

FEB 16 1983

TO ALL POWER AND NON-POWER REACTOR LICENSEES, APPLICANTS FOR AN OPERATING LICENSE AND HOLDERS OF CONSTRUCTION PERMITS

Gentlemen:

SUBJECT: THE NUCLEAR WASTE POLICY ACT OF 1982 (Generic Letter No. 83-07)

On January 7, 1983, the Nuclear Waste Policy Act was enacted. The purpose of this letter is to ensure that you are aware of a provision of the Act (Section 302(b)) (copy enclosed) that requires licensed owners or generators of spent nuclear fuel or high-level waste to have a contract with the Secretary of Energy, by June 30, 1983, for the disposal of such waste.

This mandate applies to all facilities licensed under Sections 103 and 104 of the Atomic Energy Act of 1954. If a facility is to be licensed or have its license renewed before June 30, 1983, licensing is contingent on the existence of either a contract with the Secretary or a written affirmation by the Secretary that the owner/generator is actively and in good faith negotiating with the Secretary. For facilities to be licensed or have a license renewed after June 30, 1983, licensing is contingent on the existence of a contract.

On February 4, 1983, the Department of Energy (DOE) issued a draft contract in the Federal Register (48 FR 5458). If you have any questions regarding the contracts, please contact Mr. Robert M. Roselli of DOE (301-353-4808).

Sincerely,

Darrell G. Eisenhut, Director  
Division of Licensing  
Office of Nuclear Reactor Regulation

Enclosure: *see packet*  
As stated

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INFO-  
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\*SEE PREVIOUS CONCURRENCES

\*\*CONCURRENCE BY TELEPHONE

OFFICE	*DL	*OELD	*DL	**NMSS	RR		
SURNAME	MWilliams	W0Imstead	DEisenhut	RBrowning	HDenton		
DATE	1/28/83	1/28/83	2/4/83	2/14/83	2/10/83		

**TO ALL POWER AND NON-POWER REACTOR LICENSEES WITH HOLDERS OF CONSTRUCTION PERMITS**

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Division of Licensing  
Office of Nuclear Reactor Regulation

Enclosure:  
As stated

*MMS/Beavins  
concur with the generic  
letter via Tele. on 2/4  
/83.*

\* SEE PREVIOUS CONCURRENCES

OFFICE ▶	*DL	*OELD	*DL	NRR			
SURNAME ▶	MWilliams	Wolmstead	DEisenhut	HDenton			
DATE ▶	1/28/83	1/28/83	2/4/83	2/1/83			

FEB 2 1983

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Sincerely,

Darrell G. Eisenhut, Director  
Division of Licensing  
Office of Nuclear Reactor Regulation

Enclosure:  
As Stated  
cc: HRDenton

\*SEE Previous Concurrence

*ANS*

OFFICE	DL *	OELD *	<i>DL</i>	NRR			
SURNAME	MWilliams;mj	W0lmstead	DGEisenhut	Denton			
DATE	1/28/83	1/28/83	2/ <i>✓</i> /83	2/ /83			

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 Division of Licensing  
 Office of Nuclear Reactor Regulation

*Concurrence subject to official review of policy approach to implementation of 302(b)*

OFFICE	DL	DL	WJ GELD				
SURNAME	WJ GELD	DGEisenhut	WJmstead				
DATE	1/20/83	1/ /83	1/26/83				

be accepting high-level radioactive waste or spent nuclear fuel for disposal;

(10) an estimate, on an annual basis, of the costs required (A) to construct and operate the repositories anticipated to be needed under paragraph (9) based on each of the assumptions referred to in such paragraph; (B) to construct and operate a test and evaluation facility, or any other facilities, other than repositories described in subparagraph (A), determined to be necessary; and (C) to carry out any other activities under this Act; and

(11) an identification of the possible adverse economic and other impacts to the State or Indian tribe involved that may arise from the development of a test and evaluation facility or repository at a site.

(b) **SUBMISSION OF MISSION PLAN.**—(1) Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a draft mission plan to the States, the affected Indian tribes, the Commission, and other Government agencies as the Secretary deems appropriate for their comments.

(2) In preparing any comments on the mission plan, such agencies shall specify with precision any objections that they may have. Upon submission of the mission plan to such agencies, the Secretary shall publish a notice in the Federal Register of the submission of the mission plan and of its availability for public inspection, and, upon receipt of any comments of such agencies respecting the mission plan, the Secretary shall publish a notice in the Federal Register of the receipt of comments and of the availability of the comments for public inspection. If the Secretary does not revise the mission plan to meet objections specified in such comments, the Secretary shall publish in the Federal Register a detailed statement for not so revising the mission plan.

(3) The Secretary, after reviewing any other comments made by such agencies and revising the mission plan to the extent that the Secretary may consider to be appropriate, shall submit the mission plan to the appropriate committees of the Congress not later than 17 months after the date of the enactment of this Act. The mission plan shall be used by the Secretary at the end of the first period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) following receipt of the mission plan by the Congress.

#### NUCLEAR WASTE FUND

**SEC. 302. (a) CONTRACTS.**—(1) In the performance of his functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the acceptance of title, subsequent transportation, and disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of fees pursuant to paragraphs (2) and (3) sufficient to offset expenditures described in subsection (d).

(2) For electricity generated by a civilian nuclear power reactor and sold on or after the date 90 days after the date of enactment of this Act, the fee under paragraph (1) shall be equal to 1.0 mil per kilowatt-hour.

(3) For spent nuclear fuel, or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to the application of the fee under paragraph (2) to such reactor, the Secretary shall, not later than 90 days after the date of enactment of this Act, establish a 1 time fee per kilogram of heavy metal in spent nuclear fuel, or in solidified high-level radioactive waste. Such fee shall be in an amount equivalent to an average charge of 1.0 mil per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom, to be collected from any person delivering such spent nuclear fuel or high-level waste, pursuant to section 123, to the Federal Government. Such fee shall be paid to the Treasury of the United States and shall be deposited in the separate fund established by subsection (c) 126(b). In paying such a fee, the person delivering spent fuel, or solidified high-level radioactive wastes derived therefrom, to the Federal Government shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of such spent fuel, or the solidified high-level radioactive waste derived therefrom.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures for the collection and payment of the fees established by paragraph (2) and paragraph (3). The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (d) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in subsection (d), the Secretary shall propose an adjustment to the fee to insure full cost recovery. The Secretary shall immediately transmit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period either House of Congress adopts a resolution disapproving the Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 551 of the Energy Policy and Conservation Act.

(5) Contracts entered into under this section shall provide that—

(A) following commencement of operation of a repository, the Secretary shall take title to the high-level radioactive waste or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent fuel; and

(B) in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in this subtitle.

(6) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such disposal services shall be made available.

(b) **ADVANCE CONTRACTING REQUIREMENT.**—(1)(A) The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

(i) such person has entered into a contract with the Secretary under this section; or

(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

(B) The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of high-level radioactive waste and spent nuclear fuel that may result from the use of such license.

(2) Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in any repository constructed under this Act unless the generator or owner of such spent fuel or waste has entered into a contract with the Secretary under this section by not later than—

(A) June 30, 1983; or

(B) the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste; whichever occurs later.

(3) The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

(4) No high-level radioactive waste or spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be disposed of by the Secretary in any repository constructed under this Act unless such department transfers to the Secretary, for deposit in the Nuclear Waste Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such waste or spent fuel were generated by any other person.

(c) **ESTABLISHMENT OF NUCLEAR WASTE FUND.**—There hereby is established in the Treasury of the United States a separate fund, to be known as the Nuclear Waste Fund. The Waste Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Waste Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Waste Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the disposal of civilian high-level radioactive waste or civilian spent nuclear fuel, which shall automatically be transferred to the Waste Fund on such date.

(d) **USE OF WASTE FUND.**—The Secretary may make expenditures from the Waste Fund, subject to subsection (e), only for purposes of radioactive waste disposal activities under titles I and II, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository, monitored, retrievable storage facility or test and evaluation facility constructed under this Act;