



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

COMM CORR

September 28, 1978

OFFICE OF THE
CHAIRMAN

Mr. Bruce W. Johnson, President
Chem-Nuclear Systems, Inc.
P.O. Box 1866
Bellevue, Washington 98009

Dear Mr. Johnson:

Thank you for your letters of July 25, 1978 and August 4, 1978 and Mr. Andrew's letter of July 21, 1978 which expressed concern about commercial low-level waste disposal and our letters providing information to Congressional Committees and asking the Department of Energy (DOE) to develop a contingency plan.

You have misinterpreted the purpose and intent of our letters. Our letters were not intended to lead to the federalization of the commercial low-level waste disposal industry, but rather as an expression of concern and need for contingency planning regarding the question of adequate capacity for disposal of commercial low-level wastes. Our purpose in writing Dr. Schlesinger was:

- To inform DOE of the present status regarding the commercial low-level waste disposal sites;
- To raise the question of whether adequate regionally distributed disposal capacity for the nation's commercial low-level wastes will be available at the currently operating facilities; and
- To express our opinion that standby capacity should be available.

Our letter to Dr. Schlesinger was not a direct expression of intent that the DOE take over the disposal of commercial low-level wastes but that they be prepared to accept commercial wastes should the need arise. We expect the industry to utilize effectively existing commercial disposal capabilities and resources. With the present public concern and uncertainties regarding institutional roles; development, operation, and ownership of disposal sites; cost; and regulatory standards and requirements regarding low-level waste disposal, we believe it prudent not to

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wait until crisis conditions develop in low-level waste disposal capacity before taking action. We realize, as noted in your letter, that many activities would need to be undertaken before the DOE could implement a policy to accept commercial wastes, if such action were to be necessary. We believe that the DOE has national responsibilities to plan for low-level waste disposal capacity, and should consider the issue now and develop a contingency plan to address disposal options for low-level commercial wastes. You may wish to contact Dr. Goetz Oertel, Acting Director, Division of Waste Products, Office of Nuclear Waste Management, U.S. Department of Energy, Washington, D. C. 20545, regarding their plans.

Your letters suggest a series of meetings to develop, among other things, a plan for the orderly development of commercially operated low-level radioactive waste disposal sites and identify what constructive support could be expected from the NRC. We believe discussions regarding planning should more appropriately be initiated with the DOE since DOE has the developmental responsibilities regarding the nuclear industry. We would be pleased to participate in any such meetings and recognize our responsibility to address the need for disposal capacity as part of the licensing process. With respect to the Nuclear Regulatory Commission's (NRC) low-level waste regulatory program, I have asked Dr. Michael J. Bell, Chief, Low-Level Waste Branch, to contact you regarding your interest in meeting with us.

In your letter of August 4, 1978, you indicate that the NRC staff was not supportive of your Company's efforts to obtain a license for a commercial low-level radioactive waste disposal facility in New Mexico. As an example of this non-support by the NRC staff, you enclosed a letter from Wayne Kerr, Assistant Director for State Agreements Program, to Dr. Theodore Wolff of the Environmental Improvement Agency of the State of New Mexico.

The position taken by Mr. Kerr at that time was consistent with the recommendations of the NRC Task Force on Federal/State Roles in Regulation of Disposal of Commercial Radiation Wastes by Shallow Land Burial as presented in NUREG-0217, March 1977, which was also transmitted to New Mexico State officials. As you know, the NRC Task Force recommendation, that no new disposal sites should be licensed until a full examination of alternative disposal methods has been completed or unless an urgent new need is identified, was not adopted as Commission policy. In a Federal Register Notice dated December 7, 1977 (Enclosure 1), the NRC stated that it would consider applications for new burial sites in the ordinary course of business with the need for capacity being demonstrated on a case-by-case basis. The NRC also stated that it would expect Agreement States to treat new applications in a similar manner. As noted in the

Federal Register statement, the Commission's decision in this regard was based on its evaluation of the comments received on the Task Force Report which questioned the assumptions of the Task Force regarding available disposal capacity. As you know, Chem-Nuclear Systems, Inc., was one of the several commenters who raised this point. Copies of this Federal Register Notice were transmitted both to the State of New Mexico and Chem-Nuclear Systems, Inc., in December 1977.

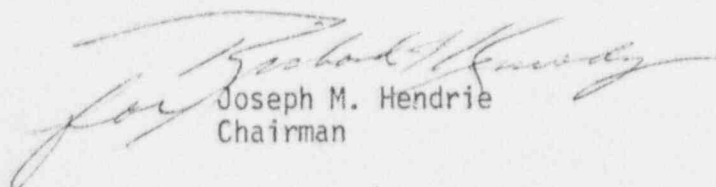
Thus, while it is true that the NRC staff initially advised against new sites, this position was not adopted by the Commission and the revised position was published approximately five months before your application to the State of New Mexico was withdrawn. Since discussions with New Mexico officials were not held to clarify this matter, I have asked Mr. Kerr to contact the appropriate New Mexico officials to ensure that the present NRC position is understood.

In the December 7, 1977 Notice, we also stated that the Commission also indicated that it has taken a recommendation for increased Federal control over low-level waste disposal under consideration but has not formally adopted it as NRC policy. We are still evaluating the many issues which must be considered before this matter is finally resolved.

The question of Federal ownership and operation of the commercial burial sites is also a matter being addressed by the Presidential Task Force on Nuclear Waste Management as part of its efforts to develop a national waste management program. We are a non-voting member of this Task Force. We plan to review the Task Force report expected later this year. We believe you as a site operator should make every effort to make your full views on the capability of the nuclear industry to provide low-level waste disposal capacity known to this Task Force. You should contact Dr. John Deutch, Director, Office of Energy Research, U.S. Department of Energy, Washington, D. C. 20545.

We appreciate your offer to provide further information on your position regarding this matter and commercial low-level waste disposal in general and would be pleased to receive your views.

Sincerely,


Joseph M. Hendrie
Chairman

Enclosure:
Federal Register Notice
dated December 7, 1977

cc: See Page 4

Mr. Bruce W. Johnson

- 4 -

cc: Sen. Warren G. Magnuson
Sen. Henry M. Jackson
Sen. Gary W. Hart
Rep. John D. Dingell
Rep. Mike McCormack
Rep. Joel Pritchard
Rep. Manuel Lujan
Dr. James R. Schlesinger, DOE
Dr. John M. Deutch, DGE
Dr. Goetz Oertel, DOE
Mr. Lloyd J. Andrews

Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (NUREG-0337), prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed construction of the Erie Nuclear Plant, Units 1 and 2, to be located in Erie County, Ohio, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Berlin Township Public Library, 4 East Main Street, Berlin Heights, Ohio. The Draft Statement is also being made available at the Office of the Governor, State Clearinghouse, State Office Tower, 30 East Broad Street, Columbus, Ohio, and at the Toledo Metropolitan Area Council of Governments, 420 Adison Avenue, Toledo, Ohio. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Document Control.

The Applicant's Environmental Report, as supplemented, submitted by Ohio Edison Co., et al., is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on May 19, 1977 (42 FR 25786).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by January 23, 1978. Comments by Federal, State, and local officials or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Berlin Township Public Library, 4 East Main Street, Berlin Heights, Ohio. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 30th day of November 1977.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects
Branch 2, Division of Site
Safety and Environmental
Analysis.

(FR Doc. 77-34925 Filed 12-6-77; 8:45 am)

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.5, Revision 1, "Standard Format and Content of License Applications for Uranium Mills," provides specific guidance on the format and content of an application for an NRC Source Material License authorizing uranium milling activities.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 3.5, Revision 1, will, however, be particularly useful in evaluating the need for an early revision if received by February 6, 1978.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced), or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a).)

Dated at Rockville, Md., this 29th day of November 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office of
Standards Development.

(FR Doc. 77-34926 Filed 12-6-77; 8:45 am)

[7590-01]

LOW-LEVEL WASTE DISPOSAL

Comments on Task Force Report (NUREG-0217) and Statement on Implementation of Regulatory Program for Low-Level Waste Management

This Notice presents: (1) A brief summary of the public comments on NUREG-0217, "NRC Task Force Report on Review of the Federal/State Program for Regulation of Commercial Low-Level Radioactive Waste Burial Grounds" (FR 42 13366-13370, March 10, 1977; FR Doc. 77-7198); and (2) a statement on implementation of the NRC regulatory program for low-level waste management.

As part of a reexamination of the technical and regulatory basis for low-level waste management, the Nuclear Regulatory Commission published NUREG-0217, "NRC Task Force Report on Review of the Federal/State Program for Regulation of Commercial Low-Level Radioactive Waste Burial Grounds" in March 1977. This report presented the Task Force findings and recommendations on the programs of NRC and the States for regulating the disposal of commercial low-level wastes. The body of the report was also published in the FEDERAL REGISTER on March 10, 1977 (42 FR 13366) to solicit public comments which would be considered in the Commission's deliberation on the Task Force recommendations and in developing an NRC low-level waste management program.

The concerns of the Task Force in making the recommendations in NUREG-0217 were:

- The need to establish a regulatory structure for low-level waste disposal;
- The need to avoid site proliferation;
- The need to assure adequate capacity;
- The need to assure long-term care without placing a large or inequitable burden on the few States in which burial grounds are located;
- The need to assure the Congress and the public that an adequate and fully coordinated program for low-level waste disposal exists;
- The need for State participation;
- The need for coordination of Federal and State activities; and
- The need for a thorough examination of alternative disposal methods.

From its findings, the Task Force made the following recommendations:

- I. The NRC should initiate action in cooperation with appropriate Federal and State agencies to increase Federal control over the disposal of low-level waste by:

a. Requiring: 1. Joint Federal/State approval of new disposal sites;
2. NRC licensing, with State participation, of current and new disposal sites; and

3. Federal ownership of land for all disposal sites.

b. Establishing a Federally administered perpetual care program.

II. The NRC, in cooperation with appropriate Federal and State agencies, should accelerate development of the regulatory program for the disposal of low-level waste which includes regulations, standards, and criteria.

III. The NRC should initiate immediately the necessary studies to identify and evaluate the relative safety and impacts of alternative low-level waste disposal methods. No new disposal sites should be licensed until a full examination of alternative disposal methods has been completed or unless an urgent new need is identified. The NRC should assure effective use of existing commercial burial grounds.

SUMMARY OF PUBLIC COMMENTS

Thirty-three responses were received from Governors, State agencies, industry representatives, and other interested parties. Copies of the comments and a detailed staff analysis of the comments may be examined at the Commission's Public Document Room at 1717 H Street, Washington, D.C., and the staff analysis may be examined at the Commission's Local Public Document Rooms. Single copies of the staff analysis, which is being published as NUREG-0217, Supp. 1, are available to the extent of supply from the U.S. Nuclear Regulatory Commission, Division of Technical Information and Document Control, Washington, D.C. 20545. Copies are also available for sale from the National Technical Information Service, Springfield, Va. 22161.

Comments on Recommendation I for increased Federal control varied from mild agreement or tacit acceptance to well-developed positions in support of continuing the existing Federal/State roles. Those who agreed with the recommendation generally reiterated the conclusions of the Task Force. Many commenters agreed with the conclusion that a better regulatory program is needed but questioned the recommendation that Federal control is the best solution. The comments recognized the need for active involvement of the States in low-level waste management to satisfy their vested interests in protecting the health and safety of their citizens and in land use decisions. While no conclusive reasons to alter Task Force Recommendation I were given, the comments indicated the need to develop a broader base of technical support before adopting the recommendation.

All commenters agreed with Recommendation II (development of a regu-

latory program) and part of Recommendation III (study of alternative disposal methods). If anything, their comments strengthened the case for Recommendation II. Comments on the remainder of Recommendation III (no licensing of new sites) questioned the assumptions of the Task Force regarding waste volume projections and available disposal capacity. They also indicated that additional factors (e.g., regional distribution) should be taken into account before implementing the recommendation.

STATEMENT ON IMPLEMENTATION OF NRC REGULATORY PROGRAM FOR LOW-LEVEL WASTE MANAGEMENT

Task Force Recommendations. In considering the Task Force recommendations, NRC analyzed the policy matters addressed by the Task Force in preparing NUREG-0217, the public perceptions as reflected in the comments, and information gained from the comments of the ACRS, discussions at several public meetings, and additional analyses of low-level waste management. The NRC plans, based on this analysis, follow.

Increased Federal Control. The Commission has taken the Task Force recommendation for increased Federal control over low-level waste disposal under consideration but has not formally adopted it yet as NRC policy. The NRC believes that a number of unresolved questions should be answered before a final decision on this recommendation is made. Further, there is no compelling need to make a final decision on reassertion of Federal control at this time, since the States are adequately protecting the public health and safety. The NRC is studying the remaining issues surrounding this Task Force recommendation and the NRC low-level waste management program described later will provide a solid foundation for making a final decision.

Standards Development and Alternatives Study. The NRC and all commenters agree that there is an urgent need to establish a regulatory program to develop a comprehensive set of standards and criteria for low-level waste disposal and to examine alternatives to shallow land burial. The NRC low-level waste management program will include development of a comprehensive regulatory framework and an examination of alternative disposal methods.

Licensing of New Sites. As recommended by the Task Force, any new burial grounds will be fully justified on the basis of need. The NRC will accept applications for new shallow land burial grounds and will treat them in the ordinary course of business with the need for additional capacity being demonstrated on a case-by-case basis. The reevaluation of

Task Force Recommendation III reaffirmed the uncertainties in the waste volume generation and disposal capacity projections in the Task Force report. Additional capacity may be needed due to regional needs, equipment limitations, costs, and other factors. Pending completion of ongoing studies, the staff believes that the environmental impact from any new site which might be licensed, if properly sited and operated, will be small. Applications for new burial sites will be treated by the NRC in the ordinary course of business with the need for additional capacity being demonstrated on a case-by-case basis. The NRC would expect the Agreement States to treat applications for new burial sites they may receive in a similar manner.

Low-Level Waste Program. The NRC low-level waste management program includes development of a regulatory framework, evaluation of alternative disposal methods and supporting research. The program emphasizes early results, utilization of NRC in-house resources, and cooperation with Federal and State agencies. Research efforts are being coordinated with DOE, EPA, the USGS, and numerous State agencies.

Among the elements of the program are the following major activities:

1. Waste Classification Regulation;
2. Alternatives to Shallow Land Burial Study;
3. Standards for Shallow Land Burial;
4. Standards for Alternative Methods;
5. Shallow Land Burial Regulations and Guides;
6. Alternative Methods, Regulations, and Guides.

The program which is being published as NUREG-0240 may be examined at the Commission's Public Document Room at 1717 H Street, Washington, D.C. and at the Commission's Local Public Document Rooms. Single copies are available to the extent of supply from the U.S. Nuclear Regulatory Commission, Division of Technical Information and Document Control, Washington, D.C. 20545. Copies are also available for sale from the National Technical Information Service, Springfield, Va. 22161.

Dated at Washington, D.C., this 30th day of November 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 77-34922 Filed 12-6-77; 8:45 am]