

April 25, 2000

MEMORANDUM TO: William D. Travers
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - SECY-00-0021 - PROPOSED RULE:
INTERIM STORAGE FOR GREATER THAN CLASS C WASTE

The Commission has approved publication of the proposed rule to amend 10 CFR Parts 72 and 150 to allow licensing for interim storage of reactor-related greater than class C (GTCC) waste in a manner that is consistent with licensing the interim storage of spent fuel and would maintain Federal jurisdiction over the interim storage of reactor-related GTCC waste. The Federal Register notice, other attachments to the SECY paper, and the letter to DOE should be modified as noted in the comments provided below.

(EDO)

(SECY Suspense: 6/12/00)

1. On pages 3 and 4, move the footnote numbers for footnotes 1 and 2 after the period.
2. On page 10, first paragraph, modify the second sentence to read, "Therefore, information from DOE on disposal policies will be helpful in developing commingling storage criteria for 10 CFR Part 72 (and enable the NRC to preclude a storage option that would be unacceptable for permanent disposal)."
3. On page 11, 1st full paragraph, revise line 3 to read ' ... assist in development of a final rule on the storage'
4. The Federal Register notice seeks comment (at pp 11-12) for a variety of issues (commingled waste, liquid waste) that are not encompassed by the proposed rule (p 15). The text should be modified to indicate that, guided by the comments, these matters may be addressed in the final rule.
5. On page 13, paragraph 1, revise line 6 to read ' ... any other sources of GTCC waste nor does it include other forms of LLW generated under a Part 50 license.'
6. The staff should expand the statements of consideration to include discussion of Agreement State comments and concerns on the draft rulemaking plan, in particular with respect to the relinquishment of authority for GTCC waste. Since three of the four Agreement States that provided comments indicated that they were opposed to voluntarily relinquishing their authority and preferred to maintain their licensing authority for GTCC waste, the FRN should be revised to specifically address the comments and concerns raised by the Agreement States that would prefer to maintain their licensing authority for GTCC waste.

7. The staff should expand the “Compatibility of Agreement State Regulations” section of the FRN to state that NRC is not aware of current Agreement State licensees that possess reactor-related GTCC waste. This section should specifically request whether the Agreement States are aware of such licensees in their States.
8. On page 16, the paragraph at the top of the page should be revised to clarify when the reviewer guidance will be available. A sentence could be added at the end of line 2 which states that ‘It is anticipated that the guidance will be published ____.’
9. The discussion of fees in the proposed Part 72 Federal Register Notice should be modified as suggested below. As it is now written, it is unclear whether there will be additional Part 171 fees as a result of this rulemaking.
 - a. Eliminate all references to revising Part 171 to include annual fees for GTCC waste.
 - b. On page 16 of Attachment 1 to SECY-00-0021, revise the second paragraph to read:

The NRC will continue to recover costs for generic activities related to the storage of GTCC waste under Part 72 through Part 171 annual fees assessed to the spent fuel storage/reactor decommissioning class of licensees. Subsequent to issuing the final revision to Part 72, Part 170 will be amended to clarify that full costs fees will be assessed for amendments and inspections related to the storage of GTCC waste under Part 72.
10. Several times in the attachments (including the letter to DOE), the staff makes a definitive statement that “the proposed rule is not structured to permit commingling of spent fuel and GTCC waste in the same storage cask” (attachment 1, page 15, first full sentence and the same thought is communicated in attachments 2 through 4). But in other paragraphs, physically separated from this discussion, the staff states that it intends to continue allowing components of spent fuel rods to be commingled in the same storage cask with the spent fuel (refer to attachment 1, page 10, first paragraph and the same thought is in attachments 3 and 4). Although not stated in the paragraph, these components of the fuel rod may be GTCC. The statement that commingling will not be permitted needs to be modified to indicate an exception for GTCC components integral to the fuel rod itself or other appropriate wording proposed by the staff.
11. The staff should modify the FRN to include a discussion of alternatives for 10 CFR Part 50 licensees that want to terminate their license but possess reactor-related non-solid GTCC waste. The alternatives include requesting a Part 30/70 license or requesting an exemption from the requirements of Part 72.
12. On page 44, revise line 1 to read ‘ ... reactor GTCC waste must be in a durable solid form with’
13. Both the Environmental Assessment (attachment 3) and the Regulatory Analysis (attachment 4) contain a discussion of three alternatives. For alternative 2, there are two sentences located together which may create an incorrect impression (refer to attachment 3, page 8, second paragraph and attachment 4, page 8, second paragraph). The first sentence states that alternative 2 meets the request of the petitioner and the

second sentence says that alternative 2 would allow dual regulation of a facility licensed under Part 72. The request of the petitioner was to include the definition of GTCC waste under Part 72 and did not discuss the possibility of dual regulation. A potential fix would modify the two sentences to read as follows: "Allowing interim storage of GTCC waste under a 10 CFR Part 72 specific license would meet the request of the petitioner. However, without additional changes in the regulations (not requested by the petitioner), one result of this alternative is the potential dual regulation of the licensed facility by both the NRC and an Agreement State."

14. In the letter to DOE, page 1, last paragraph, revise line 1 to read ' ... the NRC seeks DOE's views on commingling of spent'
15. Revise the DOE letter to be signed-out by the NMSS Office Director and make the necessary adjustments in the letter to accommodate the signature change.

cc: Chairman Meserve
Commissioner Dicus
Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
OGC
CIO
CFO
OCA
OIG
OPA
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR
DCS