

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on March 7, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Sri Lanka and exported during the period which began on January 1, 1995 and extends through December 31, 1995.

Effective on September 18, 1995, you are directed to amend the directive dated March 7, 1995 to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit <sup>1</sup>
237 .....	304,360 dozen.
314 .....	4,120,099 square meters.
331/631 .....	2,663,924 dozen pairs.
333/633 .....	2,605 dozen.
334/634 .....	615,833 dozen.
335/835 .....	283,781 dozen.
336/636/836 .....	572,566 dozen.
338/339 .....	1,388,284 dozen.
340/640 .....	1,346,490 dozen.
341/641 .....	1,930,467 dozen of which not more than 1,253,654 dozen shall be in Category 341 and not more than 1,207,271 dozen shall be in Category 641.
342/642/842 .....	584,835 dozen.
345/845 .....	140,563 dozen.
347/348/847 .....	1,557,838 dozen.
350/650 .....	116,046 dozen.
351/651 .....	373,596 dozen.
352/652 .....	1,246,213 dozen.
359-C/659-C <sup>2</sup> .....	1,343,928 kilograms.
360 .....	1,512,587 numbers.
363 .....	4,194,626 numbers.
369-D <sup>3</sup> .....	624,518 kilograms.
369-S <sup>4</sup> .....	487,779 kilograms.
434 .....	7,860 dozen.
435 .....	15,933 dozen.
440 .....	11,735 dozen.
611 .....	5,310,564 square meters.
635 .....	383,861 dozen.
638/639/838 .....	847,546 dozen.
644 .....	256,876 numbers.
645/646 .....	87,331 dozen.
647/648 .....	991,211 dozen.
840 .....	157,671 dozen.

<sup>1</sup> The limits have not been adjusted to account for any imports exported after December 31, 1994.

<sup>2</sup>Category 359-C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659-C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.  
<sup>3</sup>Category 369-D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.  
<sup>4</sup>Category 369-S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,  
 D. Michael Hutchinson,  
*Acting Chairman, Committee for the Implementation of Textile Agreements.*  
 [FR Doc. 95-22831 Filed 9-13-95; 8:45 am]  
 BILLING CODE 3510-DR-F

**DEPARTMENT OF ENERGY**

**Use of the 10 CFR Part 960 Siting Guidelines in Evaluating the Suitability of the Yucca Mountain Site**

**AGENCY:** Office of Civilian Radioactive Waste Management, Yucca Mountain. Site Characterization Project.  
**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Energy (DOE), Office of Civilian Radioactive Waste Management (OCRWM), today gives notice of the rationale for its recent announcement that it will use the General Guidelines for the Recommendation of Sites for the Nuclear Waste Repositories (Guidelines) in 10 CFR Part 960, as they are currently written, in its evaluation of the suitability of the Yucca Mountain site in Nevada for development as a repository. As announced, the use of the Guidelines in this evaluation will be consistent with the Nuclear Waste Policy Act of 1982, as amended (NWP), including the programmatic changes and reconfiguration provided for in the 1987 amendments to the NWP, the presentation of this information is in response to a commitment made by the DOE to stakeholders at the public meetings held to discuss the DOE's proposed process for evaluating the suitability of the Yucca Mountain site. DOE has concluded that the existing Guidelines should not be amended at this time.

**FOR FURTHER INFORMATION CONTACT:** Dr. Jane R. Summerson, U.S. Department of

Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, P.O. Box 98608, Las Vegas, NV 89193-8608.

**I. Background**

*IA. Development of the Guidelines*

As originally enacted in 1982, section 112 of the NWP provided that a screening process would be used to identify multiple sites in different geologic media as suitable for extensive site characterization to determine their suitability as repository sites. Upon completion of site characterization, the characterized sites would be compared and a single site would be chosen for recommendation to the President for development as a repository.

On February 13, 1983, to implement section 112, the DOE published the proposed "General Guidelines for the Recommendation of Sites for the Nuclear Waste Repositories," for review and comment (48 FR 5670). The Guidelines were subsequently finalized following consideration of comments from the public and the consultation process with the Nuclear Regulatory Commission (NRC) required by the NWP. See 10 CFR Part 960. The final concurrence of the NRC was provided on July 10, 1984 (49 FR 28130). On December 6, 1984, the DOE promulgated the final version of the Guidelines (49 FR 47714).

In its preliminary decision on the Guidelines, the NRC conditioned its concurrence on DOE adopting a number of conditions closely linking the Guidelines to NRC regulatory requirements in 10 CFR Part 60 (49 FR 9650). In its final concurrence, the NRC noted that DOE had revised the Guidelines to meet its conditions. In response to comments requesting closer alignment of the guidelines to Environmental Protection Agency (EPA) and NRC requirements, DOE stated that,

In the event of a conflict between the Guidelines and either 10 CFR Part 60 (NRC regulations) or 40 CFR Part 191 [the EPA regulations], these NRC and EPA regulations will supersede the siting guidelines and constitute the operative requirement in any application of the guidelines. (49 FR 47721).

*IB. Previous Applications of the DOE Guidelines*

Consistent with section 112(b) of the NWP, the Guidelines were used by the DOE in the process of nominating five sites as suitable for characterization and the recommendation to the President of three of the nominated sites for characterization as candidate sites for the first repository. Each site nomination was accompanied by an Environmental Assessment (EA) that

included an evaluation of the suitability of that particular site under the Guidelines, based on the information available at that time. Each EA also contained a separate comparative evaluation of the subject site with the other nominated sites. On May 27, 1986, the President approved each of the sites recommended for characterization, including the Yucca Mountain site.

The 1987 amendments to the NWSA eliminated the requirement to consider multiple geologic repository sites and instead provided that site characterization studies would proceed at only the Yucca Mountain, Nevada site to determine whether it is suitable for development as a geologic repository.

In accordance with section 113(b) of the NWSA, the DOE prepared a Site Characterization Plan (SCP) (DOE/RW-0199, 1988), which, among other things, described how the DOE proposed to apply the Guidelines that fall within the scope of the planned site characterization program. Those provisions in the Guidelines that concern environmental quality, socioeconomic impacts, and transportation, and that generally require non-geologic data gathering, were not addressed in the SCP. In December 1988, the DOE submitted the SCP for the Yucca Mountain site to the NRC and to the State of Nevada for their review and comment. The siting provisions of the Guidelines set forth in 10 CFR Part 960 were identified in the SCP as the primary criteria required by section 113(b) of the NWSA to be used to determine the suitability of the Yucca Mountain site for development as a repository.

The DOE's position regarding the applicability of certain provisions in the Guidelines under the 1987 amendments to the NWSA was also presented in the SCP. The DOE stated that the provision in the Guidelines for comparative evaluations of performance was no longer applicable. The DOE also stated that the provision for comparative evaluation of costs relative to other siting options in 10 CFR 960.5-1(a)(3) was no longer applicable. In the SCP, the DOE identified the conditions in the Guidelines for which specific findings would be made in evaluating whether or not the Yucca Mountain site is suitable for development as a repository.

As discussed in the SCP, the implementation provisions in Subpart B of the Guidelines provide that the qualifying conditions of the pre- and postclosure system guidelines, and the qualifying and disqualifying conditions of the pre- and postclosure technical guidelines, be evaluated and that specific findings be made for each

condition at principal decision points specified in Appendix III to 10 CFR Part 960. Before a DOE decision is made that the site is suitable and can be recommended for development as a repository, the evidence has to support findings by the DOE that none of the disqualifying conditions are present, that all qualifying conditions are met, and that these conclusions are not likely to change.

## II. Consultation on the Application of the Guidelines

Although the SCP for the Yucca Mountain site describes how the DOE would apply the Guidelines during site characterization in evaluating the suitability of the site in light of the 1987 amendments to the NWSA, a number of entities continued to indicate that they remained unclear as to the DOE's future application of the Guidelines. Because of this continuing indication of confusion with regard to the application of the Guidelines and because Section 112(a) of the NWSA and the Guidelines themselves contemplate that the DOE may revise the Guidelines from time to time, the DOE instituted an ongoing dialogue with external parties on the Guidelines.

In October 1993, the DOE briefed the Affected Units of Government, comprised of representatives of the affected counties and the State of Nevada, on its plans for activities related to site suitability evaluation. These plans included activities intended to implement the DOE's commitment to conduct interim evaluations of the suitability of the Yucca Mountain site during the course of site characterization. Prior to beginning such evaluations, the DOE elected to conduct another review of its Guidelines and solicited public input regarding options for the use of the Guidelines in these evaluations. Five options were identified for discussion:

- Continue to use the existing Guidelines without revision.
- Issue a **Federal Register** notice providing the DOE's proposed implementation of the Guidelines consistent with current legislative direction to characterize a single site.
- Amend the existing Guidelines.
- Develop new site-specific Guidelines.
- Adopt the NRC's siting criteria from 10 CFR Part 60, Subpart E.

These discussions regarding the Guidelines continued in a number of meetings with affected Units of Government held in December 1993, and in February and March 1994. A number of comments related to options for the use of the Guidelines were

received by the DOE, either in these meetings or in written comments on the DOE's proposed plans for site suitability activities. The State of Nevada and other Affected Units of Government noted that because the development of the Guidelines received broad public exposure through publication in the **Federal Register**, the DOE's current review of the Guidelines also should receive broad public exposure. In response to these comments, on April 25, 1994, the DOE published a Notice of Inquiry (59 FR 19680) eliciting views of the public on, among other things, the appropriate role of the Guidelines in the evaluation of site suitability. The DOE then conducted a public workshop on May 21, 1994, in Las Vegas, Nevada, to discuss the Guidelines and other issues related to the process for the evaluation of site suitability. The DOE also provided the opportunity for the public to submit written comments. The comment period ended on June 24, 1994.

No clearly preferred option was identified through the public comment process. Indeed, each option had its detractors and supporters. This lack of consensus is generally consistent with the results of previous public interactions.

Following the public meeting and the close of the public comment period, and after consideration of the comments received, the DOE published a second Notice on August 4, 1994 (59 FR 39766) announcing, among other things, that it would continue to use the Guidelines in 10 CFR Part 960 as currently written, subject to the programmatic reconfiguration directed by the 1987 amendments to the NWSA.

At public meetings held with stakeholders on August 27, 1994, in Las Vegas, and on August 30, 1994, in Washington, D.C., questions were raised about the rationale for the announcement regarding the use of the Guidelines in 10 CFR Part 960. At these meetings, the DOE committed to providing background information related to this decision to the program stakeholders.

## III. Issues Raised During Consultation and DOE's Response

The issues raised during recent consultation on the use and role of the siting provision in 10 CFR Part 960 in the evaluation of site suitability fall into the following general categories:

- The Role of Stakeholders, the Public and DOE in Evaluating the Use of the Guidelines.
- Consistency with the Current Legislative Framework.

- Consistency with NRC Criteria in 10 CFR Part 60.
- Development of Site-Specific Criteria.

The following provides a discussion of the issues raised and background information regarding the rationale for the DOE's announcement (59 FR 39766) regarding the continued application of the Guidelines, as currently written, to the evaluation of the suitability of the Yucca Mountain site in Nevada.

### *IIIA. Comments Regarding the Role of Stakeholders, the Public and DOE in Evaluating the Use of the Guidelines*

Nye County, in their correspondence dated May 17, 1994, stated that "OCRWM must determine for itself whether or not it can most efficiently continue to conduct the program under the present Guidelines" and, further, the decision to issue a **Federal Register** Notice on the use of 10 CFR Part 960 "\* \* \* must be DOE's decision in the first instance." The County stated:

While we certainly agree that it is appropriate and useful to seek input from the stakeholders while DOE reevaluates its siting Guidelines, we believe that it is not incumbent upon oversight organizations to recommend, in the first instance, how to change or interpret the law or Guidelines in order to facilitate DOE's ability to carry out its own program. If, for example, it is determined that formalized interpretations of portions of the Guidelines are needed, then OCRWM should suggest and circulate such interpretations. Oversight organizations, such as Nye County can then comment or make positive suggestions for change.

Nye County added that it "strongly believes that justification has yet to be made for making wholesale substantive Guideline revisions."

Nevada's Agency for Nuclear Projects Nevada (Nevada Agency), in their correspondence dated June 22, 1994, stated that "since the Guidelines provide the standard for DOE's final determination of the suitability of the Yucca Mountain site for development of a repository, and are the basis for any preliminary suitability findings, DOE should commit itself, in the Guidelines, to a process for both public involvement and peer review to enhance confidence in its suitability evaluations." Specifically, the Nevada Agency maintained that the Guidelines should be revised to incorporate requirements for a "specific process of public involvement in the DOE's use of the Guidelines for making a Yucca Mountain site suitability determination, whether preliminary or final."

The Nevada Agency stressed that "if DOE proposes revision of the Guidelines, to remain consistent with

Section 112(a), it should formally consult with the agencies named, including the Governor of Nevada, before issuance of revised Guidelines, and this consultation should be carried out separately from the Administrative Procedure Act (APA) process to which it has committed." The Nevada Agency continued that section 112(a) of the NWPA provides that the Secretary may revise the Guidelines "consistent with the provisions of this subsection." The Nevada Agency maintained that this subsection requires, in addition to concurrence of the NRC, that DOE consult with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors prior to issuance of Guidelines." The Nevada Agency added that "it would be useful for DOE to issue an advance notice of proposed rulemaking, prior to issuing a proposed rule, in which it develops and analyzes options for revisions to the Guidelines and then requests comment on these options, as well as suggestions of other options to be considered in revision of the Guidelines."

DOE shares the view of the Nevada Agency that should the Department, at some future date, opt to amend its Guidelines, it should issue an advance notice of proposed rulemaking before it begins the formalized rulemaking process as specified in the Administrative Procedure Act. Extensive consultation with Federal, state, and local entities, as well as with other interested parties should occur, and DOE would obtain NRC concurrence for any guideline revision.

### *IIIB. Consistency With the Current Legislative Framework*

The Nuclear Energy Institute's (NEI) June 24, 1994 response to the DOE Notice of Inquiry, recommended that DOE establish appropriate Guidelines by rulemaking to provide "clear, unambiguous regulations pertinent only to site suitability and ensure that DOE's regulations are conformed to the NWPA, as amended, the Energy Policy Act, and are consistent with the agency's [DOE] intended actions." They argued that if DOE fails to conform 10 CFR Part 960 with the current statutory framework, "the program will likely be subject to unnecessary litigation, additional costs, and further delays that would be more costly to the program than any delay that may be associated with such a rulemaking." The NEI added that "however, in revising Part 960, DOE should not eliminate those Guidelines appropriate for evaluating, on a

comparative basis, multiple sites. Such Guidelines may be useful in the future should, for example, the Yucca Mountain site prove unsatisfactory."

A number of comments received during the August, 1994 public meetings questioned the continued application of all or parts of the Guidelines given the provisions of the 1987 amendments to the NWPA and the Energy Policy Act of 1992. Some comments were based on the assumption that the Guidelines are intended to be used only in comparing sites and, therefore, are no longer a meaningful basis for the evaluation of a single site. Other comments, while acknowledging the applicability of certain provisions of the Guidelines to the evaluation of a single site, questioned the continued existence of those provisions that call for comparative evaluations and recommended that the Guidelines should be revised to make clear which provisions applied to the evaluation of Yucca Mountain.

The DOE believes that use of 10 CFR Part 960 in these were comparative and so not relevant to single site without comparison the SCP demonstrates that the Guidelines can be applied in evaluating the suitability of a single site. The DOE has decided that for now no amendments are needed to establish the role of the Guidelines in the determination of suitability for the Yucca Mountain site.

DOE notes that under section 801 of the Energy Policy Act of 1992, the EPA is required to promulgate new standards for a repository at the Yucca Mountain site. Because the Guidelines refer explicitly to 40 CFR Part 191, the DOE has proceeded to conduct its site characterization program in accordance with 40 CFR Part 191. The DOE will re-evaluate its plans and consider the need for any changes in the Guidelines once the new EPA standard has been promulgated.

### *IIIC. Consistency With NRC Criteria in 10 CFR Part 60*

The NEI, in their letter dated October 3, 1994, maintained that rulemaking would afford the opportunity to conform DOE's 10 CFR Part 960 with the NRC's 10 CFR Part 60. They argued that such an action:

would eliminate duplication of, and reduce the possibility for, confusion over appropriate requirements set forth in each regulation. For example, rather than the enumeration and evaluation of "Potentially Adverse Conditions" in Subpart C. of the Guidelines, it may be advisable to simply reference 10 CFR 60.122(c) and the Potentially Adverse Conditions listed and

considered there. This will both avoid unnecessary duplication and reduce the possibility for confusion over appropriate requirements.

NEI added that, regardless of whether or not DOE conforms its regulations to NRC's regulations, they suggest that the NRC

be involved as an extension of the concurrent process defined in Section 112(a) of the Nuclear Waste Policy Act (NWPA), and that the process for applying applicable Guidelines in evaluating site suitability for Yucca Mountain could then be memorialized in a Memorandum of Understanding between the two agencies. Involvement of the regulator will assure that there are no additional misunderstandings between DOE and the NRC as to the nature and application of the site suitability evaluation process.

Nye County (letter dated May 17, 1994) argued against adopting as DOE's siting Guidelines, in substance if not in language, the siting criteria of Subpart E of 10 CFR Part 60. The County stated that:

this option masks the real fundamental distinction between site suitability and licensability. The DOE siting guidelines must constitute real true measure of site suitability, as contrasted with examples of licensing emphasis on design conditions, operation of the engineered barrier system, and operating procedures. The Guidelines must reflect the geologic capability of the site itself to isolate waste, without the imposition by the licensing agency of any external requirements. Finally, Nye County believes that adopting NRC's Subpart E of 10 CFR Part 60 would mask the fundamental distinctions between site suitability and licensability.

Opposing views were expressed in the August, 1994 public meetings regarding the need to incorporate the applicable provisions of the NRC technical criteria (10 CFR Part 60, Subpart E) into the Guidelines. In one view, the Guidelines should be revised to incorporate the applicable provisions of 10 CFR Part 60 to the maximum extent possible, to avoid duplication and to reduce the possibility for confusion over appropriate requirements. The other view is that the Guidelines should not be amended to adopt the NRC criteria from 10 CFR Part 60 because this would mask the distinction between site suitability and licensing, with the suitability decision focusing on the geologic capability of the site to isolate waste.

The DOE believes that it is not necessary to abandon its Guidelines and adopt the NRC siting criteria found in 10 CFR Part 60, Subpart E. The DOE Guidelines are expressly derived from and tied to the NRC siting criteria (49 FR 47714) and, as noted in 10 CFR 960.1, are intended to complement the NRC and EPA regulations. The NRC

concurred in the Guidelines as required by section 112(a) of the NWPA, after an extensive review, with opportunity for public comment (49 FR 28130). One of the NRC's criteria for concurrence was that the siting provisions of the Guidelines must not be inconsistent with 10 CFR Part 60. Based on the direction provided in section 112(a) regarding the purpose and content of the Guidelines, and the NRC's concurrence on these Guidelines, the DOE does not believe that it is necessary to amend 10 CFR Part 960.

#### *IIID. Development of Site-Specific Criteria*

Nye County (letter dated May 17, 1994) expressed opposition to developing site-specific Guidelines "as such Guidelines will destroy even a facade of scientific integrity for the Yucca Mountain project." In addressing amendment of the Guidelines, the County stated that they:

recognize that much knowledge has been gained about disposing of radioactive waste since the Guidelines were first written 10 years ago . . . ; the Guidelines themselves contemplate periodic revisions, as is evidenced by the provisions of 10 CFR 960.1. Nye County does not believe that Guidelines should not under any circumstances be amended. At the same time, Nye County believes strongly that no justification has been made for any wholesale substantive revisions of the Guidelines.

[adopting site-specific Guidelines] would clearly constitute what many in Nevada have always feared the most, that is, writing the rules to fit the site rather than characterizing the site to determine whether or not it meets the Guidelines. Furthermore, it is a virtual certainty that the nation will eventually need a second repository. Any DOE Guidelines, therefore, must be applicable to other sites, in other locations, in other geologic media.

Eureka County, in its correspondence dated March 14, 1994, expressed similar views. The County commented that "revision of the Guidelines in a manner that is perceived by the public to be changing the rules to fit the site would be detrimental to the image of the department, and could adversely affect the department's attempts to build trust and confidence." Eureka County continued that "to write site specific Guidelines for Yucca Mountain would further detract from, if not totally destroy, the public's confidence in the scientific objectivity of the Yucca Mountain characterization program. In addition, new Guidelines would have to be developed when a second repository search begins."

Site-specific Guidelines were opposed by many at the August, 1994 public meetings. Comments parallel those made by Nye and Eureka County that (1)

such a change could be viewed as changing the rules to fit the site and, (2) general Guidelines may still be needed for siting other repositories should the Yucca Mountain site be found to be unsuitable or should a second repository be needed.

The DOE agrees with these observations. Under section 161(b) of the NWPA, the DOE has an obligation to report to the President and Congress on the need for a second repository. Under section 113(c) of the NWPA, if the Yucca Mountain site is determined to be unsuitable, the DOE is obligated to report to Congress on recommended actions to assure safe, permanent disposal of spent nuclear fuel and high-level waste. If a second repository is required or the Yucca Mountain site is found to be unsuitable, it will be necessary to have general Guidelines in place to support the required DOE actions.

#### **IV. DOE Position and Basis for DOE Position**

DOE will use the Guidelines as they are currently written in its evaluation of the suitability of the Yucca Mountain site in Nevada for development as a repository. The DOE believes it is not necessary to abandon the Guidelines and adopt the NRC siting criteria in 10 CFR Part 60. DOE further believes it is not necessary to amend the Guidelines to remove those provisions that deal with the comparison of multiple sites.

The DOE believes that amending the Guidelines, either to remove those portions that are primarily used for comparative purposes or to develop Guidelines specifically tailored to the evaluation of the suitability of the Yucca Mountain site, is not required at this time. Because DOE need apply only the relevant provisions, the DOE further believes that it is useful to have in place general Guidelines for the comparison of multiple sites in the event the Yucca Mountain site is determined to be unsuitable for development as a repository, or in the event that a site must be selected for a second repository. Although the Guidelines may have to be amended at some future date to be consistent with any future changes to EPA or NRC requirements, for now, no amendments are needed in order to provide clarification as to the appropriate role of the existing Guidelines in the evaluation of a single site.

The DOE has concluded that it is not necessary to abandon its Guidelines and adopt NRC siting criteria found in 10 CFR Part 60, Subpart E. This is because, as noted in Section II.A above, the DOE Guidelines are expressly derived from

and tied to the NRC siting criteria set forth in 10 CFR Part 60. In addition, should any differences between the 10 CFR Part 960 and 10 CFR Part 60 be identified, 10 CFR Part 60 would prevail in the licensing process.

The Implementation Guidelines of 10 CFR Part 960, Subpart B, establish procedures for applying the postclosure and preclosure provisions of the Guidelines in Subparts C and D for the evaluation of multiple sites in different geohydrologic settings in different kinds of host rock. Although prior to 1987, the DOE used these provisions of the Guidelines to assess individual sites as part of the site screening process, the 1987 amendments to the NWPA eliminated the need to consider alternative sites. Therefore, much of Subpart B is no longer applicable to the characterization of a single site. In addition, the various stages of site selection, except for site recommendation for repository development, were completed before passage of the 1987 amendments to the NWPA and the provisions of the Guidelines relating to these stages are no longer applicable to the evaluation of one site. Also, references to comparative site evaluations and associated performance levels are no longer applicable because, the 1987 amendments to the NWPA eliminated the need for any such comparative studies. These provisions will not be applied by DOE in evaluating the suitability of Yucca Mountain as a repository.

The portion of Subpart B of 10 CFR Part 960 that remains applicable to the evaluation of a single site and the relevant postclosure and preclosure guideline provisions in Subparts C and D, respectively, provide the basis for evaluating the suitability of the Yucca Mountain site. In addition, for the purpose of recommending Yucca Mountain for development as a repository, Subpart B provides that the DOE will supply evidence that the repository is likely to comply with applicable EPA and NRC requirements.

As discussed in Section II.B., the DOE provided clarification in the SCP regarding the Guideline conditions for which specific findings would be made in evaluating whether or not the Yucca Mountain site is suitable for development as a repository. Before a DOE decision is made that the site is suitable and can be recommended for development as a repository, the evidence must support findings by the DOE that none of the disqualifying conditions are likely to be present, that all qualifying conditions are likely to be

met, and that conclusions regarding such findings are unlikely to change.

DOE recognizes that the licensing process provides additional motivations for conducting activities that go beyond site suitability concerns. Even if there is high confidence that additional information will not change conclusions about site suitability, the DOE may determine that it is prudent to continue activities to address residual uncertainties, to build confidence in models, to confirm performance estimates, or to provide additional assurance to review boards or other parties in the siting and licensing process.

While no provision is made in the Guidelines for specific findings on either the favorable conditions or potentially adverse conditions, if these conditions exist under an evaluated technical or system qualifying condition, DOE will explicitly consider them when making findings on that technical or system qualifying condition, along with other important factors. The DOE notes, however, that as part of its separate and parallel effort to address NRC regulatory issues under 10 CFR Part 60, the DOE will ensure that site characterization studies are conducted to provide the information needed to specifically address the NRC potentially adverse and favorable conditions found in 10 CFR Part 60, Subpart E.

In summary, because Congress directed that only the Yucca Mountain site should be characterized to determine whether it is suitable for development as a geologic repository, none of the comparative portions of the Guidelines are currently applicable. The DOE will make specific findings regarding the applicable qualifying and disqualifying conditions identified in the postclosure and preclosure provisions in 10 CFR Part 960 Subparts C and D respectively, in making its decision whether to recommend the Yucca Mountain site for development as a repository. If favorable or potentially adverse conditions are found to exist under an evaluated technical or system qualifying condition, DOE will explicitly consider them when making findings on that qualifying condition, along with other important factors.

Issued in Washington, DC, on September 5, 1995.

**Daniel A. Dreyfus,**

*Director.*

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BILLING CODE 6450-01-P

## Federal Energy Regulatory Commission

[Docket No. ER95-1654-000, et al.]

### Northern States Power Company (MN) et al.; Electric Rate and Corporate Regulation Filings

September 6, 1995.

Take notice that the following filings have been made with the Commission:

#### 1. Northern States Power Company (Minnesota Company)

[Docket No. ER95-1654-000]

Take notice that on August 30, 1995, Northern States Power Company (Minnesota)(NSP), tendered for filing a Construction Agreement between NSP and Cooperative Power Association (CPA). This agreement provides for NSP to complete construction of the JohnnyCoke Substation for CPA.

NSP requests that the Commission accept the agreement effective September 1, 1995, and requests waiver of the Commission's notice requirements in order for the revisions to be accepted for filing on the date requested.

*Comment date:* September 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 2. Entergy Power, Inc.

[Docket No. ER95-1655-000]

Take notice that on August 30, 1995, Entergy Power, Inc. (EPI), tendered for filing an Interchange Agreement with Ruston Utilities System.

EPI requests an effective date for the Interchange Agreement that is one (1) day after the date of filing, and respectfully requests waiver of the notice requirements specified in Section 35.11 of the Commission's Regulations.

*Comment date:* September 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

#### 3. Southwestern Electric Power Company

[Docket No. ER95-1656-000]

Take notice that on August 30, 1995, Southwestern Electric Power Company (SWEPCO), submitted a service agreement establishing LG&E Power Marketing, Inc. as a customer under SWEPCO's umbrella Coordination Sales Tariff CST-1 (CST-1 Tariff).

SWEPCO requests an effective date of August 10, 1995 for the service agreement. Accordingly, SWEPCO seeks waiver of the Commission's notice requirements. Copies of this filing were served upon LG&E Power Marketing, Inc. and the Public Utility Commission of Texas.