

## NRC ISSUES FINAL RULES ON EMERGENCY ACCESS TO LLRW SITES

**T**he Nuclear Regulatory Commission (NRC) has issued final regulations in 10 CFR Part 62 that establish criteria and procedures for evaluating requests for emergency access to operating non-federal low-level radioactive waste (LLRW) disposal facilities.

The LLRW Policy Amendments Act of 1985 (LLRWPA-85) requires that individual states and regional compacts take actions to develop their own LLRW disposal facilities and reach certain milestones within specified time periods (see *Newsline* Feb. 1989, p. 133). Generators of LLRW within states or compacts that have not selected a state to house the disposal facility and developed siting plans and schedules by the end of 1988 could be denied access to disposal sites as of January 1, 1989. However, section six of the LLRWPA-85 authorizes the NRC to grant LLRW generators or states emergency access to any of the operating non-federal LLRW disposal facilities, for a period of not longer than 180 days for each request. No requests have been made thusfar, according to the NRC.

During Congressional deliberations of the LLRWPA, The Society of Nuclear Medicine and the American College of Nuclear Physicians testified in support of the emergency access provisions eventually enacted in 1985. The Society and the College urged that any denial of access leading to an interruption of nuclear medicine procedures, radiopharmaceutical production, or other medical procedures that employ radioactive materials could impact poorly on the public health.

Effective March 6, 1989, under 10 CFR 62, requests for emergency

access will be granted if they are "...necessary to eliminate an immediate and serious threat to the public health and safety or the common defense and security..." and "...the threat cannot be mitigated by any alternative consistent with the public health and safety, including storage of LLRW at the site of generation or in a storage facility, obtaining access to a disposal facility by voluntary agreement, purchasing disposal capacity available for assignment, or ceasing the activities that generate the low-level waste."

The Congress and the NRC both view the curtailment or cessation of essential medical services as a serious threat. Under the new rule, the NRC will consider how denial of access will affect the delivery of medical services "in making its determination that there is a serious and immediate threat... The Commission is also concerned as to whether the implementation of other alternatives may have a disruptive effect on essential medical services" and "...specifically requests information on these impacts as part of a request for emergency access..."

To gain emergency access, LLRW generators must submit information detailing the need for access, the quantity and type of material requiring disposal, the potential effects on health and safety or defense and security if emergency access is denied, the alternatives considered, and the process by which those alternatives were assessed.

Under the new regulations, the NRC will consider the following when evaluating a request for emergency access: the nature and extent of the radiation hazard that will result from the denial of access; the extent to which essential services, such as

therapeutic, diagnostic, or research activities, will be disrupted by denial of access; or whether the activity generating the wastes is necessary to the protection of the common defense and security (giving consideration to the views of the Departments of Defense and Energy); and whether the lack of access to a disposal site will result in a significant disruption in that activity that will seriously threaten the common defense and security.

### Strict Requirements

According to Sue Gagner, public affairs officer for the NRC, the new regulations provide that grants of emergency access requests "would be applied in very limited situations," in keeping with the Congressional intent put forth in the LLRWPA-85. The *Federal Register* notice of the new regulations states, "By establishing strict requirements for approving requests for emergency access, NRC intends to reinforce the idea that problems with LLW disposal are to be worked out to the extent practical among the States, and that emergency access to existing LLW facilities will not automatically be available as an alternative to developing that capacity."

The new rule also sets out criteria for determining whether to grant "temporary" emergency access. LLRWPA-85 allows the NRC to authorize such temporary access for up to 45 days, without considering available alternatives, if it concludes that the threat to the public health and safety or the common defense and security warrants such action. Ms. Gagner noted that the Commission will reserve grants of temporary emergency for "the most serious threats to the health and safety" of the nation's citizens. ■