



DOCKET NUMBER PR-62 (10)
PROPOSED RULE (52 FR 47578)

DOCKETED
USNRC

ENVIRONMENTAL PLANNING LOBBY

'88 FEB 16 P3:56

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OFFICE OF SECRETARY
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BRANCH

Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

February 9, 1988

Dear Secretary:

We are writing in regard to 10CFR62, 52FR 240:47578 on the proposed rule by NRC to force compact and state "low-level" radioactive waste dumps to accept out-of-state and federal nuclear waste in "emergency" situations. In an earlier letter, dated February 4th, we joined with organizations around the country to request an extension of the public comment period for 60 additional days to allow people adequate time to comment. We reiterate that request and at this time are presenting brief comments on the proposed rule.

New York State law (the Low-Level Radioactive Waste Management Act of 1986) specifically prohibits federal wastes, such as Department of Energy wastes, at any New York State "low-level" radioactive waste facility. There are a number of DOE FUSRAP sites, with long-lived high-level waste, in New York which currently are being cleaned up or temporarily stored. We are aware that DOE has approached New York requesting access to its "low-level" radioactive waste facility for certain DOE wastes (such as U-238 and U-235 at the former NL Industries plant in Colonie, N.Y.). The state Dept. of Environmental Conservation disapproved this request and the subsequent law upheld the state's policy to exempt any federal wastes. Therefore, we totally oppose the proposed rule to accept federal wastes or out-of-state wastes. To accept out-of-state wastes goes against the basic premise of the however inadequate Federal Low-Level Radioactive Waste Policy Act which supports compacting and state's rights. The NRC is directly threatening the state's authority to exclude wastes.

For states to accept federal wastes will in many cases cause the state's management of facilities (in terms of storage/disposal capacity, etc.) to be radically changed. How will states/compacts be able to adequately plan and manage their facilities with the threat of NRC emergency declarations forcing substantial amounts of waste on them at anytime?

At the very least, the NRC should change the rules to:

- 1) Require strict adherence to state/compact requirements, including allowing only commercial wastes (not federal) up to Greater than Class C waste.
- 2) Other state restrictions on 100 year hazardous life, or only Class A,B or C wastes, must be strictly adhered to by NRC.
- 3) Lastly, states which choose to store rather than dispose of wastes should not be forced to accept any wastes.

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The Environmental Planning Lobby, EPL, is a nonprofit statewide environmental advocacy coalition which represents 90 organizations and thousands of individual members. EPL is the only fulltime environmental lobby in New York State and has played a major role in protecting the state's natural resources for over seventeen years.

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Also, the term "emergency" is no assurance at all - the federal government can think up many reasons to declare an emergency which do not deal with the fact that their own inaction to adequately store wastes and stop their production has caused the "emergency" in the first place. States should not have to bail out the federal government.

In closing, we call on the NRC to withdraw the proposed rule in its entirety and to establish a comprehensive storage and reduction of production program which will ensure that no emergency will exist for federal government wastes.

We would appreciate receiving a response to these comments, as well as the final regulations. We again urge a 60 day extension for adequate public comment.

Sincerely,



Larry Shapiro
Executive Director
Environmental Planning
Lobby



Anne Rabe
Executive Director
NY Environmental Institute

AR/bb