



## **Comments on DOE Proposal to Amend Siting Guidelines**

February 28, 2000

Dr. William J. Boyle or Dr. Jane Summerson  
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**Fax:** 1-800-967-0739

### **RE: Proposed Rule 10 CFR 963**

Dear Drs. Boyle and Summerson:

Please accept these comments on the Department of Energy's proposed rule 10 CFR 963. Public Citizen respectfully requests that you withdraw this proposed rule. Public Citizen is a non-profit research, lobbying, and litigation organization founded by Ralph Nader in 1971. Public Citizen advocates for consumer protection and for government and corporate accountability, and is supported by over 150,000 members throughout the United States.

We believe that any attempt to site a permanent repository must follow strict scientific integrity and provide for public credibility. The current proposal to amend the siting guidelines has no scientific basis and therefore raises questions as to the purpose for the proposed changes. Further, it violates the Nuclear Waste Policy Act (NWPA). This is both inappropriate and illegal, and if the Department of Energy promulgates this flawed rule, the action will only serve to further erode the already minimal public confidence in the Department of Energy's willingness and ability to make an objective and scientifically based decision regarding the suitability of Yucca Mountain for a permanent nuclear waste repository site.

The proposed rule's argument that section 113 of the NWPA does not require that the Site Characterization Plan be based on the guidelines developed in accordance with section 112 of the NWPA is not convincing. Section 113(b) states that the Site Characterization Plan include "criteria to be used to determine the suitability of such candidate site for the location of a repository, developed pursuant to section 112(a)." Section 112(a) mandates that guidelines be developed for siting a repository must include "detailed geologic considerations that shall be primary criteria for the selection of sites" and "specify factors that qualify or disqualify any site from development as a repository, including factors

pertaining to the location of valuable natural resources, hydrology, geophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, that National Wilderness Preservation System, or National Forest Lands."

The criteria referred to in section 113(b) should clearly be based on the guidelines, which are to include not only geologic considerations, but also specific factors that would qualify or disqualify the site from consideration as a repository for nuclear waste. To state otherwise indicates an intentional misreading of the NWPA. The DOE's argument also raises a suspicion that the DOE is attempting to change the guidelines because it has become clear that Yucca Mountain does not meet the criteria listed in 10CFR960. The DOE's attempt to remove specific disqualifiers is a blatant attempt to save a failed program and force a bad decision regarding Yucca Mountain's suitability.

In sum, Public Citizen is thoroughly opposed to the Department's proposal to eliminate individual disqualifiers from the Yucca Mountain Siting Guidelines. We believe that this is both a flagrant violation of the Nuclear Waste Policy Act and an obvious attempt to conceal the shortcomings of the Yucca Mountain site.

Please contact me if you have any questions or require further information about these comments.

Sincerely,

Amy Shollenberger  
Senior Policy Analyst