ADAMS Template: SECY-067

DOCUMENT DATE:

08/22/1988

TITLE:

PR-150 - 53FR31880 - REASSERTING NRC'S AUTHORITY FOR APPROVING ONSITE LOW LEVEL WASTE DISPOSAL

IN AGREEMENT STATES

CASE REFERENCE:

PR-150

53FR31880

KEY WORD:

RULEMAKING COMMENTS

Document Sensitivity: Non-sensitive - SUNSI Review Complete

United States Nuclear Regulatory Commission
Office of Public Affairs
Washington, DC 20555
Phone 301-415-8200 Fax 301-415-2234
Internet:opa@nrc.gov

No. 96-75

FOR IMMEDIATE RELEASE (Thursday, May 30, 1996)

NRC WITHDRAWS PROPOSED RULE ON AGENCY AUTHORITY
OVER LOW-LEVEL WASTE AT REACTOR SITES IN AGREEMENT STATES

The Nuclear Regulatory Commission has withdrawn a proposed rule that would have reasserted NRC's jurisdiction over low-level radioactive wastes generated and disposed of at reactor sites in what are known as agreement states.

The agency is taking this action after analyzing public comments — most of which opposed the proposal — and after considering the relatively low hazards associated with on-site disposal of low-level radioactive waste. NRC and comparable state regulations already require that such on-site waste disposal be authorized on a case-by-case basis.

It was in 1988 that NRC proposed to reassert its authority over low-level waste generated and disposed of at reactor sites within agreement state borders. The proposed rule also would have clarified the jurisdiction over the disposal of non-critical waste quantities of special nuclear material at fuel cycle facilities. (Agreement states, which now number 29, are so named because they have agreements with NRC to regulate the uses of radioactive byproduct and source materials, including low-level radioactive wastes. Special nuclear material includes plutonium and certain types of uranium which, by law, are federally regulated.)

At the time, NRC once thought the move necessary for greater assurance that such waste disposal did not present a health hazard and would not unnecessarily complicate or delay decommissioning. But the NRC staff reconsidered the proposed action after reviewing the public comments. It also has taken note of the fact that, since the rulemaking was first proposed nearly eight years ago, agreement state authorities in a number of instances have authorized on-site disposal of low-level wastes without any problems.



UNITED STATES NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 8, 1996

CHMEMORANDUM TO:

James M. Taylor

Executive Director for Operations

FROM:

John C. Hoyle, Secretary /s/

SUBJECT:

STAFF REQUIREMENTS - SECY-96-078 - WITHDRAWAL OF PROPOSED AMENDMENTS TO 10 CFR 150.15, REASSERTING NRC'S AUTHORITY FOR APPROVING ONSITE LOW-LEVEL WASTE DISPOSAL IN AGREEMENT

STATES

The Commission has approved discontinuance of the current rulemaking effort for 10 CFR 150.15 and publication of a notice in the <u>Federal Register</u> announcing the withdrawal of the proposed amendments.

cc: Chairman Jackson

Commissioner Rogers Commissioner Dicus

OGC OCA OIG

Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)

SECY NOTE:

THIS SRM, SECY-96-078, AND THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 5 WORKING DAYS FROM THE DATE OF THIS SRM.

PAGE 1 OF 2

STATUS OF RULEMAKING RECORD 1 OF 1

PROPOSED RULE: PR-150

RULE NAME: REASSERTING NRC'S AUTHORITY FOR APPROVING ONSITE L

OW-LEVEL WASTE DISPOSAL IN AGREEMENT STATES

PROPOSED RULE FED REG CITE: 53FR31880

PROPOSED RULE PUBLICATION DATE: 08/22/88 NUMBER OF COMMENTS: 49

EXTENSION DATE: / / ORIGINAL DATE FOR COMMENTS: 10/21/88

FINAL RULE FED. REG. CITE: FINAL RULE PUBLICATION DATE: /

NOTES ON: FILE LOCATED ON P1.

TATUS : OF RULE :

> PRESS PAGE DOWN OR ENTER TO SEE RULE HISTORY OR STAFF CONTACT PRESS ESC TO SEE ADDITIONAL RULES, (E) TO EDIT OR (S) TO STOP DISPLAY

PAGE 2 OF 2

HISTORY OF THE RULE

PART AFFECTED: PR-150

RULE TITLE: REASSERTING NRC'S AUTHORITY FOR APPROVING ONSITE L

OW-LEVEL WASTE DISPOSAL IN AGREEMENT STATES

PROPOSED RULE

PROPOSED RULE PROPOSED RULE
SECY PAPER: 88-166 SRM DATE: 07/25/88 SIGNED BY SECRETARY: 08/16/88

FINAL RULE FINAL RULE DATE FINAL RULE

SECY PAPER: / / SIGNED BY SECRETARY: / / SRM DATE:

STAFF CONTACTS ON THE RULE

MAIL STOP: NLS-129 PHONE: 492-3618 CONTACT1: JOHN STEWART

CONTACT2: MAIL STOP: PHONE:

PRESS PAGEUP TO SEE STATUS OF RULEMAKING

PRESS ESC TO SEE ADDITIONAL RULES, (E) TO EDIT OR (S) TO STOP DISPLAY

DOCKET NO. PR-150 (53FR31880)

In the Matter of

REASSERTING NRC'S AUTHORITY FOR APPROVING ONSITE LOW-LEVEL WASTE DISPOSAL IN AGREEMENT STATES

DATE DOCKETED DATE OF DOCUMENT

TITLE OR

DESCRIPTION OF DOCUMENT

08/30/88	08/26/88	COMMENT OF CANE (MARVIN LEWIS) (1)
08/30/88	08/16/88	FEDERAL REGISTER NOTICE - PROPOSED RULE
10/03/88	09/26/88	COMMENT OF ADVANCED NUCLEAR FUELS CORP (C. W. MALODY, MANAGER CORPORATE) (2)
10/03/88	09/29/88	COMMENT OF SOUTH CAROLINA DEPT HEALTH & ENVIRONMENTAL CONTROL (HEYWARD G. SHEALY, CHIEF, BUREAU OF) (3)
10/05/88	09/18/88	COMMENT OF ECOLOGY ALERT (E. NEMETHY) (4)
10/17/88	10/07/88	COMMENT OF CONNECTICUT, STATE OF (HORACE H. BROWN) (5)
10/18/88	10/05/88	COMMENT OF CALIFORNIA, DEPARTMENT OF HEALTH SERVICES (DON J. WOMELDORF, CHIEF) (6)
10/19/88	10/15/88	COMMENT OF GERALD A. DRAKE, M.D. (30)
10/20/88	10/14/88	COMMENT OF WASHINGTON PUBLIC POWER SUPPLY SYSTEM (G. C. SORENSEN, MANAGER) (7)
10/20/88	10/17/88	COMMENT OF CONSERVATION COUNCIL OF NORTH CAROLINA (JOHN RUNKLE, GENERAL COUNSEL) (8)
10/20/88	10/17/88	COMMENT OF MARYLAND NUCLEAR SAFETY COALITION (PATRICIA T. BIRNIE, CO-DIRECTOR) (9)
10/21/88	10/19/88	COMMENT OF OHIO CITIZENS FOR RESPONSIBLE ENERGY, INC (SUSAN L. HIATT) (10)
10/21/88	10/21/88	COMMENT OF BISHOP, COOK, PURCELL & REYNOLDS (NICHOLAS S. REYNOLDS) (11)
10/21/88	10/21/88	COMMENT OF NEW YORK, DEPARTMENT ENVIRONMENTAL CONSERVATION (PAUL J. MERGES, PH.D.) (12)
10/21/88	10/21/88	COMMENT OF NORTH CAROLINA GENERAL ASSEMBLY (SENATOR JOSEPH E. JOHNSON) (13)

DOCKET NO. PR-150 (53FR31880)

DATE DOCKETED	DATE OF DOCUMENT	TITLE OR DESCRIPTION OF DOCUMENT
10/21/88	10/20/88	COMMENT OF EDISON ELECTRIC INSTITUTE (JOHN J. KEARNEY) (14)
10/24/88	10/21/88	COMMENT OF JESSIE L. RILEY, CHAIR, NUCLEAR (15)
10/24/88	10/17/88	COMMENT OF DAVID EBBERT (16)
10/24/88	10/21/88	COMMENT OF ARKANSAS, DEPARTMENT OF HEALTH (GRETA J. DICUS, DIRECTOR) (17)
10/24/88	10/18/88	COMMENT OF JOYCE D. JOHNSON (18)
10/24/88	10/18/88	COMMENT OF DUKE POWER CO (HAL B. TUCKER) (19)
10/24/88	10/20/88	COMMENT OF NIRS (DIANE D'ARRIGO) (20)
10/24/88	10/21/88	COMMENT OF ILLINOIS, STATE OF (TERRY R. LASH, DIRECTOR) (21)
10/24/88	10/19/88	COMMENT OF SOUTH CAROLINA ELECTRIC & GAS CO (O. S. BRADHAM) (22)
10/24/88	10/20/88	COMMENT OF GPU NUCLEAR CORP (J. L. SULLIVAN, JR., DIRECTOR,) (23)
10/24/88	10/18/88	COMMENT OF YANKEE ATOMIC ELECTRIC CO (DONALD W. EDWARDS, DIRECTOR) (24)
10/24/88	10/20/88	COMMENT OF COMMONWEALTH EDISON CO (HENRY E. BLISS, MANAGER) (25)
10/24/88	10/18/88	COMMENT OF ECOLOGY TASK FORCE (ALBERT G. COHEN) (26)
10/24/88	10/20/88	COMMENT OF MARY BYE (45)
10/25/88	10/18/88	COMMENT OF SUSAN DALTON (27)
10/25/88	10/19/88	COMMENT OF GENERAL ELECTRIC STOCKHOLDERS ALLIANCE (PATRICIA T. BIRNIE) (28)
10/25/88	10/19/88	COMMENT OF ENVIRONMENTAL PLANNING LOBBY (LARRY SHAPIRO, KAIA DERCUM) (29)
10/25/88	10/19/88	COMMENT OF WESTERN NORTH CAROLINA ALLIANCE (MARY SAULS KELLY, PHD) (31)
10/27/88	10/24/88	COMMENT OF BETTY HOYE (32)
10/27/88	10/21/88	COMMENT OF (CONGRESSMAN JAMES MCCLURE CLARKE) (33)

DOCKET NO. PR-150 (53FR31880)

DATE DOCKETED	DATE OF DOCUMENT	TITLE OR DESCRIPTION OF DOCUMENT
10/27/88	10/26/88	COMMENT OF NUCLEAR MANAGEMENT & RESOURCES COUNCIL, INC (JOE F. COLVIN) (34)
10/31/88	10/21/88	COMMENT OF CENTRAL MIDWEST INTERSTATE LLRW (CLARK W. BULLARD, CHAIRMAN) (35)
10/31/88	10/24/88	COMMENT OF NATIVE AMERICANS FOR A CLEAN ENVIRONMENT (PAT MOSS, VICE CHAIRMAN) (36)
10/31/88	10/26/88	COMMENT OF SOUTHEAST COMPACT COMMISSION (RICHARD S. HODES, M.D.) (42)
11/01/88	10/21/88	COMMENT OF BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE (JANET M. HOYLE) (37)
11/02/88	10/28/88	COMMENT OF COMMONWEALTH OF KENTUCKY (DONALD R. HUGHER, SR., MANAGER) (38)
11/04/88	10/18/88	COMMENT OF ENVIRONMENTAL COALITION ON NUCLEAR POWER (JUDITH H. JOHNSRUD, PH.D.) (39)
11/08/88	11/04/88	COMMENT OF FLORIDA, STATE OF (LYLE E. JERRETT) (40)
11/08/88	11/04/88	COMMENT OF NORTH CAROLINA LOW-LEVEL WASTE MANAGEMENT (TENNEY I. DEANE, JR., CHAIRMAN,) (41)
11/15/88	11/07/88	COMMENT OF NEW YORK, DEPARTMENT ENVIRONMENTAL CONSERVATION (PAUL J. MERGES, PH.D) (43)
11/21/88	11/18/88	COMMENT OF PUBLIC CITIZEN (SCOTT SALESKA) (44)
11/23/88	10/24/88	COMMENT OF UTAH, STATE OF (LARRY F. ANDERSON) (48)
12/12/88	12/08/88	COMMENT OF COMMONWEALTH OF PENNSYLVANIA (WILLIAM P. DORNSIFE) (46)
12/12/88	12/07/88	COMMENT OF MIDWEST INTERSTATE LOW-LEVEL RADIO WASTE COMMITTEE (DR. TERI L. VIERIMA, CHAIR) (47)
04/12/90	04/06/90	COMMENT OF MAINE, STATE OF (RICHARD H. SILKMAN, DIRECTOR) (49)
05/23/96	05/22/96	FEDERAL REGISTER NOTICE: WITHDRAWAL OF PROPOSED RULE



DOCKETED USNRC

[7580 TAY- 23 P1:01

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

RIN 3150-AC57

Reasserting NRC's Authority for Approving Onsite

Low-Level Waste Disposal in Agreement States; Withdrawal

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule: Withdrawal.

SUMMARY: The Nuclear Regulatory Commission (NRC) is withdrawing a notice of proposed rulemaking that would have reasserted the NRC's jurisdiction in Agreement States over the disposal of licensed material generated and disposed of at nuclear reactor sites. The proposed rule would also have clarified the jurisdiction over disposal of noncritical waste quantities of special nuclear material at reactors and fuel cycle facilities.

FOR FURTHER INFORMATION CONTACT: Joseph J. Mate, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-6202.

Pub. 5/29/96 (61FR26852)

SUPPLEMENTARY INFORMATION:

Background

On August 22, 1988 (53 FR 31880), the Commission published a notice of proposed rulemaking in the Federal Register entitled "Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States." This rule would have reasserted the NRC's jurisdiction in the Agreement States over the disposal of low-level radioactive waste generated and disposed of at reactor sites. The proposed rule would also have clarified the jurisdiction over the disposal of noncritical waste quantities of special nuclear material at fuel cycle facilities. The NRC would have authorized this disposal under 10 CFR 20.302, but 10 CFR Part 20, "Standards for Protection Against Radiation," was revised in May 1991 (56 FR 23360). The applicable regulation is now 10 CFR 20.2002.

The purpose of the proposed rule was to provide for a more centralized and consistent regulatory review of all onsite waste management activities and to avoid duplication of regulatory effort by the NRC and the Agreement States. The uniform review process that would result from the proposed rule was intended to provide greater assurance that onsite disposal of radioactive material will not present a health hazard and that the disposal of this waste in this manner will not unnecessarily complicate or delay decommissioning.

As a result of publishing the proposed rule in the Federal Register, the NRC received 49 comment letters. Twelve commenters (24 percent) favored the proposal, 37 commenters (76 percent) opposed the proposal. Comments were submitted by private citizens, Agreement and Non-Agreement States, nuclear

utilities, nuclear utilities' representatives, and various conservation and public interest groups. The vast majority of the comments favoring the proposal were from nuclear utilities and their representatives. Comments opposed to the proposal came from private citizens, Agreement and Non-Agreement States, and conservation and public interest groups. Nineteen of the commenters questioned the need for the proposed rule, six commenters wanted the States' participation in the approval process to be specified, and a few States questioned the NRC's authority to promulgate the rule. The remaining commenters were concerned with better definitions of the protected and exclusion areas, the type of waste to be covered by the rule, existing onsite disposal, and the impact on regional low-level waste disposal facilities. Some States commented that the Agreement States were more familiar with local conditions and that their requirements were more strict than the NRC's. Of the 10 Agreement States that commented, 9 States were opposed to the amendments. The remaining Agreement State that commented supported the rule but reserved the right to participate in the approval process with full review privileges and expected their concerns to be addressed.

As a result of the public comments received and the relatively low hazards associated with onsite disposal of low-level waste radioactive material, the NRC reevaluated the merits of the proposed rule. In the 7 years since this rulemaking was originally proposed, there have been a number of approvals granted by Agreement States for onsite disposal of low-level waste material under the equivalent of 10 CFR 20.2002 (successor to 20.302). The NRC staff is not aware of any problems with the Agreement States' approvals of any onsite burials of low-level waste material.

Based on the comments received, the relatively low hazards associated with onsite disposal of this type of radioactive material, and current experience with disposals, the NRC has reevaluated the issues and concluded that it is not necessary to reassert its regulatory jurisdiction over onsite disposal at reactor sites in the Agreement States.

Therefore, the proposed rule is not required and is being withdrawn. Withdrawal of the proposed rule does not affect the current NRC jurisdiction over disposal of special nuclear material by reactor or fuel cycle licensees. With the withdrawal of the proposed rule, the Agreement States will maintain jurisdiction over the disposal of low-level radioactive waste on nuclear reactor sites.

Dated at Rockville, Maryland, this 22nd day of May, 1996.

For the Nuclear Regulatory Commission.

Secretary of the Commission.





EXECUTIVE DEPARTMENT 12 P1:02

STATE PLANNING OFFICE

JOHN R. McKERNAN, JR. GOVERNOR OFFICE OF SECRETAR DIRECTOR DOCKETING & SERVICE. BRANCH

April 6, 1990

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

Re: Comments in opposition to proposed rulemaking in 10 CFR 150, "Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States" (FR 31880, August 22, 1988).

Dear Sir/Madam:

This letter forwards the comments of the State of Maine in the above-captioned matter. We respectfully request that our comments in opposition to the Commission's proposal be placed in the official record of this proceeding.

Your consideration is greatly appreciated.

Richard H. Silkman

Director

enc.

90 APR 12 P1 1-

U.S. PERSON & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date 4/9/90
Copies Received

Add'! Copies Reproduced 3
Special Distribution PDR, Rubs

B. Fearson

Before the United States Nuclear Regulatory Commission

Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States.

Comments of the State of Maine

The State of Maine hereby submits its comments in opposition to the NRC proposed rule "Reasserting NRC's authority for approving onsite low-level waste disposal in Agreement States". The State of Maine has a sincere interest in and responsibility for the disposal of any hazardous substance, and respectfully requests the NRC to consider the following comments:

1) THE STATE OF MAINE IS CHARGED TO ACCEPT RESPONSIBILITY FOR LOW-LEVEL RADIOACTIVE WASTE (LLRW).

The State of Maine has been charged to accept responsibility for the disposal of LLRW generated within its borders by the United States Low-level Radioactive Waste Policy Acts of 1980 and 1985. In complying with this law, the state is establishing geographical and geological criteria for the disposal of all LLRW in the State of Maine, including very low activity LLRW. To assure that LLRW disposed under 10 CFR 20.302a is evaluated uniformly and consistent with the state's requirements for LLRW disposal, it is logical and practical for the state to assume full responsibility and jurisdiction for all disposal requests under 10 CFR 20.302a.

2) DISPOSAL OF ALL WASTES MUST MEET LAND USE REGULATIONS AND POLICIES OF THE STATE.

The State of Maine has developed and continues to develop broad reaching regulations and policies concerning land use, not only to protect public health and the environment, but to sustain and improve Maine's quality of life and economic viability. To assure that land use for disposal purposes is consistent with state regulation and policy, it is necessary that all disposal decisions are within the jurisdiction of the state.

3) STATE OF MAINE IS AWARE OF NRC'S CONCERN OVER JURISDICTION.

The State understands NRC's concern with regards to retaining control over the decommissioning process of an NRC licensed reactor, in that NRC requires knowledge of any onsite LLRW disposal when determining if a site can be returned to unrestricted use. Also, the State recognizes NRC's concern that licensee's are not subjected to

unreasonable demands with the disposal of very low activity LLRW, such that it has an adverse impact upon the operation of the nuclear facility. However, the state can alleviate NRC's concerns on these issues by:

- a. Providing the NRC with records of 10 CFR 20.302a approvals from reactor licensees.
- b. Developing criteria for 10 CFR 20.302a applications which meet NRC criteria, as a minimum.
- c. Developing criteria for 10 CFR 20.302a which is based on risks comparable to other hazardous materials accepted for disposal by land burial in the State of Maine.



Norman H. Bangerter Governor Suzanne Dandoy, M.D., M.P.H. **Executive Director** Kenneth L. Alkema Director

DIVISION OF ENVIRONMENTAL HEALTH

Bureau of Water Pollution Control 288 North 1460 West, P.O. Box 16690 Salt Lake City, Utah 84116-0690 (801) 538-6146

GPA/SLITP Carl re followays 88 OCT 31 PM 2: 20 Ten

October 24, 1988

Carlton C. Kammerer, Director State, Local and Indian Tribe Programs U.S. Nuclear Regulatory Commission Washington, D.C. 20555

Dear Mr. Kammerer:

Again this year, as in the past, the Nuclear Regulatory Commission (NRC) has hosted an informative and instructional All Agreement States Meeting. The Agreement States are very appreciative of your efforts in this regard. As has been the case in the past, the Agreement States have assembled a list of objectives and concerns which we believe should be resolved by the NRC. The following represents that list:

- 1. We request the NRC to arrange to have Dr. John Poston present a course relative to internal dosimeter consistent with 10 CRF part 20 to the Agreement States; preferably at least one course being presented in each NRC Region.
- 2. The Agreement States oppose the reassertion of NRC authority over on-site low level waste disposal at reactors.
- 3. The Agreement States have traditionally and appropriately recommended to the NRC that naturally-occurring and accelerator-produced radioactive materials (NARM) should be regulated by the NRC. For reasons we have carefully documented over the years, it remains impractical and illogical that NARM not have a home in a single federal agency; common sense dictates that the NRC be that home. While conscience demands that the Agreement States once again make this recommendation to the NRC, we no longer intend to simply give the Commission our recommendation and wait for a response. This time it is our intention to press for resolution of this goal. We have had our NARM Meeting, we are developing a plan, and we intend to implement that plan which will finally see the states regulate NARM with an appropriate federal agency providing "guidance," "over-sight," and/or "compatibility," even if legislation to accomplish this end must arise from the Agreement States.
- 4. The NRC should complete the General License Study and provide a report to the Agreement States.



NUCLEAR REQUILATORY COMMISSION

BOCKETING & SERVICE SECTION

SEPTIGE OF THE SECRETARY

OF THE COMMISSION

Decement Statistics W. S. NUCLEAR REGULATORY COMMISSION

Postmark Data Copies Received Add'I Copies Reproduced 3 Special Distribution RIPS PDR

- 5. The NRC should fulfill its objectives under the Consolidation Omnibus Budget Reconciliation Act of 1985, by adopting a radioactive materials license and inspection fee schedule that reflects the real costs of implementing the radioactive materials program and recovering 45% of the costs.
- 6. The Organization of Agreement States supports the Texas industrial radiographic testing program and strongly encourages the NRC to utilize that system to ensure that the testing of individuals remains within regulatory channels so that individuals tested remain subject to appropriate regulatory sanctions.
- 7. We wish to express our concern with NRC recommending the use of different shipping and packaging configurations for private carriers and common carriers, specifically for spec 2-T containers. We believe the same conditions should apply for transport in both cases and therefore the same shipping-packaging configuration requirements should apply and be met. We are also concerned that the inspection and enforcement notice sent to industrial radiographers is not clear regarding the structural requirements for boxes used in private shipments.
- 8. The Organization of Agreement States submits the names of Don Flater of Iowa and Paul Merges of New York for membership on the NRC/Agreement State Training and Funding Task Force.
- 9. Greta Dicus of Arkansas was selected as chairperson elect, to assist the incoming chairman Don Hughes of Kentucky in conducting activities over the coming year.

Again, we appreciate your support and pledge our continuing cooperation over the coming years.

Sincerely,

Larry F. Anderson, Director Bureau of Radiation Control Midwest Interstate Low-Level Radioactive Waste Commission

Room 588 • 350 N. Robert Street • St. Paul, MN 55101 • (612) 293-0126

'88 DEC 12 P3:31

December 7, 1988

CFFICE (# SEGRETARY BOCKETING & SERVICE BRANCH

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

Dear Mr. Secretary:

At its December 2 meeting, the Midwest Compact Commission discussed the Nuclear Regulatory Commission's (NRC) proposed rulemaking that would reassert NRC Authority for Approving Onsite Low-Level Waste Disposal in Agreement States (Federal Register, August 28, 1988, p. 31880). The Commission also discussed comments on the proposed rulemaking that were submitted to the NRC from the Southeast Compact Commission and the State of Illinois.

While our interest in on-site disposal is related to jurisdiction, we do not challenge NRC Authority with regard to the Agreement State Program. Our host state, Michigan, is not an Agreement State, but may request such status in the future for the purpose of regulating a low-level radioactive waste disposal facility. If it obtains that status, we expect that the terms of the agreement would determine the responsible party for this licensing function.

Rather, our interest is focused on a broader jurisdictional concern. Irrespective of who is responsible for this licensing function at nuclear power plants, disposal of any low-level radioactive waste at a non-regional facility is subject to Midwest Compact Commission approval. This approval is necessary whether disposal is proposed at a nuclear power plant, at other generator sites, or at a commercial disposal site. All would require NRC or Agreement State approval; they also would require the approval of the Midwest Compact Commission.

Article III(h)(2) of the Midwest Compact states that, "The Commission may: ...2. Approve the disposal of waste generated within the region at a facility other than a regional facility." Article II(n) defines a regional facility as, "...a facility which is located within the region and which is established by a party state pursuant to designation of that state as host state by the Commission." Furthermore, Article IX(b)(4) states that, "Unless otherwise authorized by the Commission pursuant to Article II(h) after January 1, 1986 it is a violation of this compact: ...4. For any person to dispose of waste at a facility other than a regional facility."

Indiana Iowa Michigan Minnesota Missouri Ohio Wisconsin

Malto ROIN nothedrived leicard Postmank Date Valle Valle Keccived Scopies Received 3

estititets tramusod

OF THE COMMISSION

DOCKETING & SERVICE SECTION

DOCKETING OF THE SECRETARY

THE COMMISSION

Secretary of the Commission December 7, 1988 Page Two

The supplementary information accompanying the proposed rule implies that jurisdiction for on-site disposal at NRC-licensed reactors would only be vested in the Commission. We request that the supplementary information include some acknowledgement that Compact Commissions also may have jurisdiction over such disposal, depending upon the specific Compact language approved by Congress. Please do not hesitate to contact the Commission's Executive Director, Gregg Larson, if you have any questions.

Sincerely,

Dr. Teri L. Vierima

Chair

cc: Commissioners LLW Forum





(53 FR 31880)

COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES
Post Office Box 2063 '88 DEC 12 P3:32

Harrisburg, Pennsylvania 17120

DOCKETING & SERVICE BRANCH

December 8, 1988

(717) 787-2163

Bureau of Radiation Protection

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

Attention: Docketing and Service Branch

Re: Proposed Amendment to 10 CFR 150.15 (a)

Reference 53 Fed. Register 31880 - 31882, August 22, 1988

Dear Sir:

We do not support the Commission's proposal to amend 10 CFR 150.15(a) to reassert NRC jurisdiction over on-site low-level radioactive waste disposal in Agreement States at NRC-licensed reactors and 10 CFR Part 70 facilities. The proposed amendment is contrary to provisions in the APPALACHIAN STATES LOW-LEVEL Pennsylvania's LOW-LEVEL and RADIOACTIVE WASTE COMPACT ACT RADIOACTIVE WASTE DISPOSAL ACT which prohibit the dispoal of low-level waste without the approval of the Appalachian States Low-Level Radioactive Waste Commission's and only in accordance with applicable state regulations.

We request that the proposed rule changes not be adopted or, if the regulations must be changed, that they include a mechanism by which states can exert some control over on-site disposal within their borders to prevent inordinate amounts of low-level waste from being disposed of on site.

Sincerely,

William P David William P. Dornsife, Chief Division of Nuclear Safety

OF THE COMMISSION

Document Statistics

Postmark Sate 1218188 Copies Received

Add'l Copies Reproduced #t 3

Special Distribution 12105, PDR,

WOLFE

RDA Doyleston Pa 10/20/88 DOCKETED USNRC

DOCKET NUMBER PR 150
PROPOSED RULE 53 FR 31880

*88 OCT 24 A10:47



Dear Seculary.

DOCKETING & SERVICE BRANCH

If the NRC Taker back The right to approve or desapprove of desposal of radwards at reactors, Then They will intringe upon the authority now in the hands of the state. I want this authority to remain with the states in order to remain with the states in order to encourage local decision-making.

Succeiely Many Byr



NOV - 1 1988

'88 OCT 24 AIC :47

DAGISH KARIPEN ME 6/15/09/16/09/15/0

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Copies Received

Add'l Copies Reproduced

Special Distribution RIDS

PDR WULFE

PRECHAM

AND ADDRESS

PDR WULFE

PRECHAM

ADDRESS

PDR WULF

PRECHAM

ADDRESS

PRECHAM

ADDR WULF

PRECHAM

ADDRESS

PRECHAM

ADDRESS

PRECHAM

AD

Acare, steelige it.

"Once Adam On Did Vision Santa.

May 1 3 Jo March 1 1 May 1 May 1 1 May 1 1 May 1 1 May 1 May

the status to have made to be a discount

Buyers Up □ Congress Watch □ Critical Mass □ Health Research Group □ Litigation Group

November 18, 1988

Secretary U.S. Nuclear Regulatory Commission Washington, DC 20555

Attn: Docketing and Service Branch

Dear Sir/Madam:

I am writing on behalf of the Critical Mass Energy Project of Public Citizen in order to comment on the proposed NRC regulation (53 FR 162:31880-31882) to reassert NRC jurisdiction over on-site disposal of low-level waste generated by nuclear reactors in Agreement States.

Public Citizen is a non-profit research and advocacy organization founded by Ralph Nader in 1971 to address a wide range of consumer and environmental issues. Critical Mass is the energy policy arm of Public Citizen.

We are opposed to the proposed regulation, and strongly urge that jurisdiction over low-level waste disposal remain with the Agreement States.

Environmental conditions vary from state to state; local regulators will likely be most aware of and most sensitive to the particulars of regional environmental concerns. Therefore, Agreement State jurisdiction will be the most effective means of regulating the disposal of low-level wastes in terms of protecting the local environment and public health.

For example, in some states, because of the environmentally sensitive location of a waste generator, state officials adamantly oppose any on-site disposal. The proposed rule, however, would grant the NRC authority to permit on-site disposal without the concurrence of and even against the will of the state. Conversely, in some states, environmental conditions dictate the minimization of the amount of waste stored in away-from-source disposal sites. Under such conditions, it would be in the best interest of the state and its citizens to keep the number of contaminated sites to a minimum and require disposal at or near the source of generation. If the proposed rule is adopted, however, only the NRC could permit the at-reactor disposal option. Again, it would be possible for the Commission to mandate a disposal policy that is against the interest and the will of the local community.

Moreover, the close ties that the Commission has with the

J. S. NUCLEAR REGULATORY COMMISSION
DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Dale
Copies Received
Add'l Cord's paraduced
Special Distribution RTBS
PDR STEWART

were present and them placed the season

nuclear industry, its lax regulation of nuclear plant safety, and its increasing willingness to allow the nuclear industry to regulate itself, all give added weight to our concern that the NRC will be less sensitive to the public safety and health than will be the individual state regulators.

Of particular concern in this regard is the impending possibility that the Commission will declare a policy that would identify a radiation risk that it considers to be "below regulatory concern" (BRC). In the context of the proposed regulation withdrawing Agreement State jurisdiction, such a BRC policy declaration could remove wastes that are currently under state regulation from being controlled under any regulations at all. The consequence would be the imposition of a questionable and irresponsible policy by a lax and distant regulator on states and their citizens who will have to bear the risks to their health and environment.

NRC reasons that it needs to have complete information about the location of wastes disposed of on-site when it comes time to decommission a reactor. Reasserting jurisdiction over on-site disposal of wastes, however, is not the only method of addressing this. We believe that this problem could easily be solved by requiring Agreement States to report to the NRC all waste disposal that they permit at reactors and licensee sites.

To sum up: because uniform regulations promulgated on the federal level will be less able to take account of local environmental variations, because there is reason to believe that local state regulators are more likely to be vigilant in the protection of public health than is the NRC, and because there exists an immediately available alternative remedy to alleviate the NRC's stated concerns, we urge that the proposed regulation be rejected, and that jurisdiction over on-site disposal of lowlevel wastes be allowed to remain with Agreement States.

In the final analysis, it is the citizens of each of these states who will have to live with contaminated reactor sites (whether or not decommissioning involves actual reactor dismantling) and the low-level waste sites (however such wastes are disposed). They should retain the ability through their local elected officials to regulate those wastes in the manner which they see fit.

Sincerely,

Scott Saleska

Nuclear Waste Policy Analyst Critical Mass Energy Project

of Public Citizen

New York State Department of Environmental Conservation 50 Wolf Road, Albany, New York 12233 -7255

'88 NOV 15 P3:57

Thomas C. Jorling

OFFICE OF SLOW TAN Commissioner DOCKETING & SE WICE November 7, 1988

Mr. Samuel J. Chilk Secretary of the Commission U.S. Nuclear Regulatory Commission Washington, D.C. 20555

Attention: Docketing and Service Branch

Dear Mr. Chilk:

Comments on Proposed Rule: 10CFR Part 150 -Subject:

Reasserting NRC's Authority for Approving On-Site

Low-Level Waste Disposal in Agreement States.

Due to a few errors in my October 21, 1988 letter to you on the above subject, this letter supersedes in its entirety the October 21st letter.

This letter is in response to Mr. Nussbaumer's letter transmitting the Federal Register publication of the subject proposed rule. We do not support the NRC proposal to amend 10 CFR Part 150 to reassert the Commission's authority to regulate disposal of low-level radioactive waste (LLW) on NRClicensed reactor sites and to clarify the Commission's authority to regulate disposal of waste containing less than critical mass quantities of special nuclear material (SNM) on Part 70 licensed sites in Agreement States.

The Commission's proposal, as stated, would remove the regulatory authority over on-site LLW disposal currently held by New York as an Agreement State. The subject proposed rule contains no provision for Agreement State policies to be considered in NRC decisions that could result in LLW disposal on-The Department anticipates that, upon completion of decommissioning activities at affected sites, the NRC would terminate licenses and return control of the sites to New York This would create a situation where the State would be responsible for LLW disposal sites, without having any regulatory control over siting, design, construction, and operation. State must ultimately be burdened with the environmental consequences of NRC-licensed on-site disposal actions, then the State should have authority over such actions.

O.S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION

OFFICE OF THE COMMISSION

Document No.

Postmark Date
Copies toretved
Add't training Reproduced Y Special Distribution RIDS, PDR

While the NRC is seeking to gain "centralized and consistent" regulation of on-site waste management activities in individual Agreement States, it is worthy to note that on-site waste disposal in New York State will conflict with this State's goal of centralized and consistent State management of low-level waste. The proposed rule could have the effect of populating the State with multiple shallow land burial sites, wherever reactors or Part 70 licensees exist. In contrast, the State, in complying with the Federal Low-Level Radioactive Waste Policy Act, as amended, passed the New York State Low-Level Radioactive Waste Management Act, which set the State on a course of actions that will lead to the centralization of in-state LLW disposal in one or two facilities to ensure that the best possible site(s) will be selected. Furthermore, the Act specifically prohibits the use of conventional shallow land burial as a disposal methodology, and requires instead that alternative technologies be considered, including the use of engineered structures. The on-site disposal actions foreseen under the proposed rule would, therefore, decentralize LLW disposal in New York State, and could work contrary to this State's goal of providing the most suitable site(s) for in-state generated low-level waste.

We conclude that adoption of the proposed rule would constitute a circumvention of an established system of State environmental protection mechanisms designed to manage the State's low-level waste disposal problem. We oppose the adoption of the subject proposed rule on the grounds that it leaves the State out of a decision that has the potential to cause significant impact on the state's environment, that it could lead to actions that would result in a legacy of LLW burial sites that are incompatible with State environmental regulations specifically designed to regulate the same, and that it, therefore, does not serve the best interests of environmental protection in the State of New York.

Sincerely,

Saulf. Muges Paul J. Merges, Ph.D

Director, Bureau of Radiation

CEJ/jmk

cc: J. McGrath, USNRC, Region 1

F. Bradley, NYSDOL K. Rimawi, NYSDOH



UNITED STATES NUCLEAR REGULATORY COMMISSION REGION I

631 PARK AVENUE KING OF PRUSSIA, PENNSYLVANIA 19406

January 7, 1985

Anne Rabe c/o Assemblyman Richard Gottfried Room 941 LOB Albany, New York 12248

Dear Ms. Rabe:

This will confirm our telephone conversation on December 19, 1984 regarding licensing jurisdiction for the storage of LLW at nuclear power plant sites. discussed two specific cases. Each is addressed below.

1. Storage of LLW Generated by a Reactor at the Reactor Site

In this case exclusive licensing jurisdiction is retained by the NRC in accordance with 10 CFR 150.15(a)(1). (See our November 10, 1981 letter to all reactor licensees and applicants for further information on storage of reactor-generated LLW at reactor plant sites. A copy has been sent to you under separate cover).

2. Storage of Reactor and Non-reactor Waste at a Reactor Site

In this case, if the LLW storage facility is clearly separate from the reactor facility, i.e., it has no impact on the safe operation of the reactor and is sited relatively remotely from the reactor itself, the regulation would be by the State in an Agreement State and by NRC in a non-Agreement State. If the LLW storage facility is not clearly separate from the reactor facility, i.e., may impact on the safe operation of the reactor or is sited relatively close to the reactor itself, NRC licensing jurisdiction may be retained. In this situation, the specifics of the proposal including the location of the storage facility and its effect on operation of the reactor would have to be considered on a case-by-case basis in reaching a decision on licensing jurisdiction.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely.

Paul H. Lohaus State Liaison Officer

John R. M. Suth

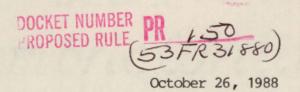
SOUTHEAST COMPACT COMMISSION

(42)

for Low-Level Radioactive Waste Management
3901 Barrett Drive • Sulte 100-B • Raleiah, NC 27609 • (919) 781-7152

DOCKETED

RICHARD S. HODES, M.D. Chairman
FRED O. BRASWELL, III
Vice Chairman



** OCT 31APT P12LLYM H. BRINER Secretary Treasurer ROBERT H. WOLLE, B.Ch.E., M.P.H., RE. OFFICE OF SECRETARY SERVICE.

BRANCH

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

Attention: Docketing and Service Branch

Re: Proposed Amendment to 10 C.F.F. § 150.15(a)

Reference 53 Fed. Register 31880 - 31882, August 22, 1988

Dear Sir:

On behalf of the Southeast Compact Commission, I would like to express vigorous opposition to the proposed rule changes in the above-referenced Federal Register Notice. The Commission recommends that the Nuclear Regulatory Commission maintain the present system whereby Agreement States have licensing authority over disposal of all civilian low-level radioactive waste within those states. If the Nuclear Regulatory Commission wishes to ensure uniformity in the licensing of onsite disposal in Agreement States and that certain minimum standards for such disposal are enforced, this can best be accomplished by the issuance of licensing and disposal guidance documents.

During our Annual Meeting conducted on October 25, 1988, the Commission raised the following reasons for opposing the proposed changes in the rules:

- 1. The proposed rule changes have the potential of being in opposition to federal policy as contained in the Low-Level Radioactive Waste Policy Act of 1980 and the Low-Level Radioactive Waste Policy Amendments Act of 1985, which require the states to provide for disposal of low-level radioactive waste and encourage them to create multi-state regional facilities to accomplish this. The proposed rule is so broadly stated that it would permit the licensing of onsite disposal of any low-level radioactive waste, thereby contravening the Congressional intent, as evidenced by the 1980 and 1985 Acts, that there be a limited number of disposal sites, and that those sites be operated and regulated pursuant to state and regional authority.
- 2. The stated rule changes have the potential of depriving the Congressionally mandated state and regional facilities of a substantial part of the waste stream necessary to make them economically viable, since licensed nuclear reactors contribute the majority of low-level radioactive waste to these disposal facilities.

NOV 1 6 1988

Acknowledged by card.....

THE SEC 18 190 85

AN ARMAN TOMOR

U.S. NUCLEAR REGULATORY COMMISSION

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY

OF THE COMMISSION

Document Statistics

Postmark Date 10-28-88

Copies Received

Add'l Copies Reproduced 3

Special Distribution RIDS

PARI STEWART

Secretary of the Commission October 26, 1988 Page Two

- 3. If the NRC feels that uniformity must be brought to the licensing of isolated instances of onsite disposal of "very low-level" radioactive waste in order to ensure that it can meet its stated requirement that the sites of decommissioned facilities be available for unrestricted use, then the NRC can provide guidance documents or other assistance to Agreement States for their use in the issuance of onsite disposal licenses without disturbing the long standing authority of Agreement States to regulate disposal and without contravening national policy established by the Congress of the United States.
- 4. The General Assembly of North Carolina, the state designated to host the second regional disposal facility in the Southeast, has mandated certain minimum requirements for the licensing of a lowlevel radioactive waste disposal facility. These requirements are more stringent that those contained in the present NRC regulations. The proposed rule changes have the potential of weakening the protection which the North Carolina General Assembly has deemed necessary for the people of their State.
- 5. Finally, public perception of the proposed changes will be that the NRC is attempting to weaken the traditional control of the Agreement States and, in the process, removing from the people the ability to control their destiny with regard to nuclear facilities.

The Southeast Compact Commission strongly believes that the states of the Union, and particularly the eight states belonging to the Southeast Compact, have proceeded to comply with the mandated national policy in good faith and the NRC must show equal faith in states' abilities to continue regulating in this area. We therefore request that the proposed regulatory changes not be adopted or, if the regulations must be changed, that they be more narrowly drawn so as to accomplish only the stated purpose and not disturb the long-standing regulatory authority of the Agreement States.

If you have any questions in connection with our position, please contact our Executive Director, Kathryn Visocki, at (919) 781-7152. We would appreciate notification of any actions you take regarding this rule.

Sincerely,

Richard S. Hodes, M.D.

Chairman

Authority Members

Tenney I. Deane, Jr., Chairman Raymond L. Murray, Ph.D., Vice Chairman Carolyn S. Allen Kenneth W. Brownell, Ph.D. Albert L. Canipe, Marcus B. Crotts, P.E. Elizabeth H. Drury David F. Felmet, Sr. G. Gordon Greenwood, Jr. Harry E. LeGrand John W. McAlister loseph W. Pitt William B. Smalley Constance Kalbach Walker, Ph.D.

Donald G. Willhoit, Ph.D.

North Carolina Low-Level Radioactive Waste Management Authority

NOV -8 P4:17

OFFICE OF SELBETARY DOCKETING & SERVICE

lames G. Martin, Governor Paul B. Stam, Sr., Executive Director

November 4. 1988

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

Attention: Docketing and Service Branch

Proposed Amendment to 10 CFR 150-15(a) Subject:

Reference 53 Federal Register 31880-31882, August 22,

1988

Dear Sir:

In response to the above referenced Federal Register Notice, the North Carolina Low-Level Radioactive Waste Management Authority would like to express its opposition to the proposed changes. The North Carolina Low-Level Radioactive Waste Management Authority was created by the North Carolina General Assembly to fulfill the responsibilities of the State and the Southeast Compact under the Low-Level Radioactive Waste Policy Amendments Act of 1985.

By letter dated October 21, 1988, the North Carolina General Assembly's Joint Select Committee on Low-Level Radioactive Waste voiced its opposition to the proposed changes and set forth its reasons for that opposition. A copy of that letter is attached hereto and incorporated herein by reference. The North Carolina Low-Level Radioactive Waste Management Authority concurs in that reasoning and wishes to join the Joint Select Committee on Low-Level Radioactive Waste in opposing the proposed changes.

Sincerely,

Tenney I. Deane, Jr.

Chairman, North Carolina

Curry Adeau

Low-Level Radioactive Waste

Management Authority

NOV 1 6 1988

TIDjr.: VV: lsk

Acknowledged by card....

Attachment

116 West Jones Street • Raleigh, North Carolina 27603-8003 • 919-733-0682 North Carolina Residents Toll Free 1-800-248-6421

An Equal Opportunity / Affirmative Action Employer

VE NO -6 PA ER

Reference fit Farms and Residence with the Contract of the Con

the North Carolina Low-Lavel Red committe Washe Management bearuncy alt of nottengon all macross of ext bloom various. Management Authors by was recented by the North Carolina Seneral

By letter dailed defalor, it. 1986. Che Novel darefina a quest voiced its opposit on to the proposed changes and set forth the reasons for that by the contracted acceptable that better is attached hereto and encorporated here to by reference. The North Carolina

J. S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

Document Statistics

Postmark Date Copies Receive, Fam Add'I Copies Reproduced Special Distribution



Western North Carolina Alliance 25

(41)

OFFICERS:
Dan Pittillo, Chair
Judy Williamson, Vice-chair
Dick Heywood, Treasurer
Lou Zeller, Secretary

P.O. Box 18087 70 Woodfin Street 4B Asheville, NC 28814-0087 (704)258-8737 DOCKE BRANCH

Staff:
Mary Sauls Kell y
Coordinator
Ron Lambe,
Administrator

19 October 1988

Secretary
US Nuclear Regulatory Commission
Washington, DC 20555

COOKET NUMBER OF 52

CASHONED RULE (53FR 32060)

Dear Sir or Madame:

I am writing in comment to the proposed rule 53 FR 162: 31880-31882, published in the August 22 Federal Register, concerning the authority for at-reactor disposal of low-level radioactive waste (LLRW). This proposed rule would take the authority for at-reactor disposal away from the states and give authority to the NRC.

We oppose this proposed rule for the following reasons. First, this rule clearly violates the intent of Congress in the Low-Level Waste Policy Act (LLWPA) of 1980 in which states were given responsibility for providing for the disposal of all LLRW generated within each state. committee reports for this legislation concluded that "lowlevel radioactive waste can more effectively and efficiently be managed on a regional basis" (House Report 1382, Part 2, 96th Congress, 1980) and that states should be given primary responsiblity for LLRW because they are "better capable of the planning and monitoring functions relevant to low-level waste" (House Report 1382, Part 1, 96th Congress, 1980). The 1986 amendments to the act (LLRWPAA) further specifies that states should be responsible for the permanent disposal of Class A, B, and C LLRW generated within states' boundaries.

We concur, and strongly urge that the states be allowed to maintain the authority to determine, on a state-by-state and reactor-by-reactor basis, which facilities may be suitable for at-reactor storage and which are not. We feel that not only will states be more familiar with the operating capabilities and histories of reactors and with the needs of the general public, but that state officials are more directly accountable for the satety of state residents than is the NPC.

Sincerely,

Mary Sauls Kelly, PhD Coordinator, WNC Alliance wateryoung got shion the wrong mulemaking docket. Emile,



STATE OF FLORIDA DEPARTMENT (

DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES

'88 NOV -8 P4:12

November 4, 1988

OFFICE OF SECR MAIN DOCKETING & SERVICE BRANCH

Samuel J. Chilk Secretary of the Commission U.S. Nuclear Regulatory Commission Washington, DC 20555

Attention: Docketing and Service Branch

Re: Proposed amendment to 10 CFR 150.15 as published in Federal Register Vol. 53, No. 162, August 22, 1988, pages 31880-31882

Dear Mr. Chilk:

We have reviewed the above referenced proposed revision to Title 10, Code of Federal Regulations (CFR), Part 150, Section 15 and wish to make comments on the amendment.

As written, we do not endorse the proposed amendment to 10 CFR 150.15. We do not believe that it is in the best interest of the citizens of this state to relinquish authority over onsite disposal of radioactive wastes.

Florida has been an Agreement State for a number of years, and we believe that we have sufficient capability to continue regulating onsite disposal of radioactive wastes. Furthermore, we believe that regulatory uniformity among the Agreement States can be accomplished by the same means used to ensure uniformity in the regulation of by-product material. Specifically, NRC should consider the issuance of standard regulatory guidance documents which would address general concepts germane to onsite disposal methodologies. For those cases where the methodology has not been previously evaluated, NRC should designate technical experts which are available, on an as-needed basis, for peer review.

Assuming NRC does reassert authority over onsite disposal of radioactive wastes, we wish to express our concerns with respect to the proposed language.

The language does not define the type of wastes which would fall under NRC jurisdiction. Specifically, it is not clear that authority for the disposal of Class A and above low-level radioactive waste (LLRW) would remain with the Agreement States.

Acknowledged by card 1 6 1988

DOCKETING & S OFFICE OF TH OF THE CO	TE SECRETARY
Document	Statistics

Copies Received

Add'l Copies Reproduced 3 Special Distribution RIDS, PDR, STEWART

Samuel J. Chilk November 4, 1988 Page 2

Without clarification of the language, one might infer an apparent conflict with the LLRW Policy Act (1980) or the LLRW Policy Amendments Act (1985), which directs the states to develop means by which civilian LLRW is disposed of in state-regulated facilities.

In the event that an approved onsite disposal methodology results in a post-decommissioning contamination problem, it is not clear that NRC will assume responsibility for remediation of the site.

NRC has not documented the protocols by which an affected Agreement State would be allowed to review and comment on an onsite disposal proposition. We believe that NRC is obligated to consider the position of an affected state since the site will ultimately fall under state jurisdiction.

To summarize our position, we feel that the proposed amendment to 10 CFR 150.15 is not a viable option. However, if NRC does promulgate this or a similar rule, our concerns and those of other Agreement States should be seriously considered. At a minimum, NRC should rectify the language and clarify its position with respect to Agreement State involvement in the evaluation of proposed onsite disposal methodologies.

Thank you for this opportunity to comment on the proposed rule. Please contact me at (904) 487-1004 if you desire any further explanation of our comments.

Sincerely,

Chief

Office of Radiation Control

qjm

ENVIRONMENTAL COALITION ON NUCLEAR POWER

DOCKET NUMBER 53FR 31880



Co-Directors: Ms. Phyllis Zitzer-Box 761, Pottstown, Pa. 19464 215-326-9122

DOCKETED

Dr. Judith Johnsrud-433 Orlando Avenue, State College, Pa. 16801 814-237-3900

October 18, 1988 88 NOV -4 A10:00

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

10 CFR 150 OFFICE OF SECRETARY 53 FR 31880 DOCKETING & SERVICE RE: 10 CFR 150 BRANCH

Dear Madam or Sir:

The following comments are submitted on behalf of the above named organization and for Food and Water, Inc. Both are non-profit public interest citizen groups concerned about the environmental and health impacts of the nuclear fuel cycle, including the management of radioactive wastes. The undersigned is a member of the Pennsylvania Low-Level Radioactive Waste Advisory Committee, which is charged by Commonwealth law to review and advise on matters relating to disposal of low-level radioactive wastes generated in the Appalachian Compact States. These comments, however, do not, and are not intended in any way to, represent the views of that committee or of the Pennsylvania Department of Environmental Resources.

The Commission proposes to "reassert authority for approving onsite lowlevel waste disposal in Agreement States." This Commission authority would be extended to NRC-licensed reactors and Part 70 facilities. We oppose the proposed rule and ask that the Commission withdraw this proposal. At 53 FR 31881, the Commission states that:

Onsite disposal of low-level radioactive waste is regulated by the state regulatory agencies in Agreement States. In Agreement States, the Atomic Energy Commission did not reserve jurisdiction under 10 CFR 150.15(a) for onsite low-level waste disposal at NRC licensed facilities.

and:

... the states will have control over land burial of low level wastes"

and:

... the Commission decided against "control over land burial of waste" in Agreement States by relinquishing jurisdiction of onsite disposal of low-level waste to the states while retaining AEC jurisdiction of high-level waste disposal...

Under current law Agreement States have the authority to regulate the disposal of low-level waste products onsite.

(emphases added)

The Commission is here stating clearly that Agreement States, under existing law, have regulatory authority over onsite disposal of low-level radioactive waste, and that its regulatory stance, in response to the law, has long been to recognize Agreement State authority over onsite disposal. Absent authorization by law, the NRC cannot arbitrarily decide to make so great an alteration of the authority of Agreement States, an authority reemphasized in the 1980 Low-Level Radioactive Waste Policy Act and its 1985 Amendments.

Acknowledged by card 0V - 8 1988

SHOW THE PARTY AND A STREET AND

O A N- THA OR

J.S. NUCLEAR REGULATORY COMMISSION

DOCKETING & SERVICE SECTION

OFFICE OF THE SURETARY

OF THE COMMISSION

Bocument Statistics

Jostmark Date 10-31-88
Jugies Received

and 11 Comins Reproduced 3

Special Distribution RIDS

PDR STEWART

BROD

Acknowledged by car

Moreover, of greatest pertinence to this point, the 1980 Low-Level Radio-active Waste Policy Act and its 1985 Amendments state specifically that the states are responsible for the disposal of all low-level radioactive wastes that are generated within their borders. No new directive from the Congress now negates that mandate to the states.

The Commission provides no justification for its arbitrary and capricious reversal of authority in this Proposed Rule, but merely states that "the Commission believes that jurisdiction for onsite disposal...'should' be vested in the Commission" and that it "'believes' it prudent" to do so. An agency cannot by fiat take actions wholly contrary to provisions plainly stated in law.

Of great importance to the states which are required to take disposal responsibility for low-level radioactive wastes under the 1980 and 1985 Federal laws is the failure of the Commission in this proposal to specify the classes of low-level wastes eligible for disposal onsite and by land burial. Pennsylvania DER Bureau of Radiation Protection Nuclear Safety Director stated in public meeting that he interpreted this Proposed Rule as applicable only to very low activity wastes; an NRC Region 1 staff member pointed out that the Proposed Rule does not so specify. The only reference to what wastes may be disposed of under this reasserted authority in the Proposed Rule states, "...the onsite disposal of non-critical waste quantities of onsite special nuclear material remains an NRC licensing function..." As the Proposed Amendment to 10 CFR 150.15(a) now reads, any low-level waste, including Class C wastes of high activity and longevity and undetermined quantities of special nuclear material. could be disposed of in this manner onsite within the protected and exclusion areas of any NRC-licensed reactor and within Part 70 licensee restricted areas and "any contiguous property established for activities carried out under licenses issued pursuant to Part 70.... " There is not even any clear requirement for the Part 70 licensee to own the contiguous property.

With regard to the latter, Section 274(b) of the Atomic Energy Act declares that the Commission is authorized to discontinue its regulatory authority for byproduct materials (as defined in Section 11(e), source materials, and special nuclear materials in quantities not sufficient to form a critical mass. Section 274(b) of the Atomic Energy Act and the mandatory control over the disposal of low-level waste stated in the Low-Level Waste Policy Act, taken in combination, provide more than ample demonstration of the Congressional intent that Agreement States are indeed directed to assume the responsibility for the disposal of low-level radioactive wastes.

The Low-Level Radioactive Waste Policy Act and its 1985 Amendments plainly state that the responsibility for disposal lies with the state in which waste is generated. The Commonwealth of Pennsylvania, in order to protect the health and safety of its citizens and to comply with the State's Constitutional provisions for protection of the environment, has enacted legislation that requires above grade waste disposal and recoverability. For the Commission now to attempt arbitrarily to alter that firm mandate of the Congress would set a precedent of Federal agency faithlessness by ex post facto changing the rule. The state's authority commensurate with its responsibility for low-level radioactive waste control and disposal cannot be summarily reversed by the Commission in a manner contrary to law.

If the states are to be able to carry out their obligations for disposal. they must have certainty that the NRC will not on whim change the rules and regulations whenever the Commission pleases and on no credible basis other than its unsubstantiated "beliefs." It is difficult enough for a Host State to determine the quantities and characteristics of the wastes for which it must provide disposal capacity, and to make timely decisions on the siting and design of such facilities within the very short time permitted by the milestones of the Federal law and its amendments. Moreover, the conditions of geology, climate, land use, population distribution, and economy differ widely from state to state; some states have attempted to set standards and regulations that their responsible officials believe will be best suited to meet the long-term requirements for waste isolation from the biosystem. for example, onsite and near site disposal of radioactive waste by land burial. as is allowed under 10 CFR 61, will jeopardize surface waters where licensee facilities are located on or near flood plains. In Pennsylvania's case, as well as Minnesota's Prairie Island, Three Mile Island is in fact located in the river, subject to extreme flooding and to breaching of the dikes. State law and regulations would prohibit subsurface disposal at such sites. These wastes will persist in unacceptable toxicity and will remain the ultimate longtermresponsibility of the states long, we daresay, after the Nuclear Regulatory Commission ceases to exist.

This proposed NRC regulation that would deny to the states the ability to control in any way whatsoever the disposal of potentially vast quantities of low-level radioactive waste violates Federal law, Congressional intent, good faith negotiations which Agreement States have entered into with the Commission, and potentially the health and safety of those who reside and in future will reside in the vicinity of NRC-licensed reactors and Part 70 licensees. For these reasons, the proposed regulation must be withdrawn -- or the Federal government must reassume its full responsibility for the management and disposal of <u>all</u> radioactive wastes, a responsibility that we believe must follow from the Federal authority to issue licenses that result in the generation of these wastes in the first place.

Respectfully submitted,

Judith H. Johnsrud, Ph.D.

Jude Sh St. Jolansund

Director, Environmental Coalition on

Nuclear Power;

Research Director, Food and Water, Inc.

CABINET FOR HUMAN RESOURCES

COMMONWEALTH OF KENTUCKY FRANKFORT 40621-0001





DEPARTMENT FOR HEALTH SERVICES

October 28, 1988 '88 NOV -2 P4:14

OFFICE OF SEURETANY DOCKETING & SERVICE BRANCH

DOCKET NUMBER PROPOSED RULE

23 FR 31880)

The Secretary of the Commission U. S. Nuclear Regulatory Commission Washington, DC 20555

Attention: Docketing and Service Branch

Re: Proposed Rule, "Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States"; 10 CFR Part 150, 53 Federal Register 31880-31882 (August 22, 1988)

The Kentucky Radiation Control Program hereby submits its comments on the above referenced proposed rule concerning regulatory authority over onsite disposal of radioactive materials. In addition to being somewhat surprised, we are deeply concerned that the NRC would even consider such a proposal.

Kentucky objects from two points of view. First, it would appear the proposed rule extends beyond the authority of the NRC. Under the Atomic Energy Act it is recognized that the State shall have the authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards. It would appear the rule would, for all practical purposes, terminate a portion of the Agreement. The Agreement may be terminated by the NRC based on certain specific conditions; however, those conditions obviously do not apply in this situation.

Kentucky, although it was the first Agreement State, does not have a nuclear power plant within its borders. However, we are a party state within the Central Midwest Interstate Low-Level Radioactive Waste Compact. This Compact was created in response to the federal policy set forth in the Low-Level Radioactive Waste Policy Act of 1980 making each state responsible for the disposal of certain categories of low-level radioactive waste generated within its borders.

Therefore, our second objection to the proposed rule is very simple. The Compact language was passed by the legislatures of all involved states and the Compact was subsequently ratified by Congress. In simple terms, the proposed rule is in conflict with existing federal law.

We have not been able to determine why the NRC would even consider proposing such a rule with such overwhelming evidence that would eventually, if passed, be overturned by either the courts or Congress.

1:14 5- HM 38 BB 185 100-0000

DOCKET NUMBER PR

Who is relarly in the Commission of U. S. duction in the Commission of U. S. duction of the Commission of Commissi

Actentian Popision and Son Son Indiana

RO I SECTION BOLD "BORGERS THE DESTE ABSENTED ON Appinying Contract Contract Torontes Contract Contrac

The verturky had alter above to be ourse hereby embuttering connected to the concerning connected to the concerning connected authorized by a consequence of the control of the conference of

Reatheky objects from two points of shows First, it would appear the property reaches beyond the anchoris of the state when the state when the state when the state shows the state shows the authority to regulate the materials covered by the squeezement for the protection of the public health and hardly trem against on against the two distances are the point of the Agraement for all reactions to the purposes, terminate a pervious of the Agraement when Agraement was be terminated by the UCC bases on certain particulations; the securities conditions obviously described the spoty in

Montpely, although it wit the first Agreement State, done of not have a soniest power plane within the englore. However, we have a party state within the contral hiter in the englore however, we shall will be adjusted by the contral and a tagen one to be redered pointy and tooth in the downstand the first and tooth each of the water to the contral of the first and contral of the first englishment of the contral of the first englishment.

O.S. NUCLEAR REGULATORY COMMISSION
DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Document Statistics			
Postmark Date 10-31-88			
Copies Received	range of the ever		
Add I Copies Reproduced			
Special Distribution PTC			
PDR, STEWART			

The Secretary of the Commission Page Two October 28, 1988

In conclusion, we would simply suggest the proposed rule is in violation of several regulations and strongly recommend it be withdrawn.

Sincerely.

Donald R. Hughes, Sr., Manager

Radiation Control Branch

Division of Radiation & Product Safety

DRH/ns

COMMONWEALTH OF KENTUCKY
CABINET FOR HUMAN RESOURCES
DEPARTMENT FOR HEALTH SERVICES
275 East Main Street
Frankfort, Kentucky 40621-0001

RADIATION CONTROL BRANCH

BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE



October 21, 1988

PROPOSED RULE 53 FR 3,889

Janet Hoyle, Director
DOCKETED
USNRC

788 NOV -1 P3:32

Secretary US Nuclear Regulatory Commission Washington, DC 20555

OFFICE UF SECRETARY DOCKETING & SERVICE BRANCH

Dear NRC:

On behalf of the members and the Board of Directors of the Blue Ridge Environmental Defense League (BREDL), I comment on the NRC proposed rule in the August 22, 1988 Federal Register (53 FR 162: 31880-31882).

We oppose the adoption of the proposal that would make "low-level" radioactive waste disposal at nuclear power plants a federal responsibility. The proposed rule is definitely unfair to the states and potentially unsafe for the public.

Having been given the responsibility for management of "low-level" radioactive wastes by the 1980 Policy Act and the 1985 Amendments, North Carolina and other agreement states have established programs, policies, and regulations for waste management. Such states should have the right to decide whether or not to site and operate "low-level" waste facilities at reactor sites within their borders. If North Carolina meets the federal standards in 10 CFR, Part 61, the NRC should not be able to refuse to license a waste facility simply because it is at a nuclear power plant. Our state should have the right to decide that the greatest protection of public health and safety can be achieved by operating its waste facility near the point(s) of waste generation. Under the proposed rule, North Carolina and other host states would have all of the responsibility and less of the control.

We recognize that the NRC encourages shallow land burial of "low-level" radioactive wastes. The adoption of this proposed rule would establish a dangerous
precedent for the NRC to disallow safer, better waste management technologies.
North Carolina and other host states have banned shallow land burial and required
the use of engineered barriers. These decisions have been made, in part, in response to safety concerns of citizens. Waste management companies have proposed
technologies which meet the states' higher standards. The agreement states should
have the right to go beyond federal regulations to ensure the selection of the best
possible sites and the safest possible technologies.

States like North Carolina must be able to plan for the design, operation, and financing of their "low-level" waste facilities. The proposed rule which allows the NRC to approve utility dumping at reactor sites would impede the states' planning for waste management. Many states have made significant progress in this planning. It is untenable that they have to be responsible for managing radio-active wastes without being able to project waste volumes and waste types.

We object to utility dumping at reactor sites — with or without NRC approval — which does not meet state regulations. It is unclear just what rules would apply to such disposal. Utility companies which operate nuclear power plants and states which will operate "low-level" radioactive waste facilities need public confidence. The proposed rule would erode the public confidence which is building

P.O. Box 88

Glendale Springs, North Carolina 28629

919/982-2691

Acknowledged by card

68 NOV -1 P3:32

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Copies Received

Add'l Copies Reproduced 3

Special Distribution RIDS

POR STEWART

slowly in states which are doing a good job in their waste management programs. The harm which adoption of this rule would do to these programs is significant. Continuing to allow the agreement states to regulate "low-level" radioactive waste within their borders in compliance with federal guidelines is in everyone's best interest.

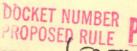
Thus, BREDL urges the NRC to reject this proposed rule. Thank you for your consideration of our comments.

Sincerely,

Janet M. Hoyle

Janes m. Hoyle

JMH:po







Native Americans for a Clean Environment

P.O. Box 1671 Tahlequah, OK 74465 918-458-4322

October 24, 1988

DOCKETED USNRC

OCT 31 P12:22

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

Dear Secretary,

Please be advised that the enclosed letter reflects the sentiments of, not only Ms. Carter-White, but the 400+ members of Native Americans for a Clean Environment and many other concerned citizens, here in Eastern Oklahoma. Your attention and consideration in this matter is greatly appreciated.

Sincerely

Pat Moss, Vice-Chair

N.A.C.E.

TIPE SINGE NOV - 2 1988 -Acknowledged by card.

30

OPPOSED RULE PROCESSORIES PROCE

'88 OCT 31 PI2:22

J.S. NUCLEAR REGULATORY COMMISSION

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY

OF THE COMMISSION

Document Statistics

Postmark Date 10-25-88

Copies Received 1

Add'l Copies Reproduced 3

Special Distribution RIDS

PDR STEWART

DOCKET NUMBER PR 150 PROPOSED RULE 53FR 31880 F

Kathy Carter-White P.O. Box 124 Welling, OK 74471

DOCKETED

'88 OCT 31 P12:22

OFFICE OF SELECTARY DOCKETING & SERVICE BRANCH

U.S. Nuclear Regulatory Commission Attn: Secretary

Attn: Secretary Washington, D.C. 20

D.C. 20555

Re: Recission of Agreement States'
On-site Disposal
Management

Dear Secretary:

53 F.R. 162: 31880-31882 permits public comment on NRC's proposed recission of Agreement States' On-Site deposition of low level radioactive materials authority. I comment:

The Supremecy Clause affords the NRC broad powers with regard to nuclear regulation. Thus far, states have had some ability to participate in management technology by reason of health and safety issues under the U.S. Constitution's police powers. Federal management provides unilateral solutions. State management permits the development of more appropriate technology which is sensitive to local geography, social custom, ecosystem features, and other local needs. The NRC is poorly-situated to make the assessment of whether the local people can politically tolerate one solution over another. States are better situated to find and implement the most perfect solution, because state agencies are more intimately familiar with the facts.

A better solution would be the voluntary sharing of information, thru availability of consulting services and, perhaps, a decommissioning interview at the conclusion of a facility's operative life, when the facility is entering the liability-only phase of using nuclear. NRC could conduct an onsite inventory & assessment, and make nonbinding recommendations to the appropriate state agency.

I stringently oppose rescinding Agreement States' authority to regulate commercial low level radioactive waste disposal in their states. In addition to the nonsense about NRC's need to know what is onsite at decommissioning by supplanting state decisionmaking authority with that of the NRC, permitting Agreement States to make their own policies paves the way to responsible appreciation of the whole consequence of nuclear power. It internalizes the social cost of reactor operation on the social groups which choose to utilize these benefits.

Sincerely

Kathy Carter-White Attorney at Law Public Comment for:

Native Americans for a Clean Environment

95: 510 1E 30 88

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Copies Received

Add'! Copies Reproduced 3
Special Distribution RISS

POR, STEWART

CENTRAL MIDWEST INTERSTATEROPOSED RULE LOW-LEVEL RADIOACTIVE WASTE COMMISSION

1035 Outer Park Drive • Springfield, IL 62704 • 217/785-9937

Clark W. Bullard, Chairman Terry R. Lash, Secretary-Treasurer Donald R. Hughes, Sr., Commissioner

'88 OCT 31 Pl2:22

October 21, 1988

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

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

Attention: Docketing and Service Branch

RE: Proposed rule, "Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States"; 10 CFR Part 150, 53 Federal Register 31880-31882 (August 22, 1988)

The Central Midwest Interstate Low-Level Radioactive Waste Commission (Commission) hereby submits its comments on the proposed rule referenced above. The Commission is the administrative body of an interstate agreement (Compact) between the State of Illinois and the Commonwealth of Kentucky for the regional management of low-level radioactive waste. The Compact was created by its party states in response to the federal policy set forth in the Low Level Radioactive Waste Policy Act of 1980, as amended, 42 USC 2021(b) et seq. (Policy Act) making each state responsible for the disposal of certain categories of low-level radioactive waste generated within its borders. The Commission is generally responsible for administering the Compact, adopting a regional management plan for safe and efficient management of the region's low-level radioactive waste, and other specific duties.

The Commission has reviewed the comments of the Illinois Department of Nuclear Safety (IDNS). Although the Commission has no licensing authority. the Commission does share and generally agrees with the concerns raised by The Commission believes that establishing multiple low-level radioactive waste disposal facilities by allowing onsite disposal activities would promote neither safe nor effective management of the low-level radioactive waste (LLW) generated in Illinois and Kentucky. The Commission's Regional Management Plan calls for a single regional disposal facility. Pursuant to its designation as the host state for that facility, Illinois is proceeding to develop the safest facility ever built for disposal of LLW in this country. Allowing multiple disposal sites, each established to standards less stringent than those required of the regional facility, would be completely inconsistent with the Compact's stated purposes of "limiting the number of facilities needed to manage low level radioactive waste generated in the region safely and effectively and efficiently," Ill. Rev. Stat., ch. 63 v-1, art. I(a)(4) and "ensuring the ecological and economical management of low-level radioactive waste, including the prohibition of shallow-land burial of waste," Id., art. I(a)(7).

'85 (E 31 FK :22

D.S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

Document Statistics

Postmark Date 10-24-86
Copies Received
Add'l Copies Recroduced 3
Special Distribution RIDS
PDR, STEWART

The Secretary of the Commission Page 2 October 21, 1988

The Compact has been enacted into law by both of its party states and has been ratified by Congress. The Compact forbids "any person to dispose of low-level radioactive waste at a facility other than a regional facility," Id., art. IX(b)(4). Notwithstanding the receipt of a license from Kentucky, Illinois, or the NRC, onsite disposal is prohibited in those states without approval from the Compact's administrative Commission. In the event that NRC decides to proceed with this rulemaking, the Commission would expect explicit recognition, perhaps through appropriate procedural safeguards, of the Commission's authority to absolutely prohibit onsite disposal by generators located in the State of Illinois and the Commonwealth of Kentucky.

Very truly yours,

Clark W. Bullard
Clark W. Bullard



DOCKET NUMBER PR 150
PROPOSED RULE
53FR31880

DOCKETED

NUCLEAR MANAGEMENT AND RESOURCES COUNCIL

1776 Eye Street, N.W. • Suite 300 • Washington, DC 20006-2496 [202] 872-1280

'88 OCT 27 P12:49

Joe F. Colvin
Executive Vice President & Chief Operating Officer

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

October 26, 1988

Mr. Samuel J. Chilk Secretary U. S. Nuclear Regulatory Commission Washington, D.C. 20555

ATTENTION: Docketing and Service Branch

SUBJECT: NRC Proposed Rulemaking, "Reasserting NRC's Authority for Approving

Onsite Low-Level Waste Disposal in Agreement States, " 53 FR 31880,

August 22, 1988

Dear Mr. Chilk:

These comments are submitted on behalf of the Nuclear Management and Resources Council, Inc. (NUMARC) in response to the above-captioned proposed rulemaking. NUMARC is the organization of the nuclear power industry that is responsible for coordinating the combined efforts of all utilities licensed by the NRC to construct or operate nuclear power plants, and of other nuclear industry organizations, in all matters involving generic regulatory policy issues, and on the regulatory aspects of generic operational and technical issues affecting the nuclear power industry. Every utility responsible for constructing or operating a commercial nuclear power plant in the United States is a member of NUMARC. In addition, NUMARC's members include major architect-engineering firms and all of the major nuclear steam supply system vendors.

NUMARC supports the Commission's proposed rule and endorses the comment letter dated October 20, 1988 submitted by the Edison Electric Institute and the Utility Nuclear Waste Management Group. However, NUMARC urges the Commission to clarify the wording of the rule that would restrict the disposal to within the "protected and exclusion area"; because the protected area is within the exclusion area, we recommend the restriction be phrased in terms of the exclusion area alone. The rule should also explicitly acknowledge that existing 10 CFR 20.302 burial locations are not negated by this rule.

NUMARC urges the Commission to adopt the proposed rule to clarify NRC's regulatory authority over the disposal of low-level waste onsite at nuclear power plants. We appreciate the opportunity to comment on the proposed rulemaking.

Sincerely,

Joe F. Colvin

NOV - 1 1988

ACKNOWledged by card.....

JAMES MCCLURE CLARKE
11TH DISTRICT, NORTH CAROLINA
COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS
COMMITTEE ON
FOREIGN AFFAIRS

SELECT COMMITTEE ON

AGING

DOCKET NUMBER PR 150
PROPOSED RULE

53 FR 3188

Congress of the United States USARC

House of Representatives Washington, DC 20515

October 21, 1988

217 CANNON HOUSE OFFICE BUILDING WASHINGTON, DC 20515 (202) 225-6401

> ONE NORTH PACK SQUARE SUITE 434 ASHEVILLE, NC 28801 (704) 254–1747

OCT 27 A10 SPADALE, NC 28160 (704) 286-4890

319 WEST MAIN STREET
OFFICE OF SEURL AR SYLVA, NC 28779
DOCKETING & SERVICE (704) 586-6631
BRANCH

Mr. Samuel J. Chilk Secretary, U.S. Nuclear Regulatory Commission Washington, DC 20555

Dear Mr. Chilk:

I am writing to express concern about the rule proposed in the Monday, August 22, 1988 Federal Register, to reassert the authority of the Nuclear Regulatory Commission (NRC) in regulating onsite low-level radioactive waste disposal in Agreement States.

As you know, the intent of Congress in passing the Low-Level Radioactive Waste Policy Act of 1980 and the Low-Level Radioactive Waste Policy Act Amendments of 1985 was to provide for waste disposal at a limited number of sites under the jurisdiction of state and regional authority. The proposed rule appears to contradict this intent by potentially prohibiting Agreement States from regulating the disposal of all low-level waste onsite.

The North Carolina General Assembly has established requirements for the licensing of a low-level waste facility that are more stringent than those contained in current NRC guidelines. The proposed rule has the potential of weakening the standards the General Assembly and many of the people in North Carolina feel are necessary for protection of the public. Many of those individuals are concerned that the proposed rule change further limits the ability of the people to directly determine the degree of protection they are afforded from exposure to radioactive waste.

It would seem to me that the intent of the proposed rule, to provide greater assurance that onsite radioactive waste will not present a health hazard when the site is decommissioned, could be accomplished without placing into doubt the authority of Agreement States to regulate the disposal of low-level waste. This could be done by providing guidance documents to Agreement States for use in the issuance of onsite disposal licenses and/or requiring reporting to the NRC of all onsite disposal permitted by states.

For these reasons I hope that the Commission will not approve the proposed rule change.

Sincerely,

Tames McClure Clarke

NOV - 1 1988

Acknowledged by card....

OCCKET NUMBER DE

88 OCT 27 MO:19

INJ(H)

Legistro de la companya del companya de la companya del companya de la companya del companya de la companya del c

J.S. NUCLEAR REGULATORY COMMISSION

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY

OF THE COMMISSION

Degrament Statistics

Postmark Date H.D.
Copies /
Add Compared 3
Special Distribution RIDS

YDR, STEWART

3201

America the Beautiful

OCT 27 A10:36

DOCKETED

53FR 318Fd

OFFICE OF SEURETARY DOCKETING & SERVICE BRANCH

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

Midway Rood Shelter Foland, Nayorh October 24 1988

Secretary V.S. NRC Washington, D.C. 20555 Dearsir,

We oppose any and all attempts by the NRC to further infringe on states rights by usurping/icontrol of all commercial low-level radioactive waste now reserved to the states.

At present the N.Y.S. Low-Level Radioactive Waste Siting Coumission has declared Long Island off limits for such a purpose - for good reason: Long Island's sole source aguifer. We would not want to see N.Y.S's prudence reversed by the NRC.

Nor would we approve the Edison Electric Institutes "neat idea" to incinerate radioactive slopeil on site. The reason should be ovious: clean air.

proposals that put propits before people.

Betty Hoye Mile Hay

NOV - 1 1988

Acknowledged by card.....

TO SERMIN LEXAGOR

88 001 27 AIC :36

Told I

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY

OF THE COMMISSION

Document Statistics

Postmark Date	10-25-88
Copies 2	/
Add'	Foreduced 3
Special Duris	Mon RING
PDR.	STEWART

DU I

Acknowledged by cold, as a



Western North Carolina Alliance

iance 88 OCT 25 P4:42

DOCKETED



OFFICERS:
Dan Pittillo, Chair
Judy Williamson, Vice-chair
Dick Heywood, Treasurer
Lou Zeller, Secretary

P.O. Box 18087 70 Woodfin Street 4B Asheville, NC 28814-0087 (704)258-8737 Staff:
Mary Sauls Kelly
Coordinator
Ron Lambe,
Administrator

19 October 1988

Secretary
US Nuclear Regulatory Commission
Washington, DC 20555

DOCKET NUMBER PR 150_ (5 3FR 31880)

Dear Sir or Madame:

I am writing in comment to the proposed rule 53 FR 162: 31880-31882, published in the August 22 Federal Register, concerning the authority for at-reactor disposal of low-level radioactive waste (LLRW). This proposed rule would take the authority for at-reactor disposal away from the states and give authority to the NRC.

We oppose this proposed rule for the following reasons. First, this rule clearly violates the intent of Congress in the Low-Level Waste Policy Act (LLWPA) of 1980 in which states were given responsibility for providing for the disposal of all LLRW generated within each state. committee reports for this legislation concluded that "lowlevel radioactive waste can more effectively and efficiently be managed on a regional basis" (House Report 1382, Part 2, 96th Congress, 1980) and that states should be given primary responsiblity for LLRW because they are "better capable of the planning and monitoring functions relevant to low-level waste" (House Report 1382, Part 1, 96th Congress, 1980). The 1986 amendments to the act (LLRWPAA) further specifies that states should be responsible for the permanent disposal of Class A. B. and C LLRW generated within states' boundaries.

We concur, and strongly urge that the states be allowed to maintain the authority to determine, on a state-by-state and reactor-by-reactor basis, which facilities may be suitable for at-reactor storage and which are not. We feel that not only will states be more familiar with the operating capabilities and histories of reactors and with the needs of the general public, but that state officials are more directly accountable for the safety of state residents than is the NRC.

Sincerely,

Mary Sauls Kelly, PhD
Coordinator, WNC Alliance

NOV - 1 1988

Acknowledged by card.

'85 CCT 25 PA:42

H SHOW GRADIE

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMUSION

Document Statistics

Copies Received

Add'l Copies Received

Special Distribution RIDS,

PDR, CROCKETT

manage of the processing

DOCKETED



'88 OCT 25 P4:43

OFFICE OF SECRETARY BOCKETING & SERVICE BRANCH

DOCKET NUMBER PROPOSED RULE

PR 150 53FR3188

GERALD A. DRAKE, M.D. 7921 Indian Garden Road Petoskey, MI 49770 616 347 9530

October 19, 1988

Secretary
US Nuclear Regulatory Commission
Washington, DC 20555

Dear Sir:

De

I am writing to oppose giving NRC authority for at-reactor site disposal.

I believe this takes away the right of states to protect the health and safety of their people. Without the authority to monitor what is done with the low level waste, how can states provide the protection they are by law supposed to provide?

Thank you for an consideration you can give to abandoning this proposal.

Yours truly,

Gerald A. Drake, M.D.

Acknowledged by card.....

'88 OCT 25 P4:43

430 1000

PROPERT NUMBER PR

6.5. NUCLEAR REGULATORY COMMISSION
DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date	16-22-80	
Copies servived	minduced 3	1
	on RIDS	ACKNOWINGED BY
PDR,	STEWART	



BOCKETED 29

ENVIRONMENTAL PLANNING LOBBY'88 OCT 25 P4:3

33 Central Avenue Albany, New York 12210 518/462-5526

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

October 19, 1988

Secretary, US NRC Washington, D.C. 20555,

PROPOSED RULE 53 FR 31880

Dear Sir or Madame:

The Environmental Planning Lobby, a New York State coalition of over ninety environmental groups and 8,000 individual members <u>strongly objects</u> to the NRC proposal in the Federal Register (53 FR 162:31880-31882), that would remove agreement state's authority over licensing of at-reactor disposal of low level radioactive waste and make it a Federal NRC responsibility.

This amendment reasserting the NRC'S authority over at-reactor disposal is an unwarranted limitation of Agreement State's options for waste management. Since these States have the responsibility for all commercial "low-level" radioactive waste within their boundaries they must be allowed to determine how this waste is managed. They must have adequate options for disposal of this waste. At-reactor storage is an important option that states must be able to utilize quickly and with a minimum of licensing delays if they find such storage to be necessary. This is best facilitated if at-reactor storage can be licensed by states.

Disposal site development in many states may not be completed on schedule. If this is the case, the states will need to have the option of at-reactor storage for the interim period before the development of their own waste facility can be completed. It is an unnecessary burden for states to be saddled with "low-level" radioactive waste that they have not yet developed a disposal site for, or to be penalized by fines if they are not given access to at-reactor storage within their state by the NRC. This situation might arise under the NRC proposal. It could occur as a result of NRC licensing delays. These delays would not arise if agreement states retain the ability to license at-reactor storage. States must have the ability to approve at-reactor storage as they need it. Please see attached letter of January 7, 1985 from the NRC to Assemblyman Richard Gottfried affirming agreement state's rights to pursue at reactor storage as long as it does not negatively impact on the safe operation of the reactor.

It is an unacceptable invasion of state's authority that under this proposal the NRC could license disposal methods which states have prohibited. New York State has prohibited the use of shallow land burial for "low-level" waste facilities within the state. In the past the NRC has advocated shallow land burial as a disposal method. This proposal could allow the NRC to do exactly what New York has hoped to prevent. It is unacceptable that the NRC under this proposal would be able to approve this form of disposal without state

Knowledge or concurrence.

The Environmental Planning Lobby, EPL, is a nonprofit statewide environmental advocacy coalition which represents 38 90 organizations and thousands of individual members. EPL is the only fulltime environmental lobby in New 1972 State and has played a major role in protecting the state's natural resources for over seventeen years.



Acknowledged by card.

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date 10-20-87
Copies Received 1
Add'l Copies Reproduced 3
Special Distribution RIDS
PDR, STEWART

Since it is states that will eventually end up with contaminated reactor sites and their implications for the public's health and safety we feel much more confident that the states will carefully control what is disposed of in atreactor disposal. The NRC proposal to deregulate up to 40% of "low-level" radioactive waste and treat is as Below Regulatory Concern and thus fit to be disposed of as regular garbage indicates that the NRC is not deeply concerned with disposal impacts on public health and safety. The states are thus much better qualified to license at-reactor storage.

This proposal is bad from another perspective. Some reactors may be in environmentally sensitive areas. State officials and many citizen's would strongly object to any disposal at reactors. The proposal by the NRC would give the NRC the authority to permit disposal at these reactors over State's and citizen's objections. This is improper.

These objections outweigh the NRC's argument that it needs authority over at-reactor disposal licensing in order to have more complete information about what materials are at the site at decommissioning. This information could be obtained simply by requiring agreement states to provide it. It seems unnecessary to limit state authority to obtain information that could be much more simply obtained by other methods.

The other NRC argument that this proposal would allow for more centralized consistent regulatory review is not an adequate reason for establishing this proposal. Consistent and centralized regulatory review will not meet the needs of states at this crucial period of disposal site development.

For the reasons listed above the Environmental Planning Lobby would again like to register its strong objection to NRC proposal (53 FR 162: 31880-31882).

Sincerely,

Larry Shapiro

Executive Director

Environmental Planning Lobby

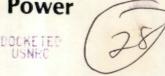
Kaia Dercum

Environmental Associate

Environmental Planning Lobby

GE Stockholders' Alliance Against Nuclear Power

P.O.Box 966 * Columbia, MD 21044 * (301) 381-2714



'88 OCT 25 P4:26

Chairman

Patricia T. Birnie

OCTOBET 188 A SERVICE OCTOBET 188 A SERVICE

Board of Advisors

(In Formation)

Larry Bogart Citizens Energy Council

Leo Goodman (1910-1982) Split Atom Study Group

Judith Johnsrud, Ph.D. Vice President Solar Lobby

Charles Komanoff Komanoff Energy Associates

Claude Lenehan, OFM Corporate Responsibility Advisor

Paul L. Leventhal President, Nuclear Control Institute

Grigsby Morgan-Hubbard Writer and Energy Consultant

John R. Newell Bath Iron Works President (Ret.)

diles H. Robinson, M.D. Citizens for Health Information

Nathan H. Sauberman Professional Engineer (Ret.)

John Somerville, Ph.D. President, Union of American and Japanese Professionals Against Nuclear Omnicide

Irving Stillman, M.D.
Physicians for Social
Responsibility

Faith Young Energy People, Inc.

Affiliations for Identification Purposes, only. Secretary, NRC U.S. Nuclear Regulatory Commission Washington, DC 20555

Comment on 53 FR 162:31880 - 31882PROPOSED RULE

Dear Sir:

We oppose the NRC's proposed rule to take back authority from Agreement States for disposal of low level radioactive waste at nuclear power plants and/or other federally licensed facilities that generate radioactive waste.

We believe that those states have greater familiarity with local environmental and site-specific physical limitations, and greater sensitivity to the populations nearby than the NRC. We believe the states are more likely to require more strict regulations, and to oversee and monitor compliance with the regulations.

The NRC has demonstrated its willingness to compromise safety in favor of economic expediency. The NRC's preferred method of storage, shallow land burial, could lead to contamination of groundwater. We believe that above-the-ground storage on site is the safest method of storage so far devised. We urge the NRC not to require transport of low level waste to an interim regional depository, for this provides more likelihood of public exposure the more often these radioactive wastes are hauled around on public highways.

We urge the NRC to drop this proposal, and leave the disposal of low level waste to the discretion of Agreement States.

Dincerely,

Patricia T. Birnie

Acknowledged by card .. NOV - 1 1988

ALIENO HE

38 DE 25 P4 26

PROPOSED RULE PIL

This should be docheted under plant 61 - ONSITE LLW DISTOSAL IN A CREENENT STATES

U.S. NUCLEAR REGULATORY COMMISSION

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY

OF THE COMMISSION

Document Statistics

Postmark Date	10-20-88
Copies Received	1
Add'1 Copies Re	
Special Distribution	n RIBS
PDROM	RIBS, STEWART
	biso ve poopules

27)

Susan Daltan DOCKET NUMBER PR 150
PROPOSED RULE 53 FR 31 850 1220 Bee Tree Rd Swan nagovierne 28778 18 at . 88 '88 OCT 25 P4:42 Secretory US MRC DOCKETING & SERVICE Washington, DC 20555 BRANCH Dear people of the MRC, I am very concerned + dismayed that you propose to give the ARC
authority for at-reader site disposal I believe that the states deserve the right to know to approve of waste they boundaries. If they their boundaries. If they are posed of this responsibility, I believe that the states themselves will be very that the states or ordinary within the careful of what is produced within the state + how it is disposed nuclear waster have federal responsibility + decision-making about "low-level radoactive waste. Please let no know what is determined in an with this proposal. Thankyou, Sudan Dalks Susan Dalth 1220 Bee Tree Rd

Swan anog MC 287-78:

Acknowledged by card.....

8.5. NUCLEAR REGULATORY COMMISSION OF THE COMMISSION

Static lies

Postmark Date 10-19-88 Copies Received

Add'1 Copies Reproduced

Special Distribution RIDS
POR, STEWART

Ecology Task Force

Southern California Ecumenical Council
Post Office Box 32305, Los Angeles, California 20032 24 A10:49

October 18, 1988

Secretary U.S.Nuclear Regulatory Commission Washington DC, 20555 DOCKET NUMBER PR
PROPOSED RULE PR

Subject: 53 FR 162:31880-31882, At-Reactor Disposal of Radioactive Waste

Gentlemen:

Church people in Southern California are discussing the need for our society to change its ways if we are to avoid irreparable damage to the environment. This proposed rule takes away from the states our local control of waste management and makes it even more difficult for citizens to have a say in our own safety and well being. As you well know, the more you federalize nuclear energy production, the less we know about what is happening to us and the more likely we are to suffer contamination as a result of poor decision making at the upper levels. Three Mile Island, Chernabyl and now the disclosures of what has been happening at Savannah River lend no credibility to the skill of the experts in making infallible decisions.

Furthermore, the tendency toward deregulating so called low level waste tends in the direction of calling it regular trash and garbage, to be disposed of without special care and regulations. We understand your intention to foist nuclear power on us, whether we like it or not. You need to understand that we protest your disregard of our safety. We want to retain what options we have for control of the disposal of radioactive waste. Inasmuch as we live with it, it is likely we will be more careful with it.

Sincerely yours

Albert G. Cohen

convenor

OCT 27 1988

Acknowledged by card

BS C 24 VB M

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date 10-18-88
Copies Received
Add'l Comies Perroduced 3
Special Distribution RIBS
PDR

DOCKETED

October 20, 1988

88 OCT 24 A11:25

BRANCH

DOCKETING &

Mr. Samuel J. Chilk, Secretary U.S. Nuclear Regulatory Commission Washington, D.C. 20555

Attn: Docketing and Service Branch

PROPOSED RULE PR 150 (53 FR 31880)

Subject: NRC Proposed Rule to Reassert Authority Over On-Site Disposal of Low-Level Radioactive Wastes (53 Fed. Req. 31880, August 22, 1988)

Dear Mr. Chilk:

This provides Commonwealth Edison Company's (Edison) comments on the Nuclear Regulatory Commission's (NRC) proposal to reassert NRC regulatory authority over the disposal of low-level radioactive wastes (LLW) at reactor sites. Edison supports the proposed rule for the reasons discussed below. However, Edison's support is based in part on its belief that the NRC will couple this reassertion of jurisdiction with a commitment to process expeditiously requests to dispose of LLW at reactor sites and to interpret its statutory authority to preclude any attempts at redundant, dual regulation by either Agreement States or Compact Commissions.

Currently, the NRC is authorized to regulate the disposal of LLW at reactor sites located in non-Agreement States. In Agreement States, however, the NRC has receded from it regulatory authority over such disposal, thus permitting the Agreement States themselves to regulate such disposal in accordance with their agreements with the NRC. Because Agreement State regulation need only be compatible with the NRC's, and not identical to it, this decentralization of regulatory presents the possibility of differences in regulatory requirements between the NRC's and each Agreement State's and between the regulations by different Agreement States.

These differences in regulatory requirements can impose significant differences in costs to ratepayers, both now for the on-site disposal of LLW and later when all nuclear power reactors will be required to meet the NRC's decommissioning requirements, which may include actions related to prior on-site disposal of LLW.

The potential for substantially higher costs to some ratepayers with no commensurate increase in public health and safety imposes an inequitable burden on those over-charged ratepayers. Thus, although the costs for disposing of LLW on-site in Illinois have not been established, to preclude any possibility that those costs may impose an inequitable burden on the ratepayers of Illinois, Edison supports the NRC's reassertion of authority over the on-site disposal of LLW.

Edison also supports the NRC's reassertion of jurisdiction over LLW disposed of in either the protected or exclusion areas of a nuclear power reactor.

Acknowledged by card.....

12 18"

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date Copies Recerv		-21-81
Add'I Copine	Remendured	
Special Distrib	ution R7	DS
PDR,	STE	NART

These areas are natural areas for the NRC's reassertion of jurisdiction because of the broad current extent of the NRC's regulatory authority in these areas and the future exercise of that authority for the purposes of decommissioning. Moreover, consistency in regulatory requirements in those areas, especially consistency of radiation protection regulations, will be enhanced by the exclusive jurisdiction of the NRC. The reassertion of NRC jurisdiction in those areas now will preclude the possibility of disagreements over inconsistent regulations later.

Because Edison's support for this proposal is based on considerations of ratepayer equity and regulatory consistency, that support assumes that the NRC will exercise its authority to assure the realization of ratepayer equity and regulatory consistency. Actions necessary to the attainment of these goals include the expeditious processing of requests for approval of on-site LLW disposal, judging all requests by a uniform set of regulatory requirements based exclusively on considerations of public health and safety and granting such approval to the maximum extent possible consistent with the protection of public health and safety.

Thus, a viable regulatory process should include adequate resources for considering both petitions under 10CFR20.302 and under the Policy Statement for Low-level Radioactive Wastes Below Regulatory Concern. It also should include the adoption of approval criteria which recognize previous grants of authority under 10CFR20.302 by the NRC and by some Agreement States under their compatible regulations. Finally, the regulatory process should ensure that the reassertion of NRC authority is not undercut by state attempts to limit the scope of the NRC's authority.

The NRC should make clear that the scope of its reassertion of authority is plenary, i.e, that it once again completely and exclusively regulates the on-site disposal of LLW. In particular, the NRC should state that because its regulation of decommissioning includes the ultimate disposition of LLW disposed of at reactor sites, there is no basis for redundant approval authority by either Agreement States or Compact Commissions. Such NRC statements should be supported by an interpretation of Section 4(b)(3) of the Low-level Radioactive Waste Policy Amendments Act of 1985 (LLW Amendments Act) to the effect that any attempted redundant approval of on-site LlW disposal by either States or Compact Commissions is impermissible interference with the NRC's jurisdiction and, thus, is pre-empted by the LLW Amendments Act.

Thank you for giving us this opportunity to comment.

Sincerely Yours

Dlmy & Bliss

Henry E. Bliss

Manager of Nuclear Licensing

YANKEE ATOMIC ELECTRIC COMPANY



FYC 88-013 GLA 88-115

1671 Worcester Road, Framingham, Massachusetts 088010CT 24 Pl2:06

October 18, 1988

DOCKETING 4 SERVICE BRANCH

DOCKET NUMBER PROPOSED

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

Attention: Docketing and Service Branch

Subject: Proposed Rule Regarding Reassertion of NRC

Authority for Approving OnSite Low Level

Waste Disposal in Agreement States

(53FR31880)

Dear Sir:

Yankee Atomic Electric Company (YAEC) appreciates the opportunity to comment on the proposed rule which reasserts NRC authority over onsite low level waste disposal. YAEC owns and operates a nuclear power plant in Rowe, Massachusetts. Our Nuclear Services Division also provides engineering and licensing services to other nuclear power plants in the Northeast, including Vermont Yankee, Maine Yankee and Seabrook.

The EEI Utility Nuclear Waste Management Group (UNWMG) is filing a detailed response to the subject NRC proposed rule. YAEC is an active member of UNWMG and, in general, endorses its comments. We would also like to take this opportunity to add the following observation.

We strongly endorse the reassertion of NRC authority for approving on-site low level waste disposal. The NRC's June 1988 policy statement concerning "Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production and Utilization Facilities (53FR21981)" specifically mentioned a concern that "independent" state regulatory activities could misdirect a licensee's attention in a manner inconsistent with NRC safety requirements. The resulting misinterpretation of NRC safety requirements could have the effect of dual regulations. We believe that this concern is valid and, applies in particular, to regulation of the disposal of radioactive wastes. The issue of proper disposal of radioactive wastes is one which needs dispassionate, informed technical analysis and consistency of approach. We believe that

Acknowledged by card . POT 2 7- 1988

of the a text

F ...

3.5. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date	11	
Copies Received	10-21-8	8
Add' Copies Ren	1	
Special news	roduced 3	
Special Distribution	RIDS	
1 BR, S	TEWART	-
100766 (210, 620, 914, 1		ncho won

Secretary of the Commission Page 2 October 18, 1988

the NRC is better equipped to perform this regulatory function than state and/or local officials. We, therefore, endorse this proposal.

Very truly yours,

Donald W. Edwards

Director, Industry Affairs

JMG/dma



DOKETE! USNEC

'88 OCT 24 P12:04

GPU Nuclear CorporationOne Upper Pond Road
Parsippany, New Jersey 07054
201-316-7000
TELEX 136-482
Writer's Direct Dial Number:

DOCKETING & C.RVICE

October 20, 1988 C300-88-0469

DOCKET NUMBER

PROPOSED RULE

(23)

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

Dear Sir:

Subject: Proposed Rule, "Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal

in Agreement States" (10 CFR 150)

The Commission requested comments on the subject proposed rule as noticed in 53~FR~31880, 8/22/88. GPU Nuclear Corporation (GPUN) supports the proposed revision to 10~CFR~150.15(a) as appropriate and prudent. Currently, GPUN facilities are not located in Agreement States (NJ and PA). However, this may change in the future.

Very truly yours,

J. L. Sullivan, Jr.

Director, Licensing & Regulatory

Affairs

JLS/PC/pa(7570f)

cc: CARIRS

Acknowledged by CalGCT 2 7 1988

J. R. R. Relief

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date /6-20-88
Copies Received /
Add'l Copies Reproduced 3
Special Distribution RIDS
PDR STEWART



South Carolina Electric & Gas Company P.O. Box 88 Jenkinsville, SC 29065 (803) 345-4040

Ollie S. Bradham Vice President **Nuclear Operations** USNEC

October 19, 1988

P12:05

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

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

SUBJECT: Virgil C. Summer Nuclear Station

Docket No. 50-395

Operating License No. NPF-12 Nuclear Regulatory Commission Proposed Rule Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement

States (53FR31880)

ATTENTION: Docketing and Service Branch

Gentlemen:

DOCKET NUMBER

PROPOSED RULE

South Carolina Electric & Gas Company (SCE&G) has reviewed the notice of Proposed Rulemaking, "Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States," (53FR31880, August 22, 1988) and offers the following for your consideration:

- 1) SCE&G agrees that the backfit rule 10CFR50.109 should not apply if, in fact, previously approved low-level waste disposal exemptions and requirements for the exemptions are not modified as a result of the action.
- The rulemaking does not address onsite low-level radioactive waste 2) disposals previously approved by agreement states. In such cases the NRC should recognize agreement state approvals which have been issued prior to the final rulemaking and allow them to remain in effect.

SCE&G appreciates the opportunity to comment at this time. Should you have any further questions, please contact me at your convenience.

Very truly yours,

O. S. Bradham

SBW/OSB:bgh

D. A. Nauman/J. G. Connelly, Jr./O. W. Dixon, Jr./T. C. Nichols, Jr.

E. C. Roberts

W. A. Williams, Jr.

J. J. Hayes, Jr.

General Managers

C. A. Price/R. M. Campbell, Jr.

W. R. Baehr

L. A. Blue

W. F. Bacon

D. C. Blanks

NSRC NPCF

RTS (PR 880026)

File (811.02/F#150.001)

001 21 1988 Acknowledged by card 88 Ot 24 F :05

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Optiment Statistics

Cope Man 2 10-22-88

Cope Man 2 1

Add 1 Transac Soldered 3

Special Discharge RIDS

RDR - STEWART



DOCKETED

'88 DCT 24 P12:14

STATE OF ILLINOIS

DEPARTMENT OF NUCLEAR SAFETY

1035 OUTER PARK DRIVE SPRINGFIELD 62704 (217) 785-9900

October 21, 1988

DOCKET NUMBER PR 150
PROPOSED RULE

TERRY R. LASH DIRECTOR

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

Attention: Docketing and Service Branch

RE: Proposed Rule, "Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States"; 10 CFR Part 150; 53 Federal Register 31880-31882 (August 22, 1988).

The Illinois Department of Nuclear Safety ("IDNS") hereby submits its comments on the above referenced proposed rule concerning regulatory authority over onsite disposal of radioactive materials. The proposed rule deeply concerns IDNS because Illinois has 13 operating power reactors at 7 sites within its borders. Illinois also has a spent nuclear fuel storage facility and other major facilities handling radioactive materials. Currently onsite disposal of low-level radioactive waste at these facilities is regulated by IDNS under an Agreement between Illinois and the U.S. Nuclear Regulatory Commission ("NRC") pursuant to 42 USC §2021.

Our first objection to the proposed rule is that it is beyond NRC's authority to adopt it. As the Atomic Energy Act clearly states: "during the duration of (an agreement under Section 274) it is recognized that the State shall have the authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards." (42 USC 2021(b).) The Agreement between the State of Illinois and NRC now provides Illinois with regulatory authority over disposal of low-level radioactive waste at facilities in Illinois licensed by NRC under 10 CFR 50 and 10 CFR 70. The proposed rule would, in effect, terminate those portions of the Agreement. The NRC may terminate the Agreement, however, only if "(1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of (Section 274 of the Atomic Energy Act)." (42 USC 2021.) Neither condition is applicable here.

45 27 38

100 119

J.S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

Document Statistics

Postmark Date 10-21-81
Copies Received 1
Add'l Copies Reproduced 3
Special Distribution RIDS
PDR, Stewart

The Secretary of the Commission Page 2 October 21, 1988

Our second major objection is that the proposed rule appears to revoke Illinois' regulatory authority over offsite disposal of low-level radioactive waste. The proposed rule reasserts NRC's regulatory authority over "contiguous property established for activities carried out under licenses issued pursuant to Part 70..." (emphasis added). Again, the NRC has no authority under the Atomic Energy Act to so revoke Illinois' authority.

The NRC claims that the proposed rule is necessary to "(p)rovide a more centralized and consistent regulatory review of all onsite waste management activities." (53 Federal Register 31880.) If centralized and consistent review of activities regulated under the Atomic Energy Act was, in itself, the primary goal of Congress, there would have been no purpose in establishing the Agreement State program. This "rationale" could be applied, with equal persuasiveness, to every activity currently regulated by the Agreement States. As NRC has recognized, however, "(w)e (the NRC) know of no statutory provision which permits, let alone requires, that what might be claimed to be 'elementary management considerations' should control in such instances, at the expense of the application of statutes and the right of a state to assume regulatory authority..." (In the Matter of State of Illinois (Section 274 Agreement), Docket No. MISC-87-1, August 5, 1988.) Consistency in regulatory matters is already assured through NRC's requirements for entering and continuing in Agreements.

NRC's second justification for the proposed rule is to avoid duplication of regulatory effort by NRC and the Agreement States. This argument makes no sense. At present, onsite disposal is regulated in an Agreement State only by the state; there is no role for the NRC and no "duplication of regulatory effort."

Although NRC claims in its Federal Register notice that "the proposed rule is intended to provide greater assurance that onsite radioactive material will not present a health hazard at a later date after the site is decommissioned," it is noteworthy that the NRC does not claim that the proposed rule is needed to accomplish that purpose. Nor is it clear to whom such assurances are being IDNS's understanding is that at some point during the decommissioning process, after special nuclear materials are no longer present onsite in quantities sufficient to form a critical mass, the regulatory authority over these facilities will vest with the Agreement State. Under the proposed rule, Illinois would be faced with the prospect of providing regulatory assurance of safety for as many as eight different disposal sites; sites that were not selected for their characteristics for safe low-level radioactive waste disposal and where radioactive materials would have been disposed of without any regulatory control by the State. The proposed rule, if adopted, would therefore provide less assurance to the regulatory authority most concerned with long-term safety of low-level radioactive waste disposal.

NRC also has requested comments on the draft regulatory analysis on the proposed rule. The analysis fails to establish any meaningful justification for the proposed rule. In many instances, the analysis is misleading. For example, the analysis claims that the proposed rule is a "clarification" of NRC policy. This is not the case, as the NRC's policy was clearly and unequivocally established on February 14, 1962: "Control over the handling and storage of waste at the site of a reactor, including effluent discharge, will be retained by the Commission as a part of the control of reactor operation.

The Secretary of the Commission Page 3 October 21, 1988

The states will have control over land burial of low level wastes," (27 Federal Register 1351.) It is patently inappropriate to characterize this proposed change in the current regulatory system as a "policy clarification."

The analysis claims that "it is necessary to provide a more efficient practice at licensed nuclear reactor sites in order to facilitate and ensure that decommissioning is properly accomplished." but the analysis utterly fails to describe how the proposed rule would accomplish that purpose. The brief, two-paragraph section Necessity and Urgency for Addressing Issue of the analysis contains but a single sentence that could be considered as an attempt at justifying the rule: "Continued NRC jurisdiction in this area is essential in order to provide a comprehensive and consistent review of all onsite waste management activities and to avoid the potential of complicating decisions and duplicating activities associated with the decommissioning facilities and the release of closed sites for other uses." justification is wholly unsatisfactory for two reasons. First, this is not a matter of "continued NRC jurisdiction": it is a matter of revoking the authority of the Agreement States. Second, the statement merely asserts that the action "is essential" to accomplish two purposes; to provide a "comprehensive and consistent review" and to "avoid the potential of complicating decisions." The section not only fails to explain why the rule is "essential" to the accomplishment of these purposes, the section fails to describe how the rule would even further those purposes.

The analysis claims that "(u)ncertainty as to the jurisdiction of LLW disposal at NRC licensed facilities is a detriment to generators of radioactive waste," since "(i)ndustry cannot plan ahead for efficient and cost-effective onsite disposal..." As noted above, until NRC issued this The section of the analysis proposed rule, there was no uncertainty. purporting to describe the impacts on the public discusses only the impact on the regulated community and the regulators. In fact, applications for onsite disposal of radioactive materials at nuclear power plants have caused considerable concern on the part of the public, and these concerns must also be addressed. Finally, the analysis approaches absurdity in opining that "(a)s a more well defined waste disposal system would be of benefit to the Agreement States, NRC relations with these entities should be improved as NRC would be viewed as resolving a current issue in a timely manner." It is hard to imagine how this attempt by NRC to revoke the Agreement States' authority unilaterally would be expected to improve NRC's relations with those states.

Given the absence of meaningful justification offered by NRC, IDNS is at a loss to explain NRC's desire to adopt the rule. The proposal is particularly troublesome in light of developments in response to the Low Level Radioactive Waste Policy Act of 1980, as amended, 42 USC 2021(b) et seq. ("Act"). Although the Act expressly declined to alter the existing regulatory regime, the Act did establish that disposal of low-level radioactive waste is a state, not a federal responsibility. The Act did not distinguish between onsite disposal and offsite disposal. IDNS urges NRC to consider carefully this federal policy and the impact of its proposed rule on the new regional Under the Act, "(e)ach State shall be facilities being developed. responsible, either by itself or in cooperation with other States. for the disposal of (low-level radioactive waste)." (42 USC 2021(c).) The Act does not say that each generator is responsible for disposal, nor does it say that The Secretary of the Commission Page 4 October 21, 1988

NRC is responsible. Even in states that have not assumed NRC's regulatory authority, the state must determine how to dispose of the low-level radioactive waste generated within its borders.

IDNS also points out that in Illinois and Kentucky, it is a violation of the Central Midwest Interstate Low-Level Radioactive Waste Compact "for any person to dispose of waste at a facility other than a regional facility," unless otherwise authorized by the Compact's administrative Commission (Ill. Rev. Stat., ch. 127, par. 63 v-1, art. IX(b)(4).) The Compact has been ratified by Congress. Regardless of who regulates onsite disposal of low-level radioactive waste, such disposal is illegal in Illinois and Kentucky under State and federal law unless specifically authorized by the Compact Commission.

For the above reasons, IDNS believes that the proposed rule is ill-considered. IDNS also suggests that the proposed rule is poorly timed, given the current efforts by states and regions to establish new disposal facilities under the federal mandate of the Low Level Radioactive Waste Policy Act of 1980, as amended. IDNS strongly recommends that the proposed rule be withdrawn.

Very truly yours,

Terry R. Lash

Director

TRL/vh



DOCKETED

'88 OCT 24 P12:16

Nuclear Information and Resource Service

1424 16th Street, N.W., Suite 601, Washington, D.C. 20036 (202) 328-0002 CKETING & SERVICE

Oct 20, 1988

Secretary Chilk US NRC Washington, DC 20555

PROPOSED RULE

150 53FR 31889

Dear Secretary Chilk:

Enclosed are NIRS' comments on NRC's proposed rulechange 10 CFR Part150, Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal, which appeared in the Federal Register on August 22, 1988, 53FR31880.

Sincerely,

Diane D'Arrigo

Radioactive Waste Project Director

OCT 2 7 1988

PIORESMANDO YSOTA 6 2 19

Acknowledged by card.....

PERET NUMBER PR

O.S. NUCLEAR REGULATORY COMMISSION

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY

OF THE COMMISSION

Document Statistics

Postmark Date 10-21-88

Copies Received 1

Add'1 Copies Secreduced 3

Special Distribution RIBS

PDR Stewart

THE STREET, SALES



*88 OCT 24 P12:16

Nuclear Information and Resource Service

1424 16th Street, N.W., Suite 601, Washington, D.C. 20036 (202) 328-0002 ANDH

Comments on NRC Proposed Rule 10 CFR Part 150
Reasserting NRC's Authority for Approving Onsite Low-Level Waste
Disposal in Agreement States
53FR162:31880 Monday Aug 22, 1988

Nuclear Information and Resource Service
Diane D'Arrigo
October 20, 1988

I would first like to register my complaint against the NRC for providing misleading information and guidance for several weeks on this proposed rule change. There seemed to be no one available who was aware of the overall previous regulatory history of low-level waste, very low-level waste, decommissioning and the BRC proceedings which are currently underway. Further, I and others were subsequently denied an extension of the comment period, once the true intent of the proposed rule came to light.

Herewith are our comments:

The first comment is a question. Why should any waste be disposed of at reactor or 10 CFR Part-70 licensee sites? If those sites are not waste dumps or to become de facto waste dumps, no waste should be dumped there at all, be it regular garbage or radioactive.

Secondly, if NRC promulgates this rule in any form, it must clarify exactly what waste might be disposed of on site. Are you talking about resins, sludges, filters, or other Part 61 waste? Or parts of dismantled reactors that are too bulky or expensive to move when the site is returned to unrestricted use? Or waste that may be deregulated as Below Regulatory Concern? Liquid waste that doesn't qualify for "low-level" waste disposal sites? Mixed radioactive and hazardous wastes?

From the information currently available and discussions with Commission staff, there appears to be no need for this rulemaking.

Agreement states must adopt and enforce standards and regulations at least as stringent as the NRC. If the states are to be trusted with disposing of "low-level" radioactive waste, as

is currently the case under federal law, there is no reason to reassert NRC authority over some parts of the disposal which is done in those states. If the concern expressed in the proposed rule is sincere, regarding NRC's intent to have "control over the decommissioning process," the NRC could "maintain a consistent regulatory review and avoid duplication of regulatory effort" by allowing Agreement States to decide, through an NRC-approved and publicly-approved process, whether or not radioactive waste may be disposed at reactor or 10 CFR Part-70 licensee sites.

The NRC is requiring many aspects of Agreement States' low-level waste disposal regulations to be "compatable" with NRC's 10 CFR Part 61. It is perfectly consistent to require states to meet NRC criteria in granting or refusing disposal onsite at reactors and Part-70 facilities. NRC could develop a reporting system for states that approve onsite disposal or long-term storage, so that NRC would have all the necessary information at decommissioning time.

It is a flaw in the national and state "low-level" waste programs and policies that decommissioning is not included in "low-level" waste disposal planning. As things stand today, there is a possibility that up to 15 new "low-level" radioactive waste sites could be established by 1993, not one of which is incorporating decommissioned reactors into its calculations for source term or volume. These sites will operate for from 20 to 50 years. Then, again, the nation will be in search of new waste sites. Meanwhile, at least 70 reactor sites (with over 100 reactors) will be ready for decommissioning.

This whole issue (decommissioning and radioactive waste disposal) should be addressed wholistically, now, before any new sites are sacrificed to nuclear waste. We could end up with 30 more waste sites in the next decade, in addition to the 70+ reactor (and Part-70 licensee) sites.

Allowing any burial or permanent disposal at a reactor (or Part-70) site is inconsistent with the NRC's expressed intent in its final decommissioning rule to return the site to unrestricted use. Since NRC considers onsite disposal an option, the Agreement States, which are left with the site after NRC terminates its licenses, should have the right to disapprove at-reactor disposal, or approve it as part of the state's plan for "low-level" waste disposal. What NRC determines is suitable for unrestricted use may have higher levels of contamination or potential exposure than some states might allow. Therefore, it is justifiable that Agreement States have the right to disapprove at-reactor disposal.

An economic and environmental consideration is that a state (or compact) may want all the waste generated in the state (or region) to go to its "low-level" waste facility. NRC's approval

of at-reactor (or Part-70 licensee) site disposal could reduce the volume and curies intended for the waste site.

A similar problem will arise when (and if) NRC begins deregulating radioactive waste as Below Regulatory Concern, BRC. Does NRC intend to deregulate reactor and Part-70 licensee waste and then allow its disposal onsite? If up to 40% or even 50% (according to recent estimates) of the current "low-level" waste stream is deregulated as BRC, what regulated waste does NRC foresee applying for onsite disposal?

For the record, the Nuclear Information and Resource Service opposes the BRC policy which only "linguistically detoxifies" radioactive waste. The BRC policy should be abandoned. NRC staff have tremendous amounts of work and should not be wasted on promulgating such environmentally questionable procedures. In no case should BRC (deregulation on radioactive waste) be a compatability requirement for Agreement States.

The NRC is correct in its view (used to justify this proposed rulemaking) that any disposal that is approved should be in conjunction with decommissioning of the site in mind. But this does not justify NRC taking back that authority which now resides with Agreement States.

If Agreement States choose reactor (or Part-70 licensee) sites for retrievable disposal or long-term storage, those options should be available, provided there is public approval. In the long run, it could deminish the number of contaminated sites in the country. There are questions regarding the feasibility of decommissioning and dismantling every site in the country. Until those questions are answered, no new waste sites should be established, and no irretrievable disposal should be approved. If Agreement States refuse at-reactor (or Part-70 licensee) onsite disposal requests to maintain a cleaner, safer site, that should be their perogative.

In conclusion, NIRS opposes the proposed rule to reassert NRC's authority over onsite disposal of radioactive waste in Agreement States.

DOCKETED

HAL B. Tucker Vice President Nuclear Production (704)373-4531



'88 OCT 24 P2:39

OFFICE OF SEURETAINS BOCKETING & SERVICE. BRANCH

DOCKET NUMBER

PROPOSED RU

October 18, 1988

The Secretary of the Commission U.S. Nuclear Regulatory Commission Washington, DC 20555

ATTENTION: Docketing and Service Branch

Subject: NRC Proposed Rule

Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States Duke Power Company Comments

Dear Sir:

In the Federal Register (53FR31880) dated August 22, 1988, the Nuclear Regulatory Commission published for comment a proposed rule to reassert NRC's jurisdiction for onsite low-level waste disposal for waste generated onsite at all reactors licensed by NRC in Agreement States.

Duke Power Company has reviewed the proposed rule and in general supports the proposal to re-establish NRC jurisdiction over onsite disposal of very low level radioactive waste. However, the following points need to be clarified:

1) The proposed rule adds the following:

"(8) The disposal, within the protected and exclusion areas of a nuclear reactor licensed by the commission, of radioactive wastes generated at the reactor site." The terms "protected areas" and "exclusion areas" are defined in 73.2(g) and 100.3(a) respectively (emphasis added).

<u>Comment:</u> The protected area is the area within the security double fence. This area is always within the exclusion area, therefore, it is unnecessary to specify both areas.

If the regulatory intent is to require that disposal be within the protected area, then "within the exclusion area" should be deleted. However, if this is the case, disposal of any waste will be virtually impossible because there isn't any room available within the protected area for disposal.

If the regulatory intent is to require that disposal be within the exclusion area, then another potential problem exists in that exclusion areas are defined differently at each station. According to the standard technical specifications, the exclusion area for radiological effluents is a 2500 ft. radius. However, the exclusion area for Oconee Nuclear Station is defined as a one-mile radius. The exclusion areas for McGuire and Catawba Nuclear Stations are both defined as a 2500 ft. radius.

DCT 27 1988

D.S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

Document Statistics

Postmark Date 10-19-88

Copies Received 1

Add'l Copies Reproduced 3

Special Distribution RTDS

PDR, Stewart

Therefore, the exclusion area must be better defined. Duke Power proposes that the new rule read that the disposal be within the site boundary. This will provide consistency in the use of the term "onsite disposal". The site boundary is the fenced area of the station. Portions of the exclusion area are not fenced and, therefore, access cannot be controlled as well. Using the site boundary to encompass the allowed disposal area will give a more consistent definition of what is considered onsite and what is considered offsite.

2) No matter which portion of the owner controlled area of each site is designated for onsite disposal according to this proposed rule, the existing burial, landfill and landfarming sites must be addressed. Duke Power is presently licensed by agreement States to dispose of low level waste in different areas at the sites. One area is outside the station site boundary but within the exclusion area, while another has a portion within the exclusion area and a portion outside the exclusion area. Direction on how these existing areas need to be addressed or licensed in the future needs to be given. Will it be necessary to reapply for NRC approval of these areas or will they remain under the Agreement States' jurisdiction?

Very truly yours,

Nec 13. Lucker

Hal B. Tucker

DM/345/mmf

PROPOSED RULE PROPOSED RULE 53FR 31889

USNRC

99 Hannah Branch Rd. Burnsville, NC 28714 October 18, 1988

*88 OCT 24 P2:42

DOCKETING & SERVICE BRANCH

Nuclear Regulatory Commission Washington, DC 20555

Dear Secretary,

I am very concerned that you are considering the possibility of allowing utilities to manage their own on-site incineration of radioactive waste. We are constantly reading about how poorly managed these sites are. Several of these sites are in the news now and the contamination of the drinking water in the surrounding areas is out of control and very hazardous to the people living in those areas. The states must be able to have some control of what is going on in their states.

Neither you nor the utilities have a very good record now of managing this disposal in a safe way. This proposal must be changed. States must be involved in any plans for the disposal of radioactive waste in their states.

Sincerely,

Joyce D. Johnson

D.S. NUCLEAR REGULATORY COMMISSION
DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Schment Staristics

OCT 2 7 1988

Acknowledged by card.....

and the second

'88 OCT 24 P2:42

7,500

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date 10-19-87
Copies Received

Add'l Copies Reproduced 3

Special Distribution RIDS

PDR Steware



Arkansas DEPARTMENT OF HEALTH RETERMENT

4815 WEST MARKHAM STREET • LITTLE ROCK, ARKANSAS 72205

TELEPHONE AC 501 661-2000

'88 OCT 24 P2:45

M. JOYCELYN ELDERS, M.D. DIRECTOR

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

DOCKET NUMBER PROPOSED RULE

October 21, 1988

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

Attn: Docketing & Service Branch

Re: Proposed Revision of 10 CFR Part 150.15

Pursuant to our review of the proposed rule to re-assert NRC's jurisdiction over onsite low-level waste disposal of wastes generated at NRC licensed reactors and 10 CFR Part 70 facilities in Agreement States, we have the following comments:

While the reasons given for promulgation of the proposed rule have validity, we have serious reservations about changing any aspect of onsite low-level waste management. A prevalent theme among citizen groups interested in this issue is that all low-level wastes should be disposed/stored onsite. NRC approval of appropriate disposal of wastes onsite may be misinterpreted. Additionally, such approval outside of state jurisdiction, when the state has previously had that jurisdiction, may cause added problems for states addressing responsibilities under the Low-Level Radioactive Waste Policy Act as amended.

We therefore recommend that Agreement States maintain jurisdiction over onsite disposal. However, in recognition of the Commission concerns regarding decommissioning, consistency, and non-duplication of regulatory efforts, it would be appropriate for the Commission and an Agreement State to enter into a MOU. This avenue can resolve the issues of concern to the Commission while maintaining state jurisdiction over all low-level waste disposal.

We appreciate the opportunity to comment on this proposal rule.

Sincerely.

Greta J. Dicus, Director

Division of Radiation Control & Emergency Management

cc: Office of the Governor

JMI:5678E

OCT 27 1988

Acknowledged by card.....

'88 OCT 24 P2:45

กรเหลื

EBL! (IS happing

ng All ull Glone

Scoretary of the Secricaion U.S. Neclear Regalagory Commission

Attal Docketing à der ide brand

Post Indicated Lister

the second secon

to have got a first

And to the relation of the second of the property of the second of the s

We takendige recommend that tarespond these maintain jurisdiction for the Journal of the contract of the property. The maintains of the contract of the property of the property of the contract of the contra

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY TO SOUTH SET TO STATE OF THE COMMISSION

,ic

Document Bicissics

Postmark Data 16-21-88
Copies Receive! 1
Add'l Control Control Code 3
Special Distribution RIDS
PDRIM STEWART

3.2730:174



PROPOSED RULE PR 150

'88 OCT 24 P2:54

October 17, 1988

OFFICE OF SELALIARY DOCKETING & SERVICE BRANCH

Secretary U.S. NRC Washington, DC 20555

Dear Mr. Secretary:

In regard to NRC regulation proposed 53 FR 162: 31880-31882, taking back agreement state authority over at-reactor disposal of low-level radio-acitve wastes; I am opposed to this change.

The agreement states have historically had this authority and should continue to have it. Keeping these decisions as local as possible will increase local oversight and responsibility. We are working hard to make our state of Kansas more responsible for its radioactive waste and this change would limit our options. As long as an agreement state meets other regulatory requirements it should have control over at-reactor disposal.

It seems quiterreasonable for NRC to have reporting requirements of agreement states in regard to at-reactor disposal or storage, and this could be done without taking state power as the proposed regualtion would.

Sincerely,

David Ebbert PO Box 83

Whiting, KS 66552

SOCKETANG THE SERVICE STORM SSHOP

DOCKETANG IN SERVICE STORM

OFFICE OF THE COMMISSION

OF THE COMMISSION

Seasons against O

to box of colors Pbl

DUI & 1 1988

Acknowledged by card

'88 CCT 24 P2:54

DOOKET NUMBER PR

U.S. NUCLEAR REGULATORY COMMISSION

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY

OF THE COMMISSION

Document Statistics

Postmark Date 10-19-66
Copies Received 1
Add'l Copies Reproduced 3
Special Distribution RIDS PDR
SECURALE

- that sonts

DOCKET NUMBER PR 150
(53FR 31880)

October 21, 1988
854 Henley Place
Charlotte, NC 282070CT 24 P2:54

Secretary of the Commission USNRC Washington, DC 20555

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

Comment Re 10 CFR Part 150

The writer is opposed to the reassertion of the NRC's authority for approving on-site low-level waste disposal in agreement states for the following reasons:

- l. Several host states, including North Carolina, are requiring levels of containment for llrw reaching beyond the provisions of 10 CFR 61. As the waste is in their yard, it is within reason that their requirements are more stringent than those of Part 61. After all, Maxey Flats, Morris Illinois and West Valley New York were all under AEC or NRC regulation and each has performed, in the short, in a way to disturb the public.
- 2. Reactors will probably provide the largest amount of llrw which the generator will prefer to dispose of onsite. Nuclear stations uniformly are near water for cooling purposes. The site was not chosen with the retardation of diffusion of radionuclides by the soil as a requirement. It is rather unlikely that any of the generator sites will be as well qualified for shallow land burial as Barnwell.
- 3. The use of Part 61 requirements will undercut a state's endeavor to establish higher standards for a compact facility. Indeed the present proposed rule may be a precursor to a subsequent rule which will take from the state any regulatory authority in regard to a compact facility.
- 4. The recent disclosures at the Savannah River plant, the Rocky Flats plant and the Fernald operation have led to an increasing public conviction that the federal bureaucracy is incompetent in its management of contractors and that parties involved have deliberately withheld adverse and essential information from the public.
- 5. The NRC is perceived as being more concerned with licensee economic benefit than public safety and health.

Given these considerations I urge the NRC to withdraw this proposal from consideration as a rule.

Jesse L. Riley, Chair, Nuclear Subcommittee of National Energy Committee

DCT 2 7 1988

DOCKETING & SERVICE SECTION
OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date /0-21-87

Copies Servived /
Add Services Reproduced 3

Special Distribution RIDS PDR,

Stewart

EDISON ELECTRIC INSTITUTE The association of electric companies

1111 19th Street, N.W. Washington, D.C. 20036-3691 Tel: (202) 778-6400 DOCKETED

88 OCT 21 P4:23



OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

October 20, 1988

OCKET NUMBER

POSED RULE

Mr. Samuel J. Chilk Secretary U. S. Nuclear Regulatory Commission Washington, D. C. 20555

Attention: Docketing and Service Branch

Subject: Edison Electric Institute and Utility Nuclear Waste

Management Group Comments on Proposed Rulemaking, "Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States," 53 Fed. Reg.

31880 (August 22, 1988)

Dear Mr. Chilk:

The following comments are being submitted on behalf of the Edison Electric Institute (EEI) and the Utility Nuclear Waste Management Group (UNWMG) in response to the Nuclear Regulatory Commission's Proposed Rulemaking, "Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States," published in 53 Fed. Reg. 31880 (August 22, 1988). EEI is the association of investor-owned electric utilities, whose members serve 73 percent of all ultimate electric utility customers in the nation. UNWMG is a group of 46 publicly-owned and investor-owned electric utilities that provides active oversight of the implementation of the federal statutes and regulations related to radioactive waste management.

The Commission's proposed rule would amend 10 CFR 150.15 by clarifying that the disposal within the protected and exclusion areas of a commercial nuclear reactor site of low-level wastes generated at the reactor site is subject to exclusive NRC jurisdiction. It would also clarify that NRC retains exclusive jurisdiction over the disposal of special nuclear material within restricted areas and contiguous property established for activities carried out pursuant to 10 CFR Part 70, when such waste is generated at the licensee's site. Under the proposed rule, Agreement State regulatory agencies would have no authority to regulate such activities. We have limited our comments below to the portions of the proposed rule related to onsite disposal at reactor sites.

EEI and UNWMG strongly endorse the Commission's proposed rule. As the Statement of Considerations accompanying the

OCT 2 7 1988

J.S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY OF THE COMMISSION

Document Statistics

Postmark Dato

Copies Received

Add'l Copies Reproduced 3

Special Distribution RTDS

PDR, STEWART

Mr. Samuel J. Chilk October 20, 1988 Page 2

proposed rule recognizes, clarification of the Commission's exclusive authority over onsite disposal activities in Agreement States will provide a more "consistent regulatory review" of such activities and will "avoid duplication of regulatory effort by the NRC and Agreement States...." (53 Fed. Reg. at 31880-81.) Licensees have, in fact, been instructed in the past to obtain approval from both the Commission and their Agreement State regulatory agencies when seeking authority for onsite disposal pursuant to 10 CFR 20.302. (See IE Information Notice No. 86-90, "Requests to Dispose of Very Low-Level Radioactive Waste Pursuant to 10 CFR 20.302" (November 3, 1986) at 1.) Accordingly, we believe that the proposed rule will help ensure sensible, coherent and non-duplicative regulation of onsite radioactive waste disposal activities.

Moreover, we agree with the Commission that the proposed rule will increase the Commission's control over the decommissioning process. The Commission is currently in the process of establishing a regulatory framework governing the decommissioning of nuclear power plants. (See 53 Fed. Reg. 24018, June 27, 1988, establishing the general requirements for decommissioning nuclear facilities.) The goal of decommissioning is to ensure that such facilities can be removed safely from service and the residual radioactivity can be reduced to a level that permits release of the property for unrestricted use and termination of the license. (See 53 Fed. Req. at 24019.) Without effective control over the use of radioactive materials at nuclear power plants, NRC will find it difficult to ensure that onsite disposal activities do not inadvertently undermine its decommissioning requirements. Thus, we believe that clarification of Commission responsibility and authority over onsite disposal as proposed will promote the Commission's decommissioning objectives.

In addition, the Commission has undertaken a number of important initiatives related to the development of standards for below regulatory concern (BRC) disposal of very low-level waste, both on and off the site of generation. These include: (1) publication of a proposed rule authorizing onsite disposal through incineration of radioactively contaminated waste oil at commercial nuclear power plants; (2) promulgation of a policy statement governing the expedited processing of BRC disposal rulemaking petitions; and most recently, (3) consideration of a proposed generic BRC policy.

We believe that failure to clarify the Commission's exclusive authority over onsite disposal could seriously jeopardize the efficacy of these initiatives, and cause uncertainty and create impediments to licensees' efforts to implement the new BRC standards. Promulgation of the rule as

Mr. Samuel J. Chilk October 20, 1988 Page 3

proposed is important to preserve the viability of the Commission's BRC initiatives.

Finally, the Statement of Considerations accompanying the proposed rule states that in "Agreement States, the...Commission did not reserve jurisdiction under 10 CFR 150.15(a) for onsite low-level waste disposal at NRC licensed facilities." (53 Fed. Reg. at 31881.) To the contrary, we believe that the Commission's original intent in promulgating section 150.15 was to establish Agreement State authority over offsite commercial disposal activities only, and not over onsite disposal of a licensee's own waste.

In the 1961 Statement of Considerations accompanying the proposed section 150.15, the Commission made clear that it had not yet determined whether to relinquish to the States its authority to regulate commercial disposal of atomic waste by burial. The Statement of Considerations indicated, by reference to the proposed rule, that such disposal meant "burial by any person of byproduct, source or special nuclear waste received by such person from any other person for disposal" (emphasis added). (26 Fed. Reg. 9174, September 29, 1961, at 9176.) The Commission sought comment on whether it should retain or relinquish to the States its authority to regulate the commercial disposal by burial of atomic wastes.

After considering the comments received, in finalizing the rule, the Commission decided that "[t]he states will have control over land burial of low-level waste." (27 Fed. Reg. 1351, February 14, 1962.) The Commission also clarified, presumably in response to public comments received, that "control over the handling and storage of waste at the site of a reactor, including effluent discharge, will be retained by the Commission as a part of the control of reactor operation." (Id at 1351.)

The Commission did not include the word "commercial" before "land burial" in the particular passage quoted above, and so left somewhat ambiguous how onsite disposal was to be regulated. However, given the Commission's emphasis in the notice of proposed rulemaking on commercial disposal of waste generated by and received from another party (versus onsite disposal of a licensee's own waste), we believe that the Commission was not relinquishing control over reactor onsite disposal. Instead, we believe that the Commission was merely clarifying that until the waste was transferred out of the possession of the reactor licensee, the Commission retained authority for waste management activities (including disposal) conducted at the reactor site. Therefore, we strongly endorse the clarification in the proposed rule.

Mr. Samuel J. Chilk October 20, 1988 Page 4

Finally, there are several other points which we believe should be reflected in the final rule or addressed in the accompanying Statement of Considerations. First, the proposed rule refers to disposal "within the protected and exclusion areas..." (53 Fed. Reg. at 31882 (emphasis added).) We suggest that this phrase be change to "within the protected or exclusion areas" in order to assure that disposal activities in either location are subject to exclusive NRC jurisdiction, as is apparently intended.

Secondly, we suggest that either the rule or the accompanying Statement of Considerations clarify that the rule will not affect petitions previously submitted under 10 CFR 20.302 and approved by Agreement State regulatory agencies, even if all disposal activities under that authority may not yet have been completed. We understand that the Commission does not intend to disrupt these existing, approved petitions.

Last, we encourage the Commission to move forward promptly to issue the final rule in order to provide licensees with clear and timely guidance on this subject, so that this disposal option not be precluded by regulatory uncertainty.

In conclusion, EEI and UNWMG encourage the Commission to adopt the proposed rule with the modifications suggested above. The proposed amendment will improve NRC's regulatory control over onsite disposal and decommissioning activities, and will provide needed clarification of the Commission's authority.

Sincerely yours,

John J. Kearney

Senior Vice President

JJK/bfm



OCT 24 A11:25

NORTH CAROLINA GENERAL ASSEMBLY

JOINT SELECT COMMITTEE ON LOW-LEVEL RADIOACTIVE WASTEN

21 October 1988

BY FACSIMILE TRANSMISSION DOCKET NUMBER PROPOSED RULE

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

Attention: Docketing and Service Branch

Re: Proposed Amendment to 10 C.F.R. § 150.15(a) Reference 53 Fed. Register 31880 - 31882, August 22, 1988

Dear Sir:

In response to the above referenced Federal Register Notice, the Joint Select Committee on Low-Level Radioactive Waste of the North Carolina General Assembly would like to express its opposition to the proposed rule changes. The Joint Select Committee on Low-Level Radioactive Waste is the North Carolina General Assembly's permanent statutory oversight committee for matters concerning the handling and disposing of low-level radioactive waste.

The Committee recommends that the present system whereby Agreement States have licensing authority over disposal of all civilian low-level radioactive waste within those states be maintained. Moreover, the Committee specifically rejects the argument advanced by others and alluded to in the background statement in the Federal Register, that the authority of Agreement States to regulate disposal of waste covered by the proposed rule is in doubt, or that it was not intended that such authority be transferred to Agreement States in the first instance.

If the Nuclear Regulatory Commission wishes to ensure uniformity in the licensing of onsite disposal in Agreement States and that certain minimum standards for such

OCT 2 7 1988

1778

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY

OF THE COMMISSION

Document Statistics

Postmark Date FAX 10-24-81
Copies Received
Add'l Copies Reproduced
Special Distribution RIBS
PDR, STEWART

disposal are enforced, this can best be accomplished by the issuance of licensing and disposal guidance documents. If the NRC does assert authority over onsite disposal of certain types of radioactive waste, then a rule change should be proposed which would narrowly define such waste and the circumstances under which onsite disposal could occur, in order to ensure that waste which would ordinarily go to a regional low-level radioactive waste disposal facility is not included.

Our reasons for opposing the proposed changes in the rules are as follows:

- 1. The proposed changes are contrary to long-standing federal policy as expressed in the Agreement of July 1964 between the Atomic Energy Commission and the State of North Carolina, as well as the agreements with the other Agreement States. North Carolina was an early Agreement State whose policy for nearly 25 years has been to actively exercise jurisdiction in this area to the maximum extent possible.
- 2. The proposed rule changes have the potential of being in opposition to federal policy as contained in the Low-Level Radioactive Waste Policy Act of 1980 and the Low-Level Radioactive Waste Policy Amendments Act of 1985, which require the states to provide for disposal of low-level radioactive waste and encourage them to create multi-state regional facilities to accomplish this. NRC's John C. Stewart, in discussion with our staff, stated that NRC's present purpose in seeking the proposed rule changes is to regulate "very low-level waste" which could not be economically disposed of in a licensed low-level radioactive waste disposal facility, nor which should have to be because of the low levels of radioactivity. However, the proposed rule is so broadly stated that it would permit the licensing of onsite disposal of any low-level radioactive waste, thereby contravening the Congressional intent, as evidenced by the

Secretary of the Commission Page 3 21 October 1988

1980 and 1985 Acts, that there be a limited number of disposal sites, and that those sites be operated and regulated pursuant to state and regional authority. Furthermore, the stated rule changes have the potential of depriving the Congressionally mandated state and regional facilities of a substantial part of the waste stream necessary to make them economically viable, since licensed nuclear reactors contribute the majority of low-level radioactive waste to these disposal facilities. We would point out to you that North Carolina is a member of the Southeast Interstate Low-Level Radioactive Waste Management Compact, an eight member compact of states with its second regional facility scheduled to open in January 1993 in North Carolina.

- 3. The General Assembly of North Carolina has mandated certain minimum requirements for the licensing of a low-level radioactive waste disposal facility. These requirements are more stringent than those contained in the present NRC regulations. The proposed rule changes have the potential of weakening the protection which the North Carolina General Assembly has deemed necessary for the people of our State.
- 4. The issue of public confidence in the regulatory scheme for nuclear facilities and the disposal of low-level radioactive waste cannot be ignored. Public perception of the proposed changes will be that the NRC is attempting to weaken the traditional control of the Agreement States and, in the process, removing from the people the ability to control their destiny with regard to facilities which have not enjoyed a high level of public support. The NRC will introduce a situation ripe for litigation whenever it issues an onsite disposal license, with the state in which the site is located being one of the potential plaintiffs.

Secretary of the Commission Page 4 21 October 1988

5. If the NRC feels that uniformity must be brought to the licensing of isolated instances of onsite disposal of "very low-level" radioactive waste in order to ensure that it can meet its stated requirement that the sites of decommissioned facilities be available for unrestricted use, then the NRC can provide guidance documents or other assistance to Agreement States for their use in the issuance of onsite disposal licenses without disturbing the long standing authority of Agreement States to regulate disposal and without contravening national policy established by the Congress of the United States.

We feel that the states of the Union, and particularly the eight states belonging to the Southeast Compact, have proceeded to comply with the mandated national policy in good faith and the NRC must show equal faith in our ability to continue regulating in this area. We therefore request that the proposed regulatory changes not be adopted or, if the regulations must be changed, that they be more narrowly drawn so as to accomplish only the stated purpose and not disturb the longstanding regulatory authority of the Agreement States.

If you have any questions in connection with our position, or if amplification is required, please contact our Committee Counsel, George F. Givens and Steven Rose, at (919) 733-2578, or at 545 Legislative Office Building, 300 North Salisbury Street, Raleigh, North Carolina 27611. Please notify our Committee Counsel of any actions you take regarding this rule.

Sincerely,

Senator/Joseph E. Johnson

Rep. George W. Miller, Jr.

Cochairmen

Joint Select Committee on Low-Level Radioactive Waste



NORTH CAROLINA GENERAL ASSEMBLY

JOINT SELECT COMMITTEE ON LOW-LEVEL RADIOACTIVE WASTE

21 October 1988

BY FACSIMILE TRANSMISSION

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

Attention: Docketing and Service Branch

Re: Proposed Amendment to 10 C.F.R. § 150.15(a)
Reference 53 Fed. Register 31880 - 31882, August 22, 1988

Dear Sir:

In response to the above referenced Federal Register Notice, the Joint Select Committee on Low-Level Radioactive Waste of the North Carolina General Assembly would like to express its opposition to the proposed rule changes. The Joint Select Committee on Low-Level Radioactive Waste is the North Carolina General Assembly's permanent statutory oversight committee for matters concerning the handling and disposing of low-level radioactive waste.

The Committee recommends that the present system whereby Agreement States have licensing authority over disposal of all civilian low-level radioactive waste within those states be maintained. Moreover, the Committee specifically rejects the argument advanced by others and alluded to in the background statement in the Federal Register, that the authority of Agreement States to regulate disposal of waste covered by the proposed rule is in doubt, or that it was not intended that such authority be transferred to Agreement States in the first instance.

If the Nuclear Regulatory Commission wishes to ensure uniformity in the licensing of onsite disposal in Agreement States and that certain minimum standards for such Secretary of the Commission Page 2 21 October 1988

disposal are enforced, this can best be accomplished by the issuance of licensing and disposal guidance documents. If the NRC does assert authority over onsite disposal of certain types of radioactive waste, then a rule change should be proposed which would narrowly define such waste and the circumstances under which onsite disposal could occur, in order to ensure that waste which would ordinarily go to a regional low-level radioactive waste disposal facility is not included.

Our reasons for opposing the proposed changes in the rules are as follows:

- 1. The proposed changes are contrary to long-standing federal policy as expressed in the Agreement of July 1964 between the Atomic Energy Commission and the State of North Carolina, as well as the agreements with the other Agreement States. North Carolina was an early Agreement State whose policy for nearly 25 years has been to actively exercise jurisdiction in this area to the maximum extent possible.
- 2. The proposed rule changes have the potential of being in opposition to federal policy as contained in the Low-Level Radioactive Waste Policy Act of 1980 and the Low-Level Radioactive Waste Policy Amendments Act of 1985, which require the states to provide for disposal of low-level radioactive waste and encourage them to create multi-state regional facilities to accomplish this. NRC's John C. Stewart, in discussion with our staff, stated that NRC's present purpose in seeking the proposed rule changes is to regulate "very low-level waste" which could not be economically disposed of in a licensed low-level radioactive waste disposal facility, nor which should have to be because of the low levels of radioactivity. However, the proposed rule is so broadly stated that it would permit the licensing of onsite disposal of any low-level radioactive waste, thereby contravening the Congressional intent, as evidenced by the

Secretary of the Commission Page 3 21 October 1988

1980 and 1985 Acts, that there be a limited number of disposal sites, and that those sites be operated and regulated pursuant to state and regional authority. Furthermore, the stated rule changes have the potential of depriving the Congressionally mandated state and regional facilities of a substantial part of the waste stream necessary to make them economically viable, since licensed nuclear reactors contribute the majority of low-level radioactive waste to these disposal facilities. We would point out to you that North Carolina is a member of the Southeast Interstate Low-Level Radioactive Waste Management Compact, an eight member compact of states with its second regional facility scheduled to open in January 1993 in North Carolina.

- 3. The General Assembly of North Carolina has mandated certain minimum requirements for the licensing of a low-level radioactive waste disposal facility. These requirements are more stringent than those contained in the present NRC regulations. The proposed rule changes have the potential of weakening the protection which the North Carolina General Assembly has deemed necessary for the people of our State.
- 4. The issue of public confidence in the regulatory scheme for nuclear facilities and the disposal of low-level radioactive waste cannot be ignored. Public perception of the proposed changes will be that the NRC is attempting to weaken the traditional control of the Agreement States and, in the process, removing from the people the ability to control their destiny with regard to facilities which have not enjoyed a high level of public support. The NRC will introduce a situation ripe for litigation whenever it issues an onsite disposal license, with the state in which the site is located being one of the potential plaintiffs.

Secretary of the Commission Page 4 21 October 1988

5. If the NRC feels that uniformity must be brought to the licensing of isolated instances of onsite disposal of "very low-level" radioactive waste in order to ensure that it can meet its stated requirement that the sites of decommissioned facilities be available for unrestricted use, then the NRC can provide guidance documents or other assistance to Agreement States for their use in the issuance of onsite disposal licenses without disturbing the long standing authority of Agreement States to regulate disposal and without contravening national policy established by the Congress of the United States.

We feel that the states of the Union, and particularly the eight states belonging to the Southeast Compact, have proceeded to comply with the mandated national policy in good faith and the NRC must show equal faith in our ability to continue regulating in this area. We therefore request that the proposed regulatory changes not be adopted or, if the regulations must be changed, that they be more narrowly drawn so as to accomplish only the stated purpose and not disturb the longstanding regulatory authority of the Agreement States.

If you have any questions in connection with our position, or if amplification is required, please contact our Committee Counsel, George F. Givens and Steven Rose, at (919) 733-2578, or at 545 Legislative Office Building, 300 North Salisbury Street, Raleigh, North Carolina 27611. Please notify our Committee Counsel of any actions you take regarding this rule.

Sincerely,

Senator/Joseph E. Johnson

Rep. George W. Miller, Jr.

Cochairmen

Joint Select Committee on Low-Level Radioactive Waste

88S-SR-386

New York State Department of Environmental Conservation 50 Wolf Road, Albany, New York 12233-7255

DOCKETED



'88 OCT 21 P12:47 Thomas C. Jorling

October 21, 1968 H



Mr. Samuel J. Chilk
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

PROPOSED RULE

53 FR 31880

Attention: Docketing and Service Branch

Dear Mr. Chilk:

Subject: Comments on Proposed Rule: 10CFR Part 150 Reasserting NRC's Authority for Approving On-Site
Low-Level Waste Disposal in Agreement States.

This letter is in response to Mr. Nussbaumer's letter transmitting the Federal Register publication of the subject proposed rule. We do not support the NRC proposal to amend 10 CFR Part 150 to reassert Commission's authority to regulate disposal of low-level radioactive waste (LLW) on NRC-licensed reactor sites and to clarify the Commission's authority to regulate disposal of waste containing less than critical mass quantities of special nuclear material (SNM) on Part 70 licensed sites in Agreement States.

The Commission's proposal, as stated, would remove the regulatory authority over on-site LLW disposal currently held by New York as an Agreement State. The subject proposed rule contains no provision for Agreement State policies to be considered in NRC decisions that could result in LLW disposal on-site. The Department anticipates that, upon completion of decommissioning activities at affected sites, the NRC would terminate licenses and return control of the sites to New York State. This would create a situation where that State would be responsible for LLW disposal sites, without having any regulatory control over the siting, design, construction, and operation. If the State must ultimately be burdened with the environmental consequences of NRC-licensed on-site disposal actions, then the State should not have authority over such actions.

While the NRC is seeking to gain "centralized and consistent" regulation of on-site waste management activities in individual Agreement States, it is worthy to note that on-site waste disposal in New York State will conflict with this State's goal of centralized and consistent State management of low-level waste. The proposed rule could have the effect of populating the State with multiple shallow land burial sites, wherever reactors or Part 79 licensees exist. In contrast, the State, in complying with the Federal Low-Level Radioactive Waste Policy Act, as amended, passed the New York State Low-Level Radioactive Waste Management Act, which set the State on a course of actions that will lead to the centralization of in-state LLW disposal in one or two facilities to ensure that the best possible site(s) will be selected. Furthermore, the Act specifically prohibits the use of conventional shallow land burial as a disposal methodology, and requires instead that alternative technologies be considered, including the use of engineered structures. The on-site disposal actions foreseen under the proposed rule would, therefore, decentralize LLW disposal in New York State, and could work contrary to this State's goal of providing the most suitable site(s) for in-state generated low-level waste.

We conclude that adoption of the proposed rule would constitute a circumvention of an established system of State environmental protection mechanisms designed to manage the State's low-level waste disposal problem. We oppose the adoption of the subject proposed rule on the grounds that it leaves the State out of a decision that has the potential to cause significant impact on the state's environment, that it could lead to actions that would result in a legacy of LLW burial sites that are incompatible with State environmental regulations specifically designed to regulate the same, and that it, therefore, does not serve the best interests of environmental protection in the State of New York.

Sincerely,

Paul J. Merges, Ph.D

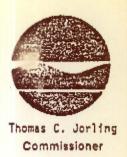
Director, Bureau of Radiation

CEJ/jmk

cc: J. McGrath, USNRC, Region 1

F. Bradley, NYSDOL K. Rimawi, NYSDOH

New York State Department of Environmental Conservation 50 Wolf Road, Albany, New York 12233-7255



TO: Samuel J. Chilk, US NRC, Washin	gton DC (301) 492-1672	
FROM: Paul J. Merges, Ph.D., Directo	or, Bur. of Radiation TELEPHONE NUMBER: (518) 457	<u>-5915</u>
DATE: October 21, 1988		
NUMBER OF PAGES: 2		
OUR TELECOPIER - RAPICOM 230 - (518) 4	457 - 1088	
OUR OPERATOR'S TELEPHONE NUMBER IS (51	18) 457-2377	
	Approved by: DIVISION: Hazardous Substances Regulation	tion
	DIRECTOR	0/21/88
	Signature Da	te

Do you want original returned or destroyed?

LAW OFFICES

BISHOP, COOK, PURCELL & REYNOLDS USARC

1400 L STREET, N.W. WASHINGTON, D.C. 20005-3502 (202) 371-5700

'88 OCT 21 P4:34



WRITER'S DIRECT DIAL

October 21, 1988

DOCKETING & STELEX 440574 INTLAW UI BRANCI TELECOPIER: (202) 371-5950

Mr. Samuel J. Chilk Secretary of the Commission U.S. Nuclear Regulatory Commission Washington, D.C. 20555 ROPOSED RULE 53FR 3189

Attn: Docketing and Service Branch

Re: Proposed Rule on Reasserting NRC's Authority for Approving Onsite Low-level Waste Disposal in Agreement States

Dear Mr. Chilk:

On August 22, 1988, the Nuclear Regulatory Commission (NRC) published in the Federal Register (53 Fed. Reg. 31880) a notice inviting public comments on a proposed rule to reassert NRC authority over the onsite disposal of low-level waste at NRC-licensed facilities in NRC Agreement States. On behalf of Washington Public Power Supply System, TU Electric and Arkansas Power & Light, we respectfully submit the following comments in full support of the proposed rule.

1. Summary

Currently, the handling and storage of onsite low-level waste at nuclear reactors is regulated by the NRC in all states. See 10 C.F.R. § 150.15. However, the omission in § 150.15 of low-level waste disposal as a function reserved to the federal government arguably implies that this regulatory authority has been relinquished to the Agreement States. See 27 Fed. Reg. 1351 (1962) (Statement of Considerations). The present lack of clear NRC jurisdiction over disposal of onsite low-level waste in Agreement States means that Agreement States arguably regulate this activity. (For non-Agreement States there is no jurisdictional issue; the NRC regulates handling, storage and disposal of low-level waste.) The proposed rule would amend 10 C.F.R. § 150.15 to reserve NRC jurisdiction over disposal of low-level waste generated onsite at Part 50 and Part 70 licensed facilities in Agreement States. The NRC's proposal would result in one regulator, the NRC, overseeing the related activities of handling, storage and disposal, in order to enhance efficiency,

OCT 2 7 1988

BISHOP COOK PURCELL & RETHOCOS

CONTRACTOR

'88 00T 21 PA:34

What the wat on the

DO THE & SERVICE SECTION
CO OF THE SECRETARY
OF THE COMMISSION

Johnmant Statistics

Oshi - -

H. D.

Sparoduced 3

PBR, STEWART

BISHOP, COOK, PURCELL & REYNOLDS

Mr. Samuel J. Chilk Secretary of the Commission October 21, 1988 Page 2

consistency and public safety, especially in conjunction with the decommissioning process.

2. Need for a More Centralized and Consistent Review of All Onsite Waste Management Activities

Reassertion of NRC's jurisdiction over low-level waste disposal at Part 50 and Part 70 licensed facilities would enable a more comprehensive, consistent, and centralized review of all onsite waste management activities, and allow the NRC to retain control over the entire decommissioning process. Sole NRC jurisdiction would allow for uniform review procedures and recordkeeping of onsite disposal, thereby enhancing efficiency and consistency, and providing greater assurance that onsite radioactive material will not present a health hazard at a later date after a site is decommissioned. Reassertion of NRC jurisdiction in this area will also avoid potential duplication of regulatory effort by the NRC and Agreement States. current lack of a clear statement of NRC jurisdiction over onsite low-level waste disposal in Agreement States means that Agreement States must provide a regulatory effort at sites where all other activities are under NRC regulation.

3. Need for Clarification of Regulatory Authority

The proposed rule would eliminate uncertainty as to the jurisdiction over low-level waste disposal at NRC-licensed facilities, currently a detriment to generators of radioactive wastes in terms of planning. The proposed rule would allow licensees to plan ahead for efficient and cost-effective disposal by resolving the uncertainty about which governmental entity will be responsible for approving disposal, what method will be required for disposal, and what acceptance criteria will be applied.

4. Conclusion

For the reasons discussed above, we believe that the NRC should adopt the proposed rule discussed in the Federal Register notice. Regulation of handling, storage and disposal by the NRC in all states will ensure a more comprehensive and integrated regulatory review of what are essentially three related waste management activities for all reactor and Part 70 licensees. Adoption of the proposed rule will provide for uniform review procedures and recordkeeping; will reduce potential duplication of regulatory effort; and will clarify for industry the current

BISHOP, COOK, PURCELL & REYNOLDS

Mr. Samuel J. Chilk Secretary of the Commission October 21, 1988 Page 3

uncertainty surrounding the jurisdiction over low-level waste disposal onsite.

Respectfully submitted,

Nicholas S. Reynolds Marcia R. Gelman

BISHOP, COOK, PURCELL & REYNOLDS

DOCKET NUMBER PROPOSED RULE

150 53FR 31880)



October 19, 1988

COMMENTS OF OHIO CITIZENS FOR RESPONSIBLE ENERGY, INC. ("OGREGO 21 P3:30 ON PROPOSED RULE, "REASSERTING NRC'S AUTHORITY FOR APPROVING 21 P3:30 ONSITE LOW LEVEL RADIOACTIVE WASTE DISPOSAL IN AGREEMENT STATES", 53 FED. REG. 31880 (AUGUST 22, 1988)

OFFICE OF SECRETARY DOCKETING & SERVICE

This proposed regulation would amend 10 CFR 150.15 to establish that the NRC retains authority to approve of disposal of low level waste on the sites of nuclear reactors and Part 70 licensees. The stated purpose for the proposed rule is that it would retain NRC control over the decommissioning process.

The draft regulatory analysis for the proposed rule also cites the following purported advantages of the proposal: having one regulator oversee the related activities of handling, storage, and disposal of low level waste; uniform standards, review procedures, and recordkeeping; and the reduction of regulatory and jurisdictional uncertainty, said to be a detriment to LLW generators.

OCRE opposes this proposed rule. Attainment of these purported goals and advantages through the rule is doubtful. Rather than clarifying jurisdiction, the rule raises a jurisdictional contradiction. The 1980 Low Level Radioactive Waste Policy Act and 1985 Amendments place the responsibility for disposal of LLW generated within their borders upon the states. It is not clear that the NRC has the authority to encroach upon a responsibility entrusted to the states by Congress.

The rule would also work to prohibit agreement states from applying more stringent requirements than the NRC's for LLW disposal. Since the states have the responsibility under the law for disposal of LLW, the states should have the authority to adopt more stringent requirements if they deem it necessary for the protection of the public. In fact, agreement states do have the authority under Section 274(o) of the Atomic Energy Act to adopt regulatory standards more stringent than those of the NRC.

The stated concern about decommissioning is not valid. onsite disposal of LLW to present a decommissioning problem only if approved by agreement states, but not when approved by %41000 go the NRC, it must be assumed that the agreement states' standards and policies fall short of or are not compatible with This is impossible; in order to be granted agreement state status, a state must under Section 274(d) and (a) of the Atomic Energy Act have a regulatory program compatible with the NRC's, adopt standards equivalent to or more stringent than the NRC's, and have a program deemed adequate by the NRC to protect the health and safety of the public. Any concerns the NRC may have about the eventual decommissioning of a site could solved by establishing minimum standards for ensite LLW disposal and a reporting requirement upon either the agreement states or the licensees, or both,

OCT 2 7 1988

PROPOSILL RULE

parent and a second strength of the second second

38 UCT 21 P3 30

B.S. NUCLEAR REGULATORY COMMISSION

SERVICE SECTION DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY OF THE COMMISSION

rs ument Statistics

10-19-88 Postmark Date Copies Received Add'I Cooks Designatived 3 Special Distribution RTDS PDR, Stewart

Acknowledged by card

such that the NRC is notified of any agreement state approval of onsite LLW disposal.

The argument that sole NRC jurisdiction will provide for uniform standards and recordkeeping could well be an argument against the entire agreement state concept and the state responsibility and interstate compact system established by Congress in the Low Level Radioactive Waste Policy Act. Establishing a reporting requirement, as mentioned above, would allow the NRC to keep uniform and sufficient records.

Similarly, the argument that handling, storage, and disposal are related activities, and thus should be regulated by only one agency, is again a challenge to the system of state responsibility for LLW disposal established by Congress. If Congress had intended for handling, storage, and disposal of LLW to be overseen by one agency, then the states would not have been granted that responsibility.

Finally, the concern about the effect of regulatory and jurisdictional uncertainty on waste generators is not a proper concern of the NRC. The NRC is supposed to be a regulator, and not a protector, of the industry it regulates. It is also not apparent that there would be any such uncertainty under the present system. Licensees in agreement states know that it is the state which regulates the onsite disposal of LLW. Licensees in non-agreement states know that the NRC regulates this matter. With either the state or the NRC the licensee knows or should know the regulations and standards it must meet. There simply is no uncertainty.

In conclusion, the NRC has not demonstrated any merit to the proposed rule. The proposed rule would infringe upon the rights of agreement states to enact standards more stringent that the NRC's for LLW disposal. The proposed rule should not be adopted.

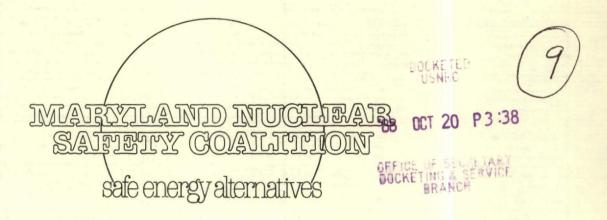
Respectfully submitted,

Susant fratt

Susan L. Hiatt

OCRE Representative 8275 Munson Road Mentor, OH 44060

(216) 255-3158



October 17, 1988

150 3 FR 3/880

DOCKET NUMBER

PROPOSED RULE

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

RE: 53 FR 162:31880 - 31882

Dear Sirs:

We strongly object to the NRC's proposed rule change which would take back from Agreement States, authority over at-reactor disposal of low level radioactive waste for nuclear power plants and other federally licensed waste generation sites (Part 70-licensees).

According to the 1980 Low Level Radioactive Waste Policy Act and the 1985 Amendment Acts, Agreement States presently have this authority over low level radioactive waste.

It is our conviction that the public interest is better served for states to retain this authority. We believe the states will provide more stringent requirements for safe isolation, will exercise more strict oversight and monitoring of this process, and will know better the optimal preference of disposal options for their particular environmental and geophysical conditions.

With the technology still not perfected for ultimate disposal of low or high level radioactive waste, we believe that, in most cases, radioactive contamination of the environment can be minimized by providing at-reactor above-ground retrievable temporary storage. If the NRC assumes authority for these decisions, there is no assurance that site-specific conditions will be considered, nor that these materials won't be required to be transported long distances to what could still be temporary disposal sites.

The NRC's advocated shallow land burial could become a non-negotiable requirement, and could lead to leaching of radioactive contamination as has happened at many existing burial sites.

Therefore we strongly oppose this proposed rule change.

Sincerely.

Co-Director

P.O. BOX 902/COLUMBIA, MD/21044 (301) 381-2714/433-4674

Acknowledged by card....

OCT 2 7 1988

88 09 05 m 38

U.S. NUCLEAR REGULATORY COMMISSION DOCKETING & SERVICE SECTION OFFICE OF THE SECRETARY

OF THE COMMISSION

Document Statistics

Postmark Date / U - (8-83
Copies Received /
Add'l Copies Reproduced 3
Special Distribution RTDS
PDR, Stewart

The second board consumbly and



Conservation Council Of North Carolina



'88 OCT 20 P3:39

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

307 Granville Road Chapel Hill North Carolina 27514 (919) 942-7935

October 17, 1988

Secretary
Docketing and Service Branch
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

PROPOSED RULE

S3 FR 31880

Re: At-Reactor Disposal of Low-Level Radioactive Waste (LLRW) 53 F.R. 162:31880-31882 (August 22, 1988)

Dear Sir:

The Conservation Council opposes the proposed rule which limits a state's options for the safe management of LLRW. We urge the N.R.C. to continue to allow Agreement States like North Carolina the ability to license LLRW facilities anywhere in the state, including at-reactor sites.

The Conservation Council is a statewide environmental group with 50 member groups and 600 individual members. Among other actions, we have intervened on nuclear plant sitings, testified before the Southeast LLRW Compact and state agencies, and more specifically related to this docket, successfully petitioned the N.C. Radiation Protection Commission to develop rules for long-term storage of LLRW wastes.

As you know, our state was designated "host state" for the Southeast Compact. In response to this a LLRW Management Authority was established to site a long-term storage facility which must meet North Carolina regulations. These regulations go beyond the 10 C.F.R. Part 61 rules and require separation of wastes from the environment and engineered barriers.

The Authority needs to have the freedom to consider all sites in the state. One important option being investigated by the Authority is near-reactor storage of the wastes. This option eliminates transportation and handling to a large extent and with the many serious unknowns associated with decommissioning, on-site storage may turn out to be the best option.

The Conservation Council's other concern about the proposed rule change is that the N.R.C. may require disposal and burial of the wastes under 10 C.F.R. Part 61 without the environmental safeguards found in the state rules. Not all nuclear plants may sited in areas where the wastes can be safely managed over a long period, especially if the burial options are pushed.

OCT 27 1988

DOCKET NUMBER PR

O.S. NUCLEAR REGULATORY COMMISSION
DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Data in 10-12-87 hope and Add'l Copies Reproduced

Special Distribution

Special Distribution RIDS
PDR, IN Stewart about GRACA

Sales Alle

In conclusion, the present authority held by an agreement state such as North Carolina needs to be preserved. The proposed rule is a step backwards in protecting the public and the environment.

Thank you for your consideration. Please notify us of any actions which you take regarding this rule.

Sincerely,

John Runkle General Counsel

cc. Rep. George Miller, N.C. General Assembly
Sen. Joe Johnson, N.C. General Assembly
George Givens, Counsel to N.C. Joint Select Committee on LLRW
Dayne Brown, N.C. Radiation Protection Section
Paul B. Stam, N.C. LLRW Management Authority

In committee, on, the oresent authority half he an intermed state such had been described in a liberal final manda to be preserved. The monaged rule is a stan backwards in proceeding the oublic and the coverence of the second of the second

Think you for your condidertion. Please notify as fine actions when

Sincerely

John mule

com Rop. Geogra Millor, Est. Comerni Admenti Son. Los doinnagn, L.C. Smersi A. Senti Corer Givens, Colored to E.C. Joint Seter Goundits on LEN Dayne & the S.C. raignion Protections setions Paul Bul Stam, A.L. L. L. Longement Anthonics



WASHINGTON PUBLIC POWER SUPPLY SYSTEM

DOCKETED USNEC

OFFICE OF BEAR TARY
BOCKETING & SERVICE
BRANCH

DOCKET NUMBER PROPOSED RULE

0352 B DCT 20 P3:42

P.O. Box 968 • 3000 George Washington Way • Richland, Washington 99352

October 14 1000

October 14, 1988

Mr. Samuel J. Chilk Secretary of the Commission U. S. Nuclear Regulatory Commission Washington, D. C. 20555

Dear Mr. Chilk:

Subject: COMMENTS ON PROPOSED RULE

REASSERTING NRC'S AUTHORITY FOR APPROVING ON-SITE LOW LEVEL WASTE DISPOSAL IN AGREEMENT STATES

The Commission has proposed (53FR $\,$ 31880, August 22, 1988) an amendment to its regulations to reassert NRC's jurisdiction for on-site low level waste disposal for waste generated on-site at all reactors licensed by the NRC in Agreement States.

As noted in the <u>Federal</u> <u>Register</u> Notice for this proposed rule, the NRC views the proposed rule as necessary to:

- provide a more centralized and consistent regulatory review of all on-site waste management activities; and
- 2) avoid duplication of regulatory effort by NRC and Agreement States.

The Supply System, as an NRC licensee, supports the proposed rule. We have been particularly concerned with the duplication of regulatory effort, and the potential that fragmentation of the regulatory authority for a licensed operation can result in conflicting direction to the licensee.

The action being taken by the Commission in this case underscores the concern that we have expressed in our comments on the recently issued (53FR 21981) "NRC Policy Statement Regarding Cooperation With State Governments at Nuclear Power Plants". This policy, to an even greater extent than that being amended in the subject proposed rule, would result in duplication of regulatory effort by NRC and the states.

Should you have any questions on our comments, please contact me at (509) 372-5238.

Very truly yours,

G. C. Sorensen, Manager Regulatory Programs

cc: NS Reynolds/BCP&R DL Williams/399

Acknowledged by card.....

2 7 1989

U.S. NUCLEAR REGULATORY COMMISSION
DOCKETING & SERVICE SECTION
OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Posimer! Date 10-17-88 Copies Rotal and Add'1 Conjus Reproduced 3 Special Distribution REDS

PDR, Stewart

DEPARTMENT OF HEALTH SERVICES ENVIRONMENTAL MANAGEMENT BRANCH 8455 JACKSON ROAD, SUITE 120 SACRAMENTO, CA 95826 (916) 739-4053

'88 OCT 18 P5:08

October 5, 1988



DOCKETING & SERVICE BRANCH

PROPOSED RULE PR 150
53 FR 31889

Secretary of the Commission U.S. Nuclear Regulatory Commission Washington, D.C. 26555 Attn: Docketing & Service Branch

Dear Sirs:

The State of California Department of Health Services is concerned with the proposed amendment of 10CFR Part 150.15 (a) which prevents Agreement States from controlling the the burial of low-level radioactive waste at NRC-licensed reactors and facilities.

We agree with the intent as stated, "The uniform review procedures which will accrue from the proposed rule are intended to provide greater assurance that onsite radioactive material will not present a health hazard at a later date after the site is decommissioned."

The State objects to having the authority to make decisions regarding safe burial removed and requests that the Commission allow the NRC to make the decision in concert with the appropriate State Agency.

Sincerely,

Don J. Womeldorf, Chief

Environmental Management Branch

cc: John H. Hickman Rueben Junkert Paul A. Szalinski

DJW: kmf

knowledged by eard OCT 2 0 1988

DOCKET NUMBER PR

J. S. NUCLEAR REGULATORY COMMISSION
DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Copies Procince 10-12-88

Copies Procince 2 application 2 100

PDR, STEWART



STATE OF CONNECTICUT

OFFICE OF POLICY AND MANAGEMENT

COMPREHENSIVE PLANNING DIVISION

DOCKETED

October 7, 1988

'88 OCT 17 P6:24

BOCKETING & SERVICE

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

Attention Docketing and Service Branch

DOCKET NUMBER PROPOSED RULE

PR 150 53FR 31880

Review by Connecticut state agencies of proposed rules and regulations published in the Federal Register is coordinated by this office. The following reflects comments that we received on 10 CFR Part 150 (Federal Register dated August 22, 1988) from the Connecticut Siting Council:

As proposed in 10 CFR 150.15(a)(8) and (9), without clarification whether the disposal would be temporary or permanent, the proposed rule may circumvent efforts by Agreement States to site a <u>permanent</u> low-level radioactive waste disposal facility in an area more desirable than the reactor site, or to permit any Agreement State action to develop a <u>permanent</u> low-level radioactive waste disposal facility within the restricted area of a reactor.

To avoid frustrating any attempts by Agreement States to objectively site such a facility in the most desirable location, NRC can assert its jurisdiction over onsite temporary disposal of low-level radioactive waste generated in Agreement States at NRC - licensed reactors. In fact, the Connecticut Siting Council is now considering how best to distinguish in their proposed Low-Level Radioactive Waste Management Regulations between permanent management facilities, for which Connecticut and the Connecticut Siting Council's compact have siting responsibility, and temporary management which is going on at each of our nuclear power plants, as well as at certain medical and industrial entities.

Thank you for this opportunity to comment on these proposed rules.

Sincerely,

Horace H. Brown Under Secretary

Hrace HRm

HHB/JS:djm

cc: Gloria Dibble Pond, Chairperson, CT Siting Council Frederick G. Adams, Commissioner, CT Siting Council Ann Sullivan, Director, CT Washington Office

DOT 2 0 1988

Phone:

80 Washington Street • Hartford, Connecticut 06106

An Equal Opportunity Employer

'88 CC: 17 P6:24

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY

OF THE COMMISSION

Document Statistics

Postmark Date 10-12-86
Copies Received 1
Add'J Copies Reproduced 3
Special Distribution RIDS
PDR STEWART

ECOLOGY/ALERT

BLOOMSBURG 17815

Sept 18 -88

E Nemethy, Sec'y

Sec'y - NRC

Re: proposed rule - Approving 88 OCT -5 P2058 level waste disposal

ATT: DOCKETING & SERVICE BRANCH

Fed Reg - Aug 22-88, p 31880

DOCKETING & SERVICE BRANCH

DOCKETED

Gentlemen -

We concur with this proposal - if only on the theory that two heads are better than one.

PROVIDED: NRC makes no attempt to "relax" state regulations. (For example, PA prohibits the land burnal of low-level waste, and requires it to be stored in concrete structures.

Demethy

88 601 -2 65 28

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date 10-3-88
Copies Received 1
Add'l Copies Reproduced 3
Special Distribution RIDS
PDR, STEWART

South Carolina Department of Health and Environmental Control



2600 Bull Street Columbia, S.C. 29201

Commissioner Michael D. Jarrett OCT -3 P2:33

Board
Harry M. Hallman, Jr., Chairman
Toney Graham, Jr. M.D., Vice-Chairman
John B. Pate, M.D., Secretary
Oren L. Brady, Jr.
Moses H. Clarkson, Jr.
Euta M. Colvin, M.D.
Henry S. Jordan, M.D.

September 29, 1988

Secretary of the Commission Attention: Docketing and Service Branch U.S. Nuclear Regulatory Commission Washington, D.C. 20555 PROPOSED RULE 53FR 31880

Reference: 10 CFR Part 150

Reasserting NRC's Authority for Approval Onsite Low-Level Waste

Disposal in Agreement States.

Dear Sir:

In regards to the above referenced proposed rule, the following comments are offered:

- 1. The State of South Carolina, Department of Health and Environmental Control, Bureau of Radiologial Health supports the proposed rule to avoid duplication of effort by the NRC and Agreement States. However, the State of South Carolina would reserve the right to participate in all approval processes with full review priviledges and expect our concerns to be addressed by the licensee.
- 2. The licensee should be aware that other permits may be required of a state, e.g. solid waste, industrial waste water, etc. This should be considered during the review process and coordinated with the applicable state authority.
- 3. Although some waste may be below regulatory concern, specific criteria and requirements should be established for site selection, preparation of waste disposal area, and emplacement of waste. This Agency has establised a formal protocol for such disposals which includes geo-hydrological studies and site visits to verify construction and final disposal. All disposals should be well documented as to date, location, and specific details of waste for future reference. All locations should be surveyed and coordinates plotted on the facility's master plat plan.

00T - 4 1988

Acknowledged by card.....

DOCKETING & SERVICE SECTION

OFFICE OF THE SECRETARY

OF THE COMMISSION

Document Statistics

Postmark Date 9-30-87
Copies Received 1
Add 1 Copies Reproduced 3
Special Distribution RIBS
PDR, STEWART

Page 2

Thank you for the opportunity to provide our comments.

Very truly yours,

Heyward G. Shealy, Chief Bureau of Radiological Health

VRA/ac

cc: Joel Lubenau, State Agreements Program

DOCKET NUMBER PR 150
PROPOSED RULE 53FR 31880



ADVANCED NUCLEAR FUELS CORPORATION

2101 HORN RAPIDS ROAD, PO BOX 130, RICHLAND, WA 99352-0130 (509) 375-8100 TELEX: 15-2878

CORPORATE LICENSING

'88 OCT -3 P2:32

September 26, 1988 CWM:88:122

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

U. S. Nuclear Regulatory Commission Attention: Docketing and Service Branch Secretary of the Commission Washington, DC 20555

Dear Sirs:

Subject: REASSERTING NRC's AUTHORITY FOR APPROVING ONSITE LOW-LEVEL WASTE DISPOSAL

Advanced Nuclear Fuels Corporation (ANF) has reviewed the proposed rule on reasserting NRC's authority for approving onsite low-level waste disposal in Agreement States. The proposed rule was published in the <u>Federal Register</u> in Vol. 53, No. 162, August 22, 1988 (p. 31880). Our comments are given below.

ANF is a fabricator and supplier of low enriched uranium reactor fuels and related services. As such, we are involved with the processing and containment of low enriched uranium and any associated low-level wastes generated in those activities. We believe that the proposed rule is necessary to the nuclear industry for insuring that a uniform and predictable basis will exist for the onsite disposal of low-level waste and future decommissioning activities. The purpose of this memo is to support the Commission in this action.

Concurrent with the proposed rule, we urge that the Commission intensify its efforts to establish practical and measurable guidelines for the concentrations of nuclear materials and associated radionuclides that are Below Regulatory Concern (BRC).

We appreciate this opportunity to comment.

Sincerely,

C. W. Malody, Manager

Ou Molod

Corporate Licensing

CWM: jrs

DOT - 4 1988

Acknowledged by card.



88 DOI -3 PZ 32

DOCKETING & SERVICE SECTION
OFFICE OF THE SECRETARY
OF THE COMMISSION

Document Statistics

Postmark Date 9-28-88
Copies Received 1
Add'l Copies Reproduced 3
Special Distribution RIDS
PDR, STEWART

10 m



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

September 30, 1988

NOTE FOR EMILE JULIAN, SECY/D&S

The attached letter from Mr. Marvin Lewis was received (opened) in this office on September 30. It is his comments on the proposed amendments to Part 150 which would reassert some of the NRC's regulatory in Agreement States.

Frank Ingram, GPA

Attachment: As stated

THE STATE OF THE S

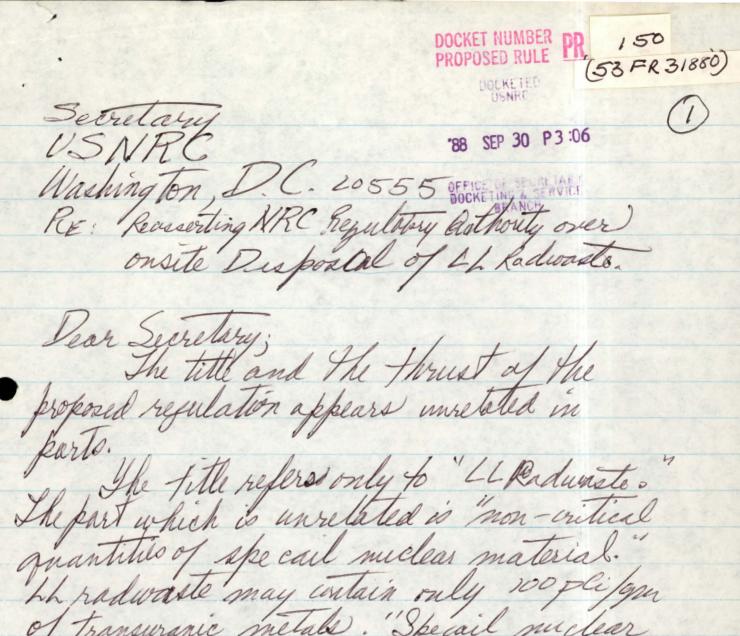
The state of the s

THE SALE PRILITY AND STREET

Eini (Constant) he record on Attach at the distance of the total following to all the control of the control of

The second second

CHANG SHE.



of transurance metals. "Specail nuclear material" may be 100% transurances
This regulation might be more understandably relitted, "NRC to allow radioactives, which will contaminate the Earth essentially forevul to be buried wherever the manufacturer thorses."

I protest the title and winters removed

CANE

the proposed regulation.

Marvin Lewis 7801 Roosevelt Blvd. #62 Philadelphia, PA 19152 1988

Acknowledged by card

Respectfully submitted



88 SEP 30 P3:06

U.S. NUCLEAR RECULATORY COMMISSION
DOCKETING & SERVICE SECTION
OFFICE OF THE SEGRETARY
OF THE COMMISSION

Document Statistics

Postmark Date	8-26-88
Copies Received	1
'Add' Copies Repre	
Special Distribution	KFDS,
PDR,	STEWART
Cons	Ser-ware

Acknowledged by CSTG......



DOCKETED

'88 AUG 30 P4:27

NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

OFFICE OF SECRETARY DOCKETING & SERVICE BRANCH

Reasserting NRC's Authority for Approving Onsite Low-Level Waste Disposal in Agreement States

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to amend its regulations to reassert NRC's jurisdiction for onsite low-level waste disposal for waste generated onsite at all reactors licensed by NRC in Agreement States.

For facilities licensed pursuant to Part 70 of this chapter for special nuclear material activities, the Commission believes it prudent to clarify and to establish in the regulations that the onsite disposal of non-critical waste quantities of special nuclear material remains an NRC licensing function in order to retain control over the decommissioning process. The proposed rule is necessary to: (1) provide a more centralized and consistent regulatory review of all onsite waste management activities and (2) avoid duplication of regulatory effort by the NRC and Agreement States. The uniform review procedures which will accrue from the proposed rule are intended to provide greater assurance that onsite radioactive material will not present a health hazard at a later date after the site is decommissioned.

DATES: Comment period expires October 21, 1988.

Comments received after this date will be considered if it is practical to do so, but assurance of consideration can be given only for comments received on or before this date.

ADDRESSES: Mail comments to: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John C. Stewart, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301)492-3618

SUPPLEMENTARY INFORMATION:

Background

The Commission believes that jurisdiction for onsite disposal in Agreement States of low-level waste generated onsite at NRC-licensed reactors should be vested in the Commission. For facilities licensed pursuant to Part 70 of this chapter for special nuclear material activities, the Commission believes it prudent to clarify and to establish in the regulations that the onsite disposal of non-critical waste quantities of onsite special nuclear material remains an NRC licensing function in order to retain control over the decommissioning

process. In non-Agreement States there is no jurisdictional issue; the NRC licenses and regulates the onsite handling, storage and disposal of low-level radioactive waste. However, in Agreement States, the NRC licenses and regulates only onsite handling and storage of low-level radioactive waste for reactor licensees. Onsite disposal of low-level radioactive waste is regulated by the state regulatory agencies in Agreement States. In Agreement States, the Atomic Energy Commission did not reserve jurisdiction under 10 CFR 150.15(a) for onsite low-level waste disposal at NRC licensed facilities. The Statement of Considerations accompanying that regulation when it was promulgated states that "the states will have control over land burial of low level wastes," and that the Commission decided against "control over land burial of waste" in Agreement States by relinquishing jurisdiction of onsite disposal of low-level waste to the states while retaining AEC jurisdiction of high-level waste disposal (27 FR 1351; February 14, 1962).

In 1981, in revoking 10 CFR 20.304 (which previously allowed for the disposal of certain small quantities of radionuclides without prior NRC approval), the Commission determined that case-by-case regulation of onsite low-level waste disposal was needed because these materials could potentially cause significant radiation exposures if mishandled, improperly buried, or disturbed after disposal (45 FR 71761; October 30, 1980). Under current law Agreement States have the authority to regulate the disposal of low-level waste products onsite. In order for the NRC to retain control over the entire decommissioning process, it is necessary to amend 10 CFR 150.15(a) to return jurisdiction over onsite disposal to the NRC.

Proposed Rule

The Commission is proposing to amend 10 CFR 150.15 to reassert NRC jurisdiction over onsite low-level waste disposal generated onsite in Agreement States at NRC-licensed reactors and 10 CFR Part 70 facilities. The two new paragraphs below would be added to 10 CFR 150.15(a):

- "(8) The disposal, within the protected and exclusion areas of a nuclear reactor licensed by the Commission, of radioactive wastes generated at the reactor site."
- "(9) The disposal, within restricted areas and contiguous property established for activities carried out under licenses issued pursuant to Part 70 of this Chapter, of special nuclear material waste generated at the licensee's facility."

The terms restricted areas, protected areas, and exclusion areas have the same meanings as defined in §§ 20.3(a)(14), 73.2(g), and 100.3(a), respectively.

Environmental Impact : Categorical Exclusion

Under the Commission's regulations in 10 CFR Part 51, this proposed rule is within the categorical exclusions in $\S 51.22(c)(1)$ and therefore neither an environmental assessment nor an environmental impact statement is required.

Paperwork Reduction Act Statement

This proposed rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, approval number 3150-0032.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from John C. Stewart, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492-3618.

The NRC requests comment on the draft regulatory analysis. Comments on the draft analysis may be submitted as indicated under the ADDRESSES heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C.

605(b), the Commission hereby certifies that this proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule clarifies jurisdiction for disposal of radioactive waste at nuclear reactors and Part 70 facilities operating under licenses issued pursuant to the Atomic Energy Act of 1954, as amended, and Title II of the Energy Reorganization Act of 1974. Generally, the operators of nuclear reactors and Part 70 facilities do not fall within the definition of a small business adopted by the NRC (50 FR 50241; December 9, 1985). Accordingly, there is no significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act of 1980.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule, and therefore, that a backfit analysis is not required for this proposed rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 150

Hazardous materials - transportation, Intergovernmental relations, Nuclear Materials, Penalty, Reporting and recordkeeping requirements, Security measures, Source material, Special nuclear material.

PART 150 - EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES AND IN OFFSHORE WATERS UNDER SECTION 274

The authority citation for Part 150 continues to read as follows:
 AUTHORITY: Sec. 161, 68 Stat. 948, as amended, sec. 274,
 Stat. 688 (42 U.S.C. 2201, 2021); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

Sections 150.3, 150.15, 150.15a, 150.31, 150.32 also issued under secs. 11e(2), 81, 68 Stat. 923, 935, as amended, secs. 83, 84, 92 Stat. 3033, 3039 (42 U.S.C. 2014e(2), 2111, 2113, 2114).

Section 150.14 also issued under sec. 53, 68 Stat. 930, as amended (42 U.S.C. 2073), Section 150.17a also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152), Section 150.30 also issued under sec. 234, 83 Stat. 444 (42 U.S.C. 2282).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 150.20(b)(2)-(4) and 150.21 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); § 150.14 is issued under sec 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 150.16-150.19 and 150.20(b)(1) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. Section 150.15 is amended by adding paragraphs (a) (8) and (9) to read as follows:

§ 150.15 Persons not exempt.

- (a) * * *
- (8) The disposal, within the protected and exclusion areas of a nuclear reactor licensed by the Commission, of radioactive wastes generated at the reactor site. The terms protected areas and exclusion areas have the same meanings as defined in §73.2(g) and §100.3(a), respectively.

(9) The disposal, within restricted areas and contiguous property established for activities carried out under licenses issued pursuant to Part 70 of this Chapter, of special nuclear material waste generated at the licensee's facility. The term restricted areas has the same meaning as defined in §20.3(a)(14).

Dated at Rockville, Maryland, this 16th day of August , 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk

Secretary of the Commission.