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November 29, 1983

Honorable Nunzio Palladino
Chairman
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Chairman:

The Subcommittee on Energy and the Environment is continuing to oversee the development of interstate compacts for disposal of low-level nuclear waste and prospects for the orderly development of low-level waste disposal sites under those compacts. It would be of assistance to this work if you could provide for us information on the enclosed questions.

The questions relate to the following general issues:

- (1) Is the Federal/State system for licensing of low-level waste disposal sites in place so that sites can be licensed expeditiously, and adequate to provide public confidence that these sites can be operated safely?
- (2) What is the possible impact of increased use of storage rather than disposal technology on the long-term safety and cost of low-level waste disposal?
- (3) What is the impact of the economics of operating a low-level waste disposal site (i.e., of the volume of waste projected to be handled by the site) on the safety of low-level waste disposal?
- (4) Are there conflicts or overlaps in the jurisdictions of the Environmental Protection Agency and the Commission with respect to low-level waste disposal, which may confuse or obstruct licensing or operation of low-level waste facilities?

Honorable Nunzio Palladino
November 17, 1983
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In order that this information be available in a timely manner for our legislative schedule, please provide the answers to the enclosed questions no later than February 8, 1984.

Thank you for your assistance.

Sincerely,


MORRIS K. UDALL
Chairman

Enclosure

QUESTIONS REGARDING LOW-LEVEL WASTE DISPOSAL

1. Is 10 CFR 61 legally defensible in absence of a general environmental standard promulgated by the EPA? If EPA promulgates an environmental standard for low-level waste that is either less or more stringent than the NRC regulatory criteria, would the NRC criteria be threatened by challenges to its validity, as was the case with the NRC's uranium mill tailings regulatory criteria?
2. Does NRC support promulgation by EPA of a low-level waste environmental standard? Please explain in detail, if an EPA standard is supported, what the NRC believes the applicability of the standard should be, what issues it should address, and how the standard would impact NRC's regulatory system.
3. A number of states are investigating use of storage facilities for low-level waste. What is the Commission's policy regarding the advisability and safety of low-level waste storage? What is the optimum quantity and duration of low-level waste in storage? When will licensing and regulatory guidance be in place for low-level waste storage?
4. When will the regulations being developed for financial responsibility for low-level waste sites be completed? How will these regulations be applied to sites now operating or sites in the licensing process?
5. What is the front-end, operational, closure and decommissioning cost for a low-level waste burial ground? What volume of waste is required to finance a low-level waste disposal operation which can meet all licensing and safety requirements and long-term financial responsibilities?
6. What is the applicability of regulations, developed pursuant to the Resource Conservation and Recovery Act (RCRA) for disposal of toxic wastes, to wastes regulated by NRC under the Atomic Energy Act (AEA)? What radioactively contaminated wastes covered by RCRA regulation are not covered under the AEA? Please describe when a generator or waste disposal facility operator or other agent responsible for low-level radioactive waste would be subject to either RCRA or AEA, or both.
7. What authority do states have to regulate disposal of radioactively contaminated toxic waste under RCRA? To what extent, and in what manner, is this authority consistent with or in conflict with state authority to regulate radioactive waste disposal under the Atomic Energy Act?
8. Has the NRC entered into negotiations with the EPA regarding resolution of any conflicts or overlaps in regulatory

authority under RCRA and the AEA. What is the status of any such negotiations?

9. What are the differences in requirements between RCRA and AEA regulation of waste burial grounds which impact compliance by licensees or permittees? Can both sets of standards be complied with simultaneously? Should both sets of standards be complied with simultaneously? Please provide an analysis of specific compliance requirements, addressing at a minimum the following issues:

(A) RCRA regulation and AEA regulation require different systems for minimizing of leachate formation and groundwater contamination. Which should take precedence: EPA's requirement of synthetic liners with leachate collection and removal systems, or NRC's discouragement of leachate collection systems, emphasizing site characteristics and waste packaging?

(B) Should the treatment, storage and disposal facilities bear responsibility for waste analysis and characterization, as is the case under RCRA, or should the generator bear this responsibility, as is the case under the AEA?

(C) Discuss how imposition of RCRA regulations on radioactive waste should be adjusted to adapt to worker exposure and environmental exposure to radiation resulting from chemical analysis, inspection and sampling through opening of containers, and pumping, treatment and redispersion of potentially contaminated leachate.

(D) Will storage permit requirements under RCRA be imposed on generators of radioactively contaminated chemicals, including hospitals, medical research facilities, and universities, which are now exempt from storage requirements for such wastes?

(E) Under the pending RCRA reauthorization, many organic wastes would be prohibited from landfill disposal. Does suitable capacity exist for treatment and disposal of affected organic wastes which are radioactively contaminated?

(F) Will post-closure financial responsibility requirements be applied to radioactive wastes regulated under RCRA?

10. In general, does the NRC regulatory system of generator responsibility, reliance on packaging, 300-year stabilization, and using site characteristics as an isolation mechanism achieve EPA's goal under RCRA of elimination of contaminated

leachate migration beneath the disposal facility?

11. What obstacles exist to application of only one set of regulatory requirements by one Federal agency for disposal of radioactively contaminated chemical wastes?
12. Does NRC have legal authority to settle any conflicts between NRC and EPA under RCRA and the AEA regulation through a memorandum of understanding? What would be the applicability of such a memorandum to the licensing or permitting activities of states under RCRA or the AEA?
13. EPA has designated disposal sites now covered by the Uranium Mill Tailings Control Act for applicability under the Superfund program. What is the difference in requirements under these authorities? What conflicts are created by this designation? What is EPA's authority over these sites vis-a-vis the NRC or the Agreement State in which the site is located?