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DOCKET NUMBER PR 60 (14)  
PROPOSED RULE  
(51 FR 22288)

August 26, 1986

DOCKETED  
USNRC

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Mr. Samuel J. Chilk, Secretary  
U.S. Nuclear Regulatory Commission  
1717 H Street, N.W.  
Washington, DC. 20555

OFFICE OF GENERAL COUNSEL  
DOCKETING & SERVICE  
BRANCH

Attn: Docketing and Service Branch

Subject: Proposed Rule: Disposal of High Level  
Radioactive Wastes in Geologic Repositories;  
Conforming Amendments  
(51 Fed. Reg. 22288, June 19, 1986)

Dear Mr. Chilk:

This provides Commonwealth Edison Company's ("Edison") comments on the subject proposed rule. Edison, as the nation's largest nuclear utility, shares the nuclear industry's concern that a repository for high level radioactive waste and spent fuel be available as expeditiously as possible consistent with adequate protection of the public's health and safety and of the environment. One way to assure attainment of this goal is to establish a fair and efficient licensing process. Although the proposed procedural changes for the most part do not appear to present the potential for significant additional delays in licensing a repository, certain aspects of the proposed amendments do seem to complicate that process unnecessarily. For these proposed changes, Edison believes that the following suggested modifications to the proposal would lead to a more efficient yet fair licensing process. Other proposed changes are so vague that their impact on the licensing process cannot be estimated. For these proposed changes, additional information and another opportunity for comment should be provided in accordance with the Administrative Procedure Act.

1. 10 CFR 60.112 provides for certain system performance objectives which are to be satisfied "in the absence of unanticipated processes and events". The Nuclear Regulatory Commission ("NRC"), considers that phrase to be equivalent to the phrase "undisturbed performance" as used by the Environmental Protection Agency ("EPA") in its repository standards established by 40 CFR Part 191. The two phrases, of course, are not equivalent, and attempts to treat them as if they were could lead to significant disagreements and consequent delays in the licensing

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process. Although human intrusion and unlikely natural processes and events are disturbances which are also unanticipated processes and events, the possibility of disturbances which are anticipated shows that the concepts of undisturbed performance is not the same as the concept of unanticipated processes and events. Because such differences could inject unnecessary disputes into the licensing process, Edison suggests that the NRC either conform its usage to EPA's or explain more fully why the two terms can be considered equivalent.

2. The proposals for treating uncertainties need to be more specific. Edison recognizes that uncertainties in calculations may be so large as to limit the NRC's willingness to rely solely on calculations to demonstrate compliance with repository performance criteria. However, no indications were given as to what uncertainties will be considered to be substantial or what kind of qualitative judgement the NRC will find suitable to support the conclusions of calculations containing such uncertainties. In the absence of such indications, the proposed 10 CFR 60.112 is not clear enough for meaningful comment. Therefore, Edison believes that the staff technical positions on acceptable methods of analysis for evaluating compliance with Part 60 are a necessary prerequisite for commenting on the proposed rule.
3. The proposal to use rulemaking to resolve certain issues is vague. The criterion for using to rulemaking, "issues where a licensing proceeding might otherwise encounter difficulties due to ambiguity regarding acceptable assessment methods", needs to be illustrated by examples. Such examples might show that a more informal process might be even more appropriate than rulemaking. Without such examples, it is not clear whether this proposal will streamline or complicate the licensing process. Therefore, examples must be provided to permit meaningful comment on this proposal to use non-adjudicatory procedures to resolve certain issues arising under 10 CFR 60.112.

  
Sheldon Trubatch