
The

Radioactive Exchange®

To promote the exchange of views and information on radioactive waste management

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Volume 6 No. 5

March 18, 1987

DECISION ON SUPREME COURT TN MRS SUIT PETITION DUE MARCH 30

On March 27 the Supreme Court is scheduled to go into conference on Tennessee's petition for "certiorari" to have the Court hear the state's suit challenging DOE's selection of Tennessee as the host state for the MRS facility and their request for an injunction to stop the submission of the MRS proposal to Congress. The Court is to issue the decision on the "writ of certiorari" the following Monday, March 30th. The outcome will undoubtedly have a significant impact on Congressional consideration and authorization of the MRS.

Five States Support Tennessee

In the past week five states -- North Carolina, Ohio, Kentucky, Mississippi and West Virginia -- filed "amicus" briefs with the Supreme Court supporting Tennessee's suit. The "amicus" filings argue the national significance of the Tennessee suit. This could be an important factor in the Court's consideration of the "certiorari" petition. (See **Petition in the HLW Focus**)

DOE ISSUES LLRW MILESTONE CRITERIA SITED STATES TO DO SAME SHORTLY

The March 5 **Federal Register** (Vol. 52, No. 43) includes the Department of Energy's proposed criteria to determine whether states and-or compacts will be in compliance with the 1988 LLRW disposal site development milestones included in the Low-Level Radioactive Waste Policy Amendments Act (LLRWPA).

DOE took the opportunity at the WM '87 Conference to reveal the proposal. The DOE criteria are to be used only to judge whether states and-or compacts will qualify for rebates of surcharges paid by their respective LLRW generators post the 1988 milestone deadline. The sited states retain the authority to set compliance criteria to determine site access and the imposition of penalty surcharges.

Reactions of Unsited States

Officials from Texas and California, states nearest to making site selections, remarked at WM '87 that they meet the DOE criteria. (See **Criteria** pg. 2)

(Criteria from pg. 1)

[Editor's Note: The 1988 milestone requires a compact region or state without LLRW burial facilities to have a plan in place to site such a facility.] There was some concern, however, expressed by others that the DOE criteria is "too detailed." One issue that will apparently cause considerable discussion in the coming months is DOE's criteria that a siting plan specify the agency within a state government that has been designated the authority to select and develop the burial facility.

Comments on the proposed criteria are due by April 20 (45 days after the Notice appeared in the **Register**).

Sited States Criteria Coming

As noted above, the DOE 1988 milestone criteria are to be used only to determine whether a state or region is to receive a surcharge rebate. The states of South Carolina, Nevada and Washington retain their authority to determine site access and the imposition of penalty surcharges.

It was made very clear in remarks at WM '87 that, though the three states are working together, and with DOE, to ensure that the 1988 milestone compliance criteria to be adopted by each are "comparable to the extent practicable," there will be differences among them.

South Carolina's Virgil Autry made it clear that each of the states will, to some degree, have differing milestone compliance criteria in order to satisfy their respective state statutes adopted to implement provisions of the LLRWPA. Although they all agreed that their proposals would be circulated prior to the milestone deadline, it was also pointed out that there was no intention to go through an open comment period on their criteria prior to making them final.

States to Rely on "Reasonableness"

From the comments and presentations made at WM '87 and the presentations of Virgil Autry of South Carolina, Jerry Griepentrog of Nevada and Terry Husseman and Elaine Carlin of Washington, it appears that the sited states criteria will be far less specific than the DOE proposal. Nevada's Jerry Griepentrog explained that "sincerity of effort" and "reasonableness, but not leniency" will be the primary bases of sited states determination of compliance. They all expressed the desire to receive the site development plans from the compacts and states by mid-summer of this year.

Highlights of DOE Criteria

DOE's detailed milestone compliance criteria are spelled out in the FR notice in a table format spread out over several pages and correlated with specific provisions of the LLRWPA. Included among the list of criteria are the following:

Regarding the option of selecting a site developer: DOE will require that the host state or region submit a signed copy of a contract; identify the **actual** site to be developed; indicate current ownership of the land.

Site Plan Adoption: Site plans submitted by non-sited states or compacts to meet the 1988 milestone must be **signed** by officials responsible for approving the plan.

Siting Plan Details: The siting plan submitted to meet the milestone criteria must include some 70+ elements, including: citations as to the authority given to state agencies to implement the siting plan; descriptions of facility design; site monitoring programs; emergency plans; financial structure and fee structure; and, a very detailed and milestone-specific site development and licensing schedule.

Information copies of the criteria can be obtained from Jeff Smiley's office (in case you missed the FR notice) (301) 353-4216.

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LLRW Volume Disposal Update

LLRW ACCEPTED FOR DISPOSAL AT BARNWELL, BEATTY AND HANFORD (REVISED) Through January 1987

(Volumes in Cubic Feet)

	<u>January</u>	<u>Year to Date</u>		<u>January</u>	<u>Year to Date</u>
Northeast					
Connecticut	2,174.90	2,174.90			
New Jersey	723.20	723.20			
	<u>2,898.10</u>	<u>2,898.10</u>			
Appalachian					
Pennsylvania	8,064.50	8,064.50			
West Virginia	0.00	0.00			
Maryland	0.00	0.00			
Delaware	0.00	0.00			
	<u>8,064.50</u>	<u>8,064.50</u>			
Southeast					
Georgia	913.00	913.00			
Florida	12,347.20	12,347.20			
Tennessee	8,144.40	8,144.40*			
Alabama	5,026.50	5,026.50			
N. Carolina	6,691.80	6,691.80*			
S. Carolina	6,858.60	6,858.60			
Mississippi	1,766.00	1,766.00			
Virginia	2,055.10	2,055.10			
	<u>43,802.60</u>	<u>43,802.60</u>			
Central States					
Arkansas	0.00	0.00			
Louisiana	1,552.00	1,552.00			
Nebraska	3,359.00	3,359.00			
Kansas	622.50	622.50			
Oklahoma	7,567.50	7,567.50			
	<u>13,101.00</u>	<u>13,101.00</u>			
Central Midwest					
Illinois	17,830.40	17,830.40			
Kentucky	0.00	0.00			
	<u>17,830.00</u>	<u>17,830.40</u>			
Midwest					
Wisconsin	176.00	176.00			
Indiana	0.00	0.00			
Iowa	1,351.00	1,351.00			
Ohio	998.00	998.00			
Michigan	919.50	919.50			
Minnesota	1,262.80	1,262.80			
Missouri	12,597.80	12,597.80*			
	<u>17,305.10</u>	<u>17,305.10</u>			
			Rocky Mountain		
			Colorado	0.00	0.00
			Nevada	0.00	0.00
			New Mexico	0.00	0.00
			Wyoming	0.00	0.00
				<u>0.00</u>	<u>0.00</u>
			Western III		
			South Dakota	0.00	0.00
			Arizona	0.00	0.00
				<u>0.00</u>	<u>0.00</u>
			Northwest		
			Idaho	0.00	0.00
			Washington	6,458.00	6,458.00
			Oregon	8,366.20	8,366.20
			Utah	0.00	0.00
			Alaska	0.00	0.00
			Hawaii	573.80	573.80
			Montana	0.00	0.00
				<u>15,389.00</u>	<u>15,398.00</u>
			Unaligned		
			Rhode Island	114.10	114.10
			Vermont	0.00	0.00
			New Hampshire	22.50	22.50*
			Maine	0.00	0.00
			New York	1,880.70	1,880.70
			Massachusetts	2,289.80	2,289.80*
			Texas	0.00	0.00
			North Dakota	0.00	0.00
			California	5,973.60	5,973.60
			Puerto Rico	0.00	0.00
			D.C.	0.00	0.00
				<u>10,280.70</u>	<u>10,280.70</u>
			TOTAL:	128,680.40	128,680.40
			(As reported 2/1/87)		
			DECEMBER:	230,797.65	1,812,243.05
			* Revised Figures		

