE OF ISSUES

-- NONE WERE NEW

-- NONE REQUIRE SUBSTANTIVE RULE CHANGES AND STAFF PLANS  
MINOR EDITORIAL AND CLARIFYING CHANGES

0 ORIGIN OF ISSUES

-- PROMPTED BY FEEDBACK FROM SEVERAL SECTORS, SUCH AS INDUSTRY,  
STAFF, COMMISSIONERS, DOE



ISSUE: TIME LIMITS FOR PART 61

SOURCE: STAFF AND COMMISSIONERS

RESPONSE:

- 0 RESPONSE TIME FOR SUBMITTAL OF PROPOSALS FOR STATE PARTICIPATION BY HOST OR COMPACT STATES WILL BE INCREASED FROM 15 TO 45 DAYS
- 0 EFFECTIVE DATE OF 10CFR20.311 ON MANIFESTS AND LICENSEE COMPLIANCE WITH WASTE FORM AND CLASSIFICATION REQUIREMENTS WILL BE INCREASED FROM 120 DAYS TO 365 DAYS

STATUS OF IMPLEMENTATION  
OF PART 61 PROVISIONS BY AGREEMENT STATES

- INTERIM IMPLEMENTATION AT EXISTING SITES
  - 0 GENERAL AGREEMENT WITH RULE BUT WORKING WITH STATES INDIVIDUALLY
  - 0 MET TWICE WITH SC
  - 0 MEETING WITH WASHINGTON AND NEVADA END OF MONTH FOLLOWING ANNUAL AGREEMENT STATE MEETING
  
- ADOPTION BY ALL AGREEMENT STATES
  - 0 CONFERENCE TASK FORCE
  - 0 MODEL REGULATIONS

ISSUE: IMPACT OF 300-YEAR INSTITUTIONAL CONTROL ON DOE  
PROGRAMS AND DOE REACTION TO SECY-82-294

SOURCE: COMMISSION BRIEFING

- RESPONSE:
- 0 STAFF CLARIFIED THE IMPACT OF 100 VS. 300 YEARS  
IN EDO'S MEMO TO COMMISSIONERS DATED 8/29/82
  - 0 RE-EXAMINATION LED STAFF TO SAME CONCLUSION FOR  
COMMERCIAL WASTES AND SITES, I.E. 100 YEARS IS  
APPROPRIATE
  - 0 DOE STAFF RESPONSE TO THE RULE WAS FAVORABLE

ISSUE: COST DATA ON ALTERNATIVES AS PRESENTED IN  
SECY-82-204A (EIS SUMMARY) NEEDED CLARIFICATION

SOURCE: AHEARNE BRIEFING

RESPONSE: DATA CLARIFIED IN EDO'S MEMO TO COMMISSIONERS  
DATED 8/20/82

ISSUE: DEPARTMENT OF INTERIOR (DOI) CERTIFICATION ON  
CUSTODIAL CARE

SOURCE: AHEARNE BRIEFING

RESPONSE: ADDRESSED IN EDO'S MEMO TO COMMISSIONERS DATED  
8/20/82

-- LEGAL VIEW THAT DOI COULD LEASE LAND AND CERTIFY  
ON CUSTODIAL CARE AS CALLED FOR IN §61.14(A) OF  
PART 61

-- DOI IS RELUCTANT TO DO SO

ISSUE: LEGAL VIEWS ON STATUS OF WASTES EXCEEDING CLASS C  
CONCENTRATIONS, LEGAL AUTHORITY FOR LONG-TERM FINANCIAL  
ASSURANCES, AND STATUS OF INDIAN TRIBES

SOURCE: AHEARNE BRIEFING

RESPONSE: LEGAL VIEWS PROVIDED IN ELD'S MEMO TO AHEARNE DATED  
7/23/82

- WASTE EXCEEDING THE LIMITS OF CLASS C DOES NOT  
BECOME HIGH LEVEL WASTE
- COMPLEXITIES OF LEGAL AUTHORITY FOR FINANCIAL  
ASSURANCES REVIEWED
- TRIBES FALL IN "OTHER ENTITY" CATEGORY BY PROCESS  
OF ELIMINATION

ISSUE: NEED FOR DE MINIMIS

SOURCE: HEALTH PHYSICS SOCIETY COMMITTEE CHAIRMAN

RESPONSE: STAFF REAFFIRMED COMMITMENT TO EXAMINE WASTE STREAMS ON A CASE-BY-CASE BASIS INDEPENDENT OF PART 61 TO DETERMINE STREAMS WHICH MAY BE DISPOSED OF BY LESS RESTRICTIVE MEANS OR WHICH ARE OF NO REGULATORY CONCERN RATHER THAN GENERIC APPROACH

ISSUE: CONCERN WITH HOW REACTOR PLANTS CAN DEMONSTRATE COMPLIANCE WITH WASTE CLASSIFICATION

SOURCE: UTILITY NUCLEAR WASTE MANAGEMENT GROUP (UNWVG)

RESPONSE:

- BASED ON THE RESULTS OF A PILOT PROGRAM WITH VERMONT YANKEE AND MAINE YANKEE, STAFF EXPECTS THE IMPACTS ON UTILITIES COMPLYING WITH WASTE CLASSIFICATION TO BE SMALL
- STAFF GUIDANCE IN THE BTP IDENTIFIES OPTIONS AVAILABLE OTHER THAN DIRECT MEASUREMENTS
- STAFF PLANS TO WORK WITH INDUSTRY GROUPS, (SUCH AS UNWVG), SPECIFIC UTILITIES, AND IE, TO PREVENT MISUNDERSTANDINGS WHICH COULD RESULT IN OVERLY STRICT INTERPRETATIONS OF PART 61 REQUIREMENTS



ISSUE: PRESENCE OF 1% FREE LIQUIDS IN DEWATERED WASTES  
(E.G. RESINS) IS NOT STATE-OF-THE-ART AND THUS  
NOT ALARA

SOURCE: DOW CHEMICAL COMPANY AND BADER OF CRB ASSOCIATES

RESPONSE: STAFF RE-EXAMINED THE FREE LIQUID QUESTION AND  
CONCLUDED THAT THE RECOMMENDATIONS IN SECY-82-204  
REMAIN VALID BASED ON:

- 0 LOW CONCENTRATIONS OF RADIONUCLIDES IN SMALL  
QUANTITIES OF FREE LIQUIDS (UP TO 1%) DO NOT  
POSE HEALTH AND SAFETY PROBLEMS
- 0 THE REVISED 10 CFR 61 FREE LIQUID LIMITS AND  
FLEXIBILITY TO USE HIGH INTEGRITY CONTAINERS  
REPRESENT WHAT IS REASONABLY ACHIEVABLE USING  
CURRENT TECHNOLOGY

ISSUE: HIGH INTEGRITY CONTAINERS NOT A PROVEN ALTERNATIVE TO SOLIDIFICATION

SOURCE: DOW CHEMICAL COMPANY AND BADER OF CRB ASSOCIATES

RESPONSE:

- 0 PRELIMINARY STAFF REVIEW OF HIGH INTEGRITY CONTAINER VENDOR DATA HAS NOT IDENTIFIED ANY TECHNICAL AREAS WHICH WOULD PRECLUDE CONSIDERING HIGH INTEGRITY CONTAINERS AS AN ACCEPTABLE ALTERNATIVE TO SOLIDIFICATION
- 0 STAFF REAFFIRMED THE VALUE OF FLEXIBILITY IN MEETING THE STABILITY REQUIREMENTS AS PRESENTED IN PART 61 IN THAT STABILITY CAN BE PROVIDED BY:
  - WASTE FORM
  - WASTE CONTAINERS
  - DISPOSAL STRUCTURES

TRANSMITTAL TO:

Document Control Desk,  
016 Phillips

ADVANCED COPY TO:

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DATE:

10/25/82

cc: OPS File

From: SECY OPS Branch

C&R (Natalie)

Attached are copies of a Commission meeting transcript/s/ and related meeting document/s/. They are being forwarded for entry on the Daily Accession List and placement in the Public Document Room. No other distribution is requested or required. Existing DCS identification numbers are listed on the individual documents wherever known.

Meeting Title:

Disc. of SECY-82-204-10 CFR Part 61  
"Licensing Requirements for Land Disposal of Hazardous Waste"

MEETING DATE:

10/22/82

Open   
Closed

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ITEM DESCRIPTION:	Copies	Advanced	To PDR:	Original Document	May be Dup*	Duplicate Copy*
1. <u>transcript</u> <u>(w/ xero-graphs attached)</u>			<u>1</u>	<u>1</u>		
2. <u>Letter FEWA to</u> <u>W. Birch, 10/18/82</u>			<u>1</u>		<u>1</u>	
3. _____						
4. _____						
5. _____						

\*Verify if in DCS, and  
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