



September 27, 1989

POLICY ISSUE

SECY-89-037B

For:

The Commission (Information)

From:

James M. Taylor
Acting Executive Director
for Operations

Subject:

QUARTERLY PROGRESS REPORT ON THE PRE-LICENSING PHASE OF
THE U.S. DEPARTMENT OF ENERGY'S (DOE'S) CIVILIAN
HIGH-LEVEL RADIOACTIVE WASTE MANAGEMENT PROGRAM

Purpose:

To provide the Commission with a Quarterly Progress Report
(May 1989 through July 1989) on the pre-licensing phase of
DOE's Civilian High-Level Radioactive Waste Management
Program.

Background:

In the previous Quarterly Progress Reports on the
pre-licensing phase of DOE's Civilian High-Level Radioactive
Waste Management Program, the U.S. Nuclear Regulatory
Commission (NRC) staff discussed seven items that cover key
aspects of the NRC/DOE pre-licensing consultation program.
As was discussed in the last Quarterly Progress Report
(SECY-89-037A), to improve the usefulness of this and future
Quarterly Progress Reports, there will be a reduction in the
reporting of status which represents continuing acceptable
progress, and more focus on issues which deserve Commission
attention. Besides the new focus of the report, the item
"Development of an Information Retrieval System" has been
removed, because the Licensing Support System (LSS)
Administrator will be reporting this area to the Commission.

Executive
Summary:

The most significant activities during this period
pertained to DOE Implementation of Scheduled and Systematic
Consultations; Quality Assurance (QA); Early Establishment
of Repository Design Parameters; and Early Resolution of
State and Tribal Concerns.

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The major activities related to those items follow:

DOE Implementation of Scheduled and Systematic Consultations

The staff's Site Characterization Analysis (SCA) of DOE's Site Characterization Plan (SCP), as required by 10 CFR Section 60.18, was issued on July 31, 1989.

To improve systematic consultations, NRC and DOE agreed, during a July 26, 1989 meeting, to hold a total of 16 interactions between August and December 1989.

Early Implementation of a QA Program

Although DOE's QA program for site characterization activities is progressing, DOE failed to meet certain scheduled milestones for submittal of Quality Assurance Program Plans (QAPPs) and audits to qualify the QA program. Because of these missed milestones, on July 11, 1989, DOE provided revised milestone schedules for qualification of its QA program.

Early Establishment of Repository Design Parameters

The SCA found inconsistencies with the execution of performance allocation in DOE's SCP. On July 26, 1989, the NRC and DOE staff agreed to hold technical interactions to address these concerns.

Early Resolution of State and Tribal Concerns

On July 6, 1989, Acting Governor Robert Miller of Nevada signed legislation that makes it illegal to store nuclear waste anywhere in the State of Nevada. It is not clear how this will affect State cooperation on issuing permits for site characterization.

While preparing this report, the staff received an August 4, 1989 letter from the State of Nevada. It objected to the staff's approach for accepting DOE's QA program and to the staff's consultation with DOE which it believed inconsistent with the separation of roles of NRC and DOE specified in the Nuclear Waste Policy Act (NWPA). The staff is presently preparing a response to the State's letter.

Other Activities

Other NRC activities to implement its role under the NWPA, as amended, are summarized in the Enclosure, "NRC's Role under the Nuclear Waste Policy Act."

Discussion:

1. DOE Implementation of Scheduled and Systematic Consultations:

During this period, the NRC staff completed its review of DOE's SCP and Design Acceptability Analysis (DAA) and developed its SCA of DOE's SCP, as required by 10 CFR Section 60.18. NRC and DOE held a public meeting on May 9 and 10, 1989, attended by representatives of the State of Nevada and local governments, at which NRC presented its preliminary concerns about DOE's SCP and DAA. During the meeting, DOE clarified some information in the SCP which NRC had questioned.

The staff briefed the Commission on the SCA on July 11, 1989 and, upon approval of the Commission, issued the SCA on July 31, 1989. There will be a public comment period on the SCA. The staff will review any comments received to determine appropriate action.

As noted in previous Quarterly Progress Reports, it has been very difficult to set up systematic consultations with DOE on the repository program. The lack of such consultations has hampered establishment of good lines of horizontal communication between NRC and DOE technical programs and staff. On July 26, 1989, NRC and DOE met to discuss the technical interactions needed over the next several months, and a specific schedule for those interactions. During the meeting, DOE and the staff agreed to three types of interactions: technical exchanges, meetings, and site visits.

Twelve technical exchanges, three meetings, and one site visit were scheduled between August and December 1989. In general, the topics to be covered include tectonics; core-drilling methods; hydrologic transport; substantially complete containment; anticipated and unanticipated processes and events; the design control process for the exploratory shaft facility; performance assessment; and data management. Mostly, the interactions centered around the staff's comments on the SCA and upcoming NRC rulemaking activities. Overall, the staff believes that the July 26, 1989 meeting was very beneficial in establishing systematic consultations. Two interactions were held during this

reporting period, a geology field trip and a hydrology field trip. These resulted in effective interactions at the technical staff level. The staff and DOE plan to meet in October 1989 to assess the progress on and benefit from the scheduled interactions, and to discuss and schedule interactions beyond December 1989. Progress on these interactions will be addressed in future Quarterly Progress Reports.

In its review of the SCP, the NRC staff identified tectonics as a significant concern, with respect to the ability of the proposed geologic repository at Yucca Mountain to isolate nuclear waste. Tectonics, including the topics of volcanism, faulting, and seismicity, will be the subject of upcoming interactions, including a faulting field trip, in the August-October timeframe. The first interaction is planned for August 30, 1989, at One White Flint North.

2. Early Implementation of a QA Program:

DOE is progressing in developing and implementing its QA program for site characterization activities. However, it continues to miss some milestones to qualify the QA program, that were established in January 1989. This indicates the difficulty that DOE is having in the startup of some of its QA programs. Although the staff is concerned that these delays are occurring, it is appropriate that DOE delay these qualification audits until it believes the QA programs are ready to audit. Specific cases in which milestones were missed are:

- DOE's QAPP for the Yucca Mountain Project Office was originally scheduled for submission in February 1989. DOE has revised the submittal date repeatedly, and now expects to submit the QAPP in August 1989.
- The observation audits of Sandia National Laboratory (SNL), U.S. Geological Survey (USGS), Reynolds Electric and Engineering Company (REECo), and Los Alamos National Laboratory (LANL) were originally scheduled for this reporting period, but have not yet been conducted. Because DOE could not meet the milestones and schedules it established in January 1989, DOE and NRC staff agreed to a revised schedule on July 11, 1989. The first milestone, an audit of SNL scheduled for July 24, 1989, has been postponed to September 1989. The USGS, REECo and LANL audits have been rescheduled for the August-September timeframe. Furthermore, DOE revisions to the QAPPs for Fenix & Scisson, Holmes & Narver, and REECo, scheduled for July 28, 1989, have not taken place.

At a July 6, 1989 meeting with DOE and the State of Nevada, the staff refined its approach for accepting DOE's and its contractors' QA programs by agreeing to accept each contractor's QA program at various stages of satisfactory implementation. As discussed at the meeting, the specific actions required for DOE and NRC acceptance of a QA program include: (1) having the necessary QAPPs and procedures in place; (2) having staff trained and qualified; and (3) demonstrating the ability to implement the QA program. In particular, the process would involve DOE approving the QAPP plan and submitting it to NRC for review. If the staff found no major deficiency with the QAPP, DOE would audit the program for implementation. The NRC staff would observe the audit. If DOE found no significant deficiencies in the QA program, it would notify NRC that it had accepted the program. Once NRC received the DOE letter, it would issue its own acceptance letter if the QAPP and audit were acceptable to it. After the acceptance of the program, DOE would provide a schedule of future audits and surveillances, so that the staff could selectively observe the early stages of program implementation.

As a result of the position taken at the July 6, 1989 QA meeting, the State of Nevada voiced concerns with this approach. Although the State agreed to auditing an organization's QA program after the QAPP was found acceptable, the State disagrees with NRC acceptance of the program based on an audit that covers only those portions of the QA programs that are in place. The State of Nevada is concerned that NRC acceptance is being done in increments. The NRC staff will ensure that the audit is of sufficient scope to make a determination on the acceptability of DOE's implementation of the programs to date and its ability to continue acceptable implementation. In addition, the staff will ensure that DOE continues its oversight at an appropriate level after an initial determination of acceptability is made.

If DOE maintains the currently estimated schedule, all the participants' QA programs could be accepted by DOE and the NRC staff by January 1, 1990.

3. Early Establishment of Repository Design Parameters:

The NRC staff's review of the Consultation Draft Site Characterization Plan (CDSCP) identified several concerns with DOE's implementation of performance allocation. This is the process of assigning performance goals, which apply to identified performance measures, to repository subsystems

and components. Performance allocation provides the rationale for the establishment of particular site characterization activities that will lead to obtaining the necessary information for the license application. As documented in the NRC staff's SCA, the staff continues to have significant concerns with the implementation of performance allocation in DOE's SCP. This review found inconsistencies with the execution of performance allocation. For example, the performance measures for total system performance are not consistent with the stated definition of "scenario classes" and may not be adequate for deciding whether the Environmental Protection Agency (EPA) standard will be met. Also, performance allocation for the waste package lifetime requirement contains performance measures related to controlled release during the containment period. These performance measures are not appropriate, because they should be based on substantially complete containment during the period, rather than on controlled release. The staff's performance allocation concerns and DOE's action to resolve them will be discussed in the performance assessment interactions agreed to at the July 26, 1989 interactions meeting.

4. Early Resolution of State and Tribal Concerns:

During this reporting period, the Office of Governmental and Public Affairs (GPA) developed a mailing list for distribution of Advisory Committee on Nuclear Waste (ACNW) high-level waste (HLW) meeting notices, transcripts, and letter reports. ACNW documents are transmitted to the State of Nevada, Nye, Clark and Lincoln counties, the Western Shoshone Indians, and the National Congress of American Indians, to keep them informed of ACNW activities and recommendations.

On July 6, 1989, Acting Governor Robert Miller of Nevada signed legislation making it illegal to store nuclear waste anywhere in the State of Nevada. It is not clear how this will affect State cooperation on matters such as issuing permits for site characterization.

On July 14, 1989, the staff found the QA Manual for the State of Nevada Agency for Nuclear Projects/Nuclear Waste Project Office acceptable and consistent with NRC regulations. Because the staff does not plan to audit any implementation of the Nevada QA program, no further work in this area is anticipated.

While preparing this report the staff received an August 4, 1989 letter from the State of Nevada. It objected to the staff's approach for accepting DOE's QA program, and to the staff's consultation with DOE, which it considers inconsistent with the separation of roles of the NRC and DOE specified in the NWPA. The staff is presently preparing a response to the State's letter.

5. Adoption of the Policy of Conservatism:

The NRC staff review of the CDSCP indicated that DOE needed to take steps toward adopting conservatism in its program. During its review of the SCP, the NRC staff focused on whether DOE was sufficiently conservative in its approaches to treating uncertainty in its investigations and analyses. Many of NRC's concerns about the SCP have as their underlying theme a need for more conservatism. The individual point papers in SCA Section 4 present the concerns and give specific recommendations on more conservative approaches. These concerns will be addressed at the technical exchanges agreed to on July 26, 1989. The NRC staff will track DOE's progress toward resolution of these concerns through these meetings and in DOE's semiannual SCP progress reports.

6. Early Resolution of Issues:

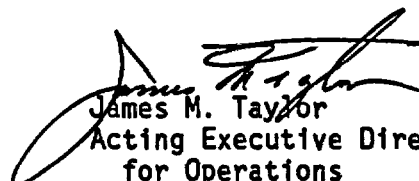
On May 31, 1989, the Center for Nuclear Waste Regulatory Analyses (CNWRA) completed a final report entitled "Analysis and Evaluation of Regulatory Uncertainties in 10 CFR Part 60, Subparts B and E". This report identifies regulatory and institutional uncertainties perceived by CNWRA as a result of its preliminary analysis of Subparts B and E of 10 CFR Part 60. CNWRA also prioritized these uncertainties and correlated them to potential rulemakings and Technical Positions identified in SECY-88-285, "Regulatory Strategy and Schedules for the High-Level Waste Repository Program". The staff's preliminary reviews of CNWRA's evaluations and recommendations will be presented in a separate Commission paper describing the uncertainties the NRC staff is addressing.

The staff continues to make progress on its rulemakings and Technical Positions. On April 27, 1989, the Executive Director for Operations (EDO) approved initiating a rulemaking to clarify the meaning of "anticipated and unanticipated processes and events" for repository design

and licensing. Since that time, the Division of High-Level Waste Management (DHLWM) and Office of Nuclear Regulatory Research (RES) staff have made good progress developing the proposed rule, on an expedited schedule. It is currently anticipated that it will be published in the Federal Register in December 1989.

The DHLWM and RES have also undertaken rulemaking efforts to reduce existing 10 CFR Part 60 regulatory uncertainties with respect to a Design Basis Accident (DBA) Dose Limit. DOE has identified this as an area where additional requirements are needed to clarify the existing regulations. In particular, this regulatory uncertainty arises because 10 CFR Part 60 does not contain a specific DBA dose limit.

Another of the potential rulemakings identified in SECY-88-285 was in regard to the implementation of EPA's revised standards for the management and disposal of high-level and transuranic wastes. To assist in preparing this rulemaking, the staff will be developing its own in-house performance assessment capability and methodology for evaluating compliance with the EPA standard. This methodology is intended to give the staff confidence that the EPA standards can be implemented and help in developing guidance to DOE on methods to demonstrate compliance with the EPA standards. In transmitting the SCA, the staff advised DOE that total system performance assessments need to be conducted periodically, starting at an early date. In a parallel effort, EPA is planning to reissue its HLW standards which were vacated by the U. S. Court of Appeals in 1987. The staff will be taking this opportunity to reevaluate the feasibility and appropriateness of the current EPA probabilistic approach for making the licensing decisions for HLW repository siting. If the staff's evaluation should not provide convincing evidence that the standards can be implemented, this information would provide the basis for soliciting alternative standards from EPA.


James M. Taylor
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for Operations

Enclosure:
NRC's Role under the Nuclear
Waste Policy Act

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|---------------|-------|
| DISTRIBUTION: | |
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NRC'S ROLE UNDER THE NUCLEAR WASTE POLICY ACT

I. Repository Development Program

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
|--|----------------------------|-----------------------------|---|
| 1. Section 112(a)-NRC must concur in Siting Guidelines promulgated by DOE. | 7/6/83 | Completed 12/84 | <p><u>Action Taken:</u> After review and comment on draft DOE Guidelines in early 1983, NRC received final Siting Guidelines on 11/23/83. NRC held oral presentations on 1/11/84, and public comments were received through 2/1/84. On 2/29, the Commission gave tentative endorsement to the Guidelines and stated that they would concur on the Guidelines provided seven conditions were met. Following six meetings between DOE and NRC staff to resolve these conditions, final Siting Guidelines were received by NRC on 5/15/84. The Commission voted to concur on the Guidelines on 6/22/84. DOE published the final Guidelines on 12/6/84. On 12/24/84, the staff forwarded a paper to the Commission (SECY-84-482) recommending that the Commission does not have to concur in the supplementary information to the final Guidelines. The Commission approved this recommendation. Nine petitions challenging the DOE Siting Guidelines have been consolidated into one suit in the 9th Circuit. In September '87, Court upheld DOE's authority to prohibit use of NWPA funds to assist states in litigation activities. The Nuclear Waste Policy Amendments Act of 1987 requires DOE to phase out site-specific activities for the first repository at all candidate sites other than the Yucca Mountain site, and directs DOE to proceed with site characterization at that site. <u>Current Status:</u> Litigation is still pending with respect to the Yucca Mt. site. If the litigation results in the Siting Guidelines being vacated, DOE would have to repromulgate the Guidelines and NRC would have to reconcur. On 3/21/89, the 9th Circuit Court of Appeals declared its intention to moot most of the Siting Guidelines cases, but requested additional information from DOE before taking final action.</p> |

Previous Version 89/04/24
Current Version 89/08/11

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
|--|----------------------------|-----------------------------|--|
| 2. Section 121(b)-NRC must promulgate technical requirements and criteria. | 1/1/84 | Promulgated 6/21/83 | NRC must issue regulations which specify the technical requirements and criteria for the repository. Action Taken: The regulations, which were under development by the staff for several years, were published in the Federal Register on 6/21/83 (48 FR 28194). The regulations are found in 10 CFR Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories Technical Criteria." An Advance Notice of Proposed Rulemaking (ANPR) for the definition of high-level waste (HLW) was published in the Federal Register on 2/27/87 (52 FR No.39, pp.5992-6001). Current Status: The revision to Part 60 for the definition of HLW has been terminated. An amendment to Part 61 requiring disposal of Greater-than-Class C wastes in the HLW repository, unless the Commission approves an alternative means of disposal, and obviating the need to alter existing classifications of radwastes as high-level or low-level, was published for comment in the Federal Register (53 FR 17709, May 18, 1988). The comment period expired July 18, 1988. The Final Rule was published in the Federal Register on May 25, 1989. |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 3. Section 121(a)-EPA shall promulgate generally applicable standards for protection of the general environment from offsite releases from radioactive material in repositories. | 1/7/84 | Promulgated 9/19/85 | <p>Section 121(b) regulations and criteria must be revised by the Commission, if necessary, to comply with standards being prepared by EPA.</p> <p><u>Action Taken:</u> NRC's comments on the proposed standards were transmitted to EPA on 5/10/83. EPA final high-level waste standards were signed on 8/15/85, published in the Federal Register on 9/19/85 (50 FR 38066), and became effective 11/18/85. NRC staff reviewed its high-level waste criteria (10 CFR Part 60) for conformance with EPA standards; and provided a proposed rule (SECY-86-92) to the EDO and the Commission on 3/21/86, which the Commission approved on 5/15/86 without modification. The proposed revisions were published in the Federal Register on 6/19/86 (51 FR 22288) and comments were due by 8/18/86. In July, 1987 a Federal Appeals Court invalidated EPA's standards. <u>Current Status:</u> Further action by NRC has been postponed until EPA revises its standards or is able to have parts of them reinstated. EPA staff anticipates publication in the <u>Federal Register</u> of revised proposed standards in late 1989.</p> |
| 4. Section 114(e)(1)-DOE Project Decision Schedule (PDS). Any agency that can not meet a PDS deadline must notify Congress and DOE why it can not comply. | None Specified | Completed. Revision expected Winter '89. | <p>NRC must coordinate with DOE on the development of the PDS. <u>Action Taken:</u> DOE submitted a preliminary draft PDS for NRC comment on 1/15/85. NRC comments were transmitted to DOE on 3/4/85 (JDavis to BRusche). DOE issued the draft PDS on 7/18/85. NRC comments were approved by the Commission (with modifications) on 9/19/85, and the final comments were transmitted to DOE on 10/24/85. The final PDS was issued on 4/3/86 (51 FR 11466) and copies were available on 4/10/86. Staff reviewed the PDS for DOE response to previous NRC comments, and also for any NRC milestones that are subject to Sec.114(e)(2). NRC and DOE staff worked together to resolve specific PDS concerns. On 4/3/87, B. Rusche sent letter to H. Thompson informing him that DOE had initiated a revision to the PDS. <u>Current Status:</u> As a result of the NWPAA of 1987, DOE is preparing a new draft PDS tentatively scheduled to be released in Winter 1989, that will be consistent with the final Mission Plan Amendment.</p> |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 5. Sections 216(a) and 301(b)- Draft Mission Plan published by DOE. | 4/7/84 | Published 5/84. NWPAA draft amendment received 6/30/88. NRC comments submitted to DOE 9/16/88 | NRC must coordinate with DOE on the development of the Mission Plan, and specify, with precision, any objections to the Plan. <u>Action Taken:</u> NRC received a preliminary draft on 12/23/83 and sent comments directly to DOE on 2/8/84. The draft Mission Plan required by the Act was released by DOE on 5/8/84 and forwarded to NRC for review and comment by 7/9/84. DOE briefed the Commission on the draft Mission Plan on 6/27/84. Staff comments were signed by the Chairman and forwarded to DOE on 7/31/84. DOE released a new draft Mission Plan Amendment on June 29, 1988 to inform Congress of DOE's plans for implementing the provisions of the NWPA for the civilian radioactive waste management program. NRC submitted comments to DOE on 9/16/88. DOE is currently reevaluating its schedule. |
| 6. Section 301(b)-Submission of DOE Mission Plan to Congress. | 6/7/84 | Original submitted to Congress 7/9/85. No date set for submitting Amendment. | Following Congressional approval of the Mission Plan, NRC will, wherever necessary, conform its waste management program planning guidance to Plan. <u>Action Taken:</u> DOE submitted a final version of the original Mission Plan to Congress on 7/9/85. NRC testified before the Senate Committee on Energy and Natural Resources concerning the Mission Plan on 9/12/85; before the House Subcommittee on Energy and the Environment on 9/13/85; before the Senate Subcommittee on Nuclear Regulation on 10/30/85; and before the House Subcommittee on Energy Research and Production on 11/6/85. DOE issued a draft amendment to the Mission Plan for public comment on 1/28/87 with a 60-day comment period. Staff prepared a response from Chairman Zech to Ben Rusche, DOE, with attached comments. Letter was issued on 4/7/87. DOE submitted Mission Plan Amendment to Congress on June 9, 1987. On 12/22/87, the NWPA was enacted. <u>Current Status:</u> A draft Mission Plan Amendment conforming to the NWPA was released for comment on 6/29/88 (see 5 above). DOE is currently reevaluating its schedule. No date has been set for submission of a Final 1989 Mission Plan Amendment to Congress. |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 7. Section 117(a)-Provision of information to States/Tribes. NRC must provide timely and complete information regarding siting, development, or design for licensing, construction, operation, regulation, or decommissioning. | In a timely manner. | Ongoing | As provided. <u>Current Status:</u> NRC staff and State of Nevada representatives attended DOE's plenary meeting on the Consultation Draft Site Characterization Plan (CDSCP) for Yucca Mt. on 1/28-29/88 in Reno, NV. NRC staff, State of Nevada, and DOE staff attended meetings: 1) to discuss DOE's QA plan on 3/18/88; 2) to discuss NRC's comments on the CDSCP on 3/21-24/88; 3) to discuss alternative conceptual models of the Yucca Mt. site on 4/11-13/88; 4) to discuss the DOE QA program on 7/7-8/88; 5) to discuss the exploratory shaft facility (ESF) on 7/18-19/88; 6) to discuss the DOE OCRMM QA Requirements Document on 7/28/88; 7) to discuss open items on DOE's ESF on 10/19-21/88; 8) to discuss ESF Design Control 11/3/88, 11/23/88, and 12/8/88; 9) to discuss DOE's QA Program Description 11/18/88; 10) to discuss the content of DOE's Study Plans 12/15-16/88; 11) to discuss QA 1/25/89, 2/23/89, and 3/22/89, 5/9/89 and 7/11/89; 12) to discuss ongoing work by the NRC's Center for Nuclear Waste Regulatory Analyses (CNWRA) and the State of Nevada's ongoing work 4/25/89; 13) to discuss the SCP/DAA preliminary concerns on 5/9-10/89; and 14) to discuss the design control process and DOE's QA program on 7/6-7/89. In December 1988, the NRC staff met with Nye, Clark and Lincoln County officials in Las Vegas and Caliente, NV, to hear the views and concerns of the Nevada affected units of local government and to explain NRC's regulatory role in the HLW licensing process. The staff also met with Nye County Commissioners in April 1989 and with Lincoln County officials in March 1989. The Commission held a meeting with the State of Nevada on 12/1/88 on the high-level waste program. Significant HLW documents are routinely distributed to State and local government representatives. In addition, upcoming meeting notices are sent to reps. on a weekly basis. The staff has also reviewed the State's QA Manual and found it acceptable and consistent with NRC regulations. |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 8. Section 112(b)-DOE recommends to the President 3 sites for characterization for first repository. Each of the 5 sites initially nominated for characterization must be accompanied by an Environmental Assessment (EA). | 1/1/85 | Site recommendation 5/28/86 | <p><u>Background:</u> DOE to develop draft EAs on sites under consideration after Commission concurrence on the Siting Guidelines. NRC staff to review and comment on EAs. <u>Action Taken:</u> DOE issued draft EAs for 9 potential repository sites on 12/20/84, and the NRC review was completed on 3/20/85. According to the draft PDS, DOE had planned to publish final EAs and nominate and recommend sites in 11/85. However, on 10/30/85, DOE announced that the final EAs and site recommendation would be delayed until late 2/86 to accommodate for the National Academy of Sciences (NAS) review of the ranking methodology. The EAs were issued on 5/28/86, and Washington, Nevada, and Texas were recommended to the President who approved them for characterization. NRC comments on the Final EAs (SECY-86-357) were transmitted to DOE on 12/22/86. The affected States and Indian Tribes challenged the EAs in the Ninth Circuit. DOE submitted a motion in the Ninth Circuit to dismiss the EA litigation because of the NWPAA requirement to characterize only the Yucca Mountain candidate site. Responses to DOE's motion have been filed by petitioners. <u>Current Status:</u> On 3/21/89, the 9th Circuit Court of Appeals declared its intention to moot most of the EA cases, but requested additional information from DOE before taking final action.</p> |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 9. Section 8(b)-President must evaluate the possibility of developing a defense-waste only repository. | 1/7/85 | Final EIS received Dec. '87. | <p>Any defense-only HLW repository shall be subject to licensing and comply with all NRC requirements for siting, development, construction and operation.</p> <p>Action Taken: DOE submitted a final report to the President in 2/85, recommending a combined commercial and defense repository. On 4/30/85, the President found no basis that a defense-only repository is needed and agreed with DOE's recommendation of a combined repository. DOE issued for public comment a Draft Environmental Impact Statement (DEIS) on "Disposal of Hanford Defense High-Level, Transuranic and Tank Wastes" in 3/86. NRC comments were approved by the Commission and transmitted to DOE on 9/24/86, and were made available to affected state and Tribal representatives soon thereafter. On 9/3/87, DOE briefed NRC staff on how they plan to handle NRC comments on the draft EIS. Final EIS was received in late Dec. '87.</p> <p>Current Status: The NRC staff provided the Commission with an Information Paper reflecting the current status of Hanford tank waste issues raised in its review of the FEIS in August 1988. The staff met with DOE 6/9/88 and 9/22/88 to discuss DOE's plans for disposing of tank waste. On 11/29/88, the NRC staff forwarded comments to DOE on DOE's proposed approach for classifying tank waste. On 1/18/89, the staff was briefed by DOE on DOE's revised approach for classifying double-shell tank waste. DOE forwarded a letter to NRC on 3/6/89 requesting NRC concurrence on DOE's revised approach. NRC submitted a paper to the Commission in May 1989 on the classification and disposal of the Hanford Wastes (SECY-89-164). In July 1989, the Office of the Secretary informed the EDO that the Commission had approved the staffs position on the Hanford Tank Wastes. The staff expects to forward a letter to DOE by September 1989 documenting the NRC's position.</p> |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
|---|----------------------------|---|---|
| 10. Section 113(b)-Submission to NRC by DOE of site characterization plan (SCP), waste form or package description, and conceptual repository design. | Before sinking shaft | Consultation Draft SCP received 1/8/88. Statutory SCP received 12/28/88. SCA issued 7/31/89 | NRC must review and comment on the statutory SCP. <u>Action Taken:</u> A Draft Technical Review Plan and Administrative Plan for CDSCP review was issued by the NRC staff in 12/87. DOE issued a "Consultation Draft" SCP for Yucca Mt. on 1/8/88. The NRC staff and State of Nevada reps. attended a plenary meeting held by DOE on the CDSCP on 1/28-29/88 in Reno, NV. NRC issued their preliminary concerns on the Yucca Mt. CDSCP as draft "point papers" on 3/7/88. Two workshops were held during March and April with DOE and the State of Nevada to discuss the NRC draft "point papers". NRC staff briefed the Commission on the final "point papers" on May 4, 1988. The staff issued the final "point papers" with no significant changes from the draft on May 11, 1988. <u>Current Status:</u> DOE issued the statutory SCP on December 28. NRC staff review of the SCP, which involved interaction with and review by the ACNW, began 1/2/89. The staff completed its review in June and briefed the Commission on July 11, 1989. The staff completed its review in June and briefed the Commission on July 11, 1989. The NRC's Site Characterization Analysis (SCA) of the SCP was issued on 7/31/89. |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 11. Section 114(a)(1)(E)-DOE submits to the President and makes available to the public the Commission's preliminary comments concerning the sufficiency of the at-depth SCA and waste form proposal for inclusion in the application. | Prior to 13 below | Prior to 13 below (1994). | NRC must provide preliminary comments on whether the at-depth site characterization analysis (SCA) and waste form proposal is sufficient for inclusion in the DOE construction authorization application. |
| 12. Section 114(a)(1)(D)-DOE's final Environmental Impact Statement (EIS) on the first proposed repository must include comment from NRC on the draft EIS. | Prior to 13 below | Final EIS due 1994 | NRC must review and comment on the draft EIS, which is anticipated in 1993. <u>Action Taken:</u> NRC is allowed 3 months for review and comment, but had requested 5 months (in draft PDS comments) to allow for Commission involvement and for consultation with host states and affected Indian tribes. In the June 1987 Mission Plan Amendment to Congress, DOE had retained only the 3 months for draft EIS review and comment. <u>Current Status:</u> The Draft 1988 Mission Plan Amendment does not explicitly address the length of the review period for the draft EIS. It does state that "except for the start of exploratory shaft construction and in-situ testing, the major milestones in this schedule are the same as those given in the 1987 Mission Plan Amendment." According to DOE's Draft 1988 Mission Plan Amendment, the final EIS is to be issued in 1994. |
| 13. Section 114(a)(2)-President recommends site to Congress for construction. | 3/31/87 (may be extended one year if necessary) | 1994 | N/A |
| 14. Sections 116(b) and 118(a)-Submittal of notice of disapproval by State or Indian tribe. | Up to 60 days after Presidential recommendation | (See 13 above.) | N/A |
| 15. Section 115(g)-Congress may obtain any comments of the Commission with respect to a State/Tribal site disapproval. | Prior to 16 below | Prior to 16 below | NRC must be cognizant of State/Tribal concerns to be able to provide knowledgeable comments to Congress. |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 16. Section 115(c)-State/Tribal disapproval will take effect unless both Houses of Congress pass resolution of approval within 90 calendar days of continuous session after the date of receipt by Congress of a notice of disapproval. | Within 90 calendar days of continuous session after notification. | 1995 | N/A |
| 17. Section 114(b)-Secretary submits license application (LA) to NRC. | No later than 90 days after date site recommendation is effective. | 1995 | An NRC licensing proceeding will be initiated on the license. |
| 18. Section 114(c)-NRC must submit status report to Congress. | One year after submittal of the license application and annually thereafter. | 1996 | NRC must submit an annual status report to Congress describing the proceedings undertaken through the date of such report regarding the construction authorization application, including a description of: 1) any major unresolved safety issues, and the explanation of the Secretary with respect to design and operation plans for resolving such issues; 2) any matters of contention regarding such application; and 3) any Commission actions regarding the granting or denial of such authorization. |
| 19. Section 114(d)-Commission must issue decision on construction authorization (CA). | Three years after application submitted, or 4 years after submittal (if extended) unless CA is for negotiated site (Section 405(b)(2)). | 1998 | The 3-year time period for an NRC licensing decision dictates an aggressive program of involvement with DOE and State of Nevada prior to receipt of a license application so as to identify and resolve contentious issues to the maximum extent practicable. Commission will either grant or deny authorization for DOE to begin construction of the first geologic repository. To meet this schedule, a relatively complete, good quality DOE application will be required. The 3-year time period may be extended up to 12 months, if not less than 30 days before such deadline, the Commission complies with the reporting requirements established in NWPA Subsection 114(e)(2). |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 20. Section 114(d)- NRC decision approving first application shall prohibit emplacement in first repository of a quantity of spent fuel in excess of 70,000 MTHM until such time as a second repository is in operation. | | 1998 | (DOE to report to Congress between 1/1/07 and 1/1/10 on need for second repository. See Items 22 and 23.) |
| 21. Section 114(f)- Any EIS prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle will, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. | At time of construction authorization. | 1998 | As provided. <u>Action Taken:</u> The Commission has amended Part 51 to establish what is meant by "to the extent practicable". NRC proposes to find it practicable to adopt DOE's EIS unless the action proposed to be taken by NRC as a condition for licensing differs in an environmentally significant way from the action described in DOE's license application, or significant and substantial new information or new considerations render the DOE EIS inadequate. The Final Rule was published in the <u>Federal Register</u> (54 FR 27864, July 3, 1989). |
| 22. Section 161(a)- Secretary may not conduct site-specific activities with respect to 2nd repository unless Congress has specifically authorized and appropriated funds for such activities. | N/A | N/A | <u>Background</u> - Sec.112(b)(1)(c) of the NWPA of '82 required the Secretary to recommend 3 sites for characterization to the President for a second repository. DOE issued the Area Recommendation Report (ARR) on 1/16/86, which identified 12 possible second repository sites, and subsequently conducted public hearings concerning the second repository. On 5/28/86, DOE announced an indefinite postponement of the Crystalline Project until the need for a second repository could be better assessed. This postponement was legally challenged by States and Tribes in the first repository program. The Mission Plan Amendment of June '87 discussed the basis for extending the schedule for site-specific work on the second repository. In the Mission Plan Amendment, DOE stated that "If affirmative Congressional action is not taken [on the Amendment in FY'87], the DOE will review the more than 60,000 comments received on the ARR issued in January 1986 and prepare a final ARR that identifies potentially acceptable sites for subsequent field work." On 10/1/87, DOE notified governors of potential second repository states that DOE was resuming review of comments on the ARR. This action is now superseded by Section 161(a) of the NWPAA of '87. |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 23. Section 161(b)-Secretary must report to Congress on need for second repository. | On or after 1/1/07, but not later than 1/1/10. | | None specified. DOE and/or Congress may seek NRC views, however. |
| 24. Section 180(a)-No spent fuel or HLW may be transported by or for DOE under Subtitle A (Repository) or Subtitle C (MRS) except in packages that have been certified for such purpose by NRC. | Not specific. | | As provided. <u>Action Taken:</u> Under an existing NRC/DOE procedural agreement, (48 FR 51875, November 14, 1983), DOE was planning to use packaging approved by NRC in accordance with 10 CFR Part 71, rather than DOE-certified packaging, for all DOE shipments performed under the NWPA from NRC-licensed facilities to an NRC-licensed repository, MRS, or interim storage facility. (Prior to the NWPAA of '87, DOE was required under Sec.137(a) of the NWPA of '82 to obtain NRC certification only for transportation to interim away-from-reactor storage facility. See Item 35.) The Procedural Agreement stipulated, however, that DOE might have to reexamine this intent if it appeared that "such packaging will not be available or if [DOE] can not accomplish its mandate under the NWPA using NRC-certified packaging." Section 180(a) of the NWPAA of '87 requires DOE to use NRC-certified packaging and appears to supersede DOE's option to reexamine the intent described in the Procedural Agreement. <u>Current Status:</u> In the Draft 1988 Mission Plan Amendment, DOE states that "all casks used in waste transportation will be certified by the NRC." The NRC Transportation Branch staff has been meeting with DOE and its contractors to discuss pre-application design issues for 6-7 truck and rail cask designs. DOE will reimburse the NRC for all cask review costs in accordance with DOE/NRC Memorandum of Understanding (53 FR 28923, August 1, 1988). NRC expects the first application for an NWPA truck cask in August 1990. |

II. Test and Evaluation Facility Program

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 25. Section 213(a)- DOE is authorized but not required to issue T&E facility siting guidelines. | 7/7/83 | DOE has not announced | None. <u>Current Status:</u> No guidelines have been issued. NRC will provide the required consultation if and when the guidelines are issued. (See 27 below) |
| 26. Section 216(a)-Cooperation and Coordination. | None specified | | NRC shall assist the Secretary by cooperating and coordinating on any reports under Title II (Research, Development, and Demonstration Regarding Disposal of High-Level Radioactive Waste and Spent Nuclear Fuel) including Test and Evaluation facilities. |
| 27. Section 217(f)(1)-NRC, DOE must conclude written agreement on procedures for T&E facility interaction. | 1/6/84 | Not scheduled | NRC must work with DOE in developing a written agreement for procedures for review, consultation, and coordination in the planning, construction and operation of the T&E facility. Such an understanding shall also establish the types of reports and other information as the Commission may reasonably require to evaluate health and safety impacts of the T&E facility. <u>Current Status-</u> No agreement has been reached. DOE reported to Congress on 4/6/84 their decision that if a TEF is necessary, it should be collocated, but that the decision on the need for a TEF is being delayed until the program's data needs are better established. As of 4/24/89, decision was still on hold |
| 28. Section 217(f)(3)(A)-NRC shall carry out a continuing analysis of the T&E activities to evaluate the adequacy of the consideration of public health and safety issues. | None specified | | As provided |
| 29. Section 217(f)(3)(B)-NRC required to report to the Secretary, the President, and the Congress as it deems appropriate. | None specified | | As provided |
| 30. Section 217(h)-NRC must concur on decontamination and decommissioning of DOE's T&E facility. | Five years after initial operation | | NRC will evaluate DOE's decontamination and decommissioning activities, and concur, if deemed appropriate, for a T&E facility not located at the site of repository. |

III. Interim Spent Fuel Storage

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 31. Section 132-The Secretary, the Commission, and other authorized federal officials shall each take such actions as such officials consider necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor. | No specific dates | | The Commission will consider which actions are necessary to implement the intent of this provision. (See also Item 37.) |
| 32. Section 134-Hybrid procedures are prescribed for hearings on certain applications for licenses for facility expansions of spent fuel storage and transshipments of spent fuel. | No specific dates, but procedures apply to applications filed after 1/07/83 | Final rule published 10/15/85 | A proposed rule establishing procedures for expansion of onsite spent fuel storage capacity or transshipment of fuel was published on 12/5/83. Comment period was extended to 2/20/84. A final rule was submitted to the Commission on 7/8/85. <u>Current Status:</u> The Commission approved the final rule on 9/5/85, and the final edited rule was published in the <u>Federal Register</u> on 10/15/85 (50 FR 41662). |
| 33. Section 135(g)-Issuance of NRC proposed rule establishing procedures and criteria for making a determination that onsite storage cannot reasonably be provided at a reactor. | 4/7/83 | Final criteria published 2/11/85 | As provided. A proposed rule was published 4/29/83. Comments received during the public comment period which ended 6/28/83 have been reviewed. Final criteria were submitted to the Commission on 11/7/84. The criteria were approved by the Commission on 1/10/85. The final rule, 10 CFR Part 53, "Criteria and Procedures for Determining Adequacy of Available Spent Nuclear Fuel Storage Capacity" establishing procedures and criteria for making NRC's determination that a utility is eligible to contract with DOE for Federal Interim Storage Capacity was published on 2/11/85 (50 FR 5563). |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 34. Section 135(a and b)-If the NRC determines that onsite storage cannot reasonably be provided at a reactor by the licensee, DOE may, under certain conditions, provide not more than 1900 metric tons of capacity for storage of spent nuclear fuel from civilian power reactors. | Contracts may be entered into no later than 1/1/90. | | NRC will make public health and safety determinations as to the use of any existing DOE facility for spent fuel storage and will license storage in new structures, including modular or mobile spent nuclear fuel storage equipment such as dry casks, as required under this provision of the Act. (The NWPA authorizes DOE to enter into contracts for Federal Interim Storage no later than January 1, 1990. In the Draft 1988 Mission Plan Amendment, DOE states "To date, no Federal Interim Storage applications have been received, and, with the availability of commercial alternatives, none are expected.") See 33 above. |
| 35. Section 137(a)(1)-Transportation of spent nuclear fuel to a DOE interim away-from-reactor storage facility shall be subject to licensing by NRC and by the Department of Transportation as provided for commercial fuel under existing law. | Not specific | | NRC will certify packaging and approve physical security measures for DOE spent fuel transport to a DOE interim away-from-reactor storage facility. |
| 36. Section 137(a)(2)-DOE, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation. | Not specific | | No direct role. |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 37. Section 218(a) and 133-NRC shall by rule establish procedures for the licensing of any technology approved by the NRC for use at the site of any civilian nuclear power reactor. NRC may by rule approve one or more dry spent fuel storage technologies for use at the sites of civilian power reactors without, to the maximum extent practicable, the need for additional site-specific approvals. | Not specific | Public comments received. Draft Final Rule to NRC Management in October 89 | NRC, using data and information from DOE dry storage demonstration and cooperative programs, will develop regulations to approve dry technology storage at civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site specific approvals by the NRC. On June 17, 1987, NRC's Office of Research was requested to initiate a rulemaking through amendments to 10 CFR Part 72 to streamline the licensing process for use of spent fuel dry storage casks at reactor sites. <u>Current Status:</u> The Proposed Rule was provided to the Commission in March 1989. The Commission approved the PR and it was published in the <u>Federal Register</u> on May 5, 1989. The public comment period for the PR ended June 19, 1989. NRC staff are responding to comments received. Staff is continuing to receive late comments. Appropriate revisions accommodating public comments will be incorporated in a draft Final Rule for NRC Management review in October 1989. |
| 38. Section (5064)(b)(3)- DOE must consult with Commission and include views of Commission in report to Congress on use of dry cask storage. | Report due 10/1/88. | Completed 3/89 | NRC will consider mission-related portions of DOE report for possible comment as requested. The draft DOE report was transmitted to NRC in a letter from DOE to Chairman Zech dated 9/1/88. NRC provided comments to DOE in a letter dated November 18, 1988. DOE requested NRC comments on the "Final Version Dry Cask Storage Study" in January 1989. NRC reviewed the report and found that comments on the draft report had been accommodated. DOE provided the final report to Congress in March 1989. |

IV. Monitored Retrievable Storage Program

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 39. Section 141(b)(3)-DOE shall consult with the Commission and EPA in formulating the MRS proposal and shall submit their comments on the MRS proposal to Congress along with the proposal. | 6/1/85 | Completed. | As provided. Action Taken: NRC consulted with DOE on development of the MRS proposal, and provided comments (SECY-86-9) to DOE on 2/5/86 for submittal with the proposal to Congress soon thereafter. However, legal challenges by the State of Tennessee delayed the submittal of the MRS proposal to Congress. DOE filed an appeal to expedite a decision on the District Court injunction in the 6th Circuit Court of Appeals in Cincinnati, and oral arguments were held on 7/24/86. The 6th Circuit decided in favor of DOE on 11/25/86, but an appeal by Tennessee to the Supreme Court further delayed the issuance of the proposal to Congress. The Supreme Court denied the appeal on 3/30/87. DOE submitted the proposal to Congress on 3/31/87, proposing to locate the MRS at a site on the Clinch River in Oak Ridge, TN with alternative sites on the Oak Ridge Reservation of DOE and the former site of a proposed nuclear power plant in Hartsville, TN. Congressional hearings took place on May 28 and June 18, 1987. Section 142(a) of the NWPA of '87 annulled and revoked the DOE proposal, and at the same time authorized DOE to site, construct, and operate one MRS subject to conditions described in the Amendments Act (see item 43 below). |
| 40. Section 141(c)(1)-Submission by Secretary of an environmental assessment with respect to the MRS proposal to Congress. | 6/1/85 | Completed. | On 2/5/86, NRC staff commented on DOE's original MRS proposal which included an EA (See item 42 below.) |
| 41. Section 141(d)-DOE shall file for license with NRC for MRS. | No sooner than 60 days from date of site selection which may not take place prior to DOE recommendation to the President of a site for a repository. | 1995 | NRC must decide on any DOE license application. Action Taken: NRC has developed revisions to 10 CFR Part 72 to provide the licensing framework for the MRS, and will review DOE's application and make the necessary licensing determinations. The proposed rule on 10 CFR Part 72 was submitted to the Commission (SECY-85-374) on 11/25/85, and a supplement (SECY-85-374A) concerning state/tribal involvement was submitted on 3/14/86. Both papers have been approved by the Commission, the Staff Requirements memo was received on 4/21/86, and the proposed revisions were published in the <u>Federal Register</u> on 5/27/86 (51 FR 19106). The comment period closed on 8/25/86, with 196 comments received. The Final Rule (SECY-87-298) was revised by the Office of the General Counsel to reflect the NWPA and was affirmed by the Commission on July 14, 1988. Current Status: The Final Rule was published in the <u>Federal Register</u> on 8/19/88. The effective date was 9/19/88. |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 42. Section 143(a)- There is established an MRS Review Commission that shall consist of three members appointed by and serve at pleasure of President pro tempore of Senate and House Speaker. | 1-22-88 | Established 6-14-88. | Not specified. NRC staff provided testimony to MRS Commission on July 28, 1988. |
| 43. Section 143(c)- MRS Commission is to prepare a report on the need for an MRS as part of a national nuclear waste management system. | 6-1-89 | 11-1-89. | Not specified. |
| 44. Section 144- After MRS Commission submits its report to Congress under Section 143, DOE may conduct a survey and evaluation of potentially suitable sites for an MRS. | | After 11-1-89. | Not specified. |
| 45. Section 145(d)- Secretary shall prepare an environmental assessment (EA) with respect to selection of a site for MRS. EA to be based on available information on alternative technologies. EA to be submitted to Congress at time of site selection. | Not prior to DOE recommendation to President of a site for a repository. | 1994 | Not specified. DOE and/or Congress may seek NRC views, however. |
| 46. Section 148(d)- License conditions for issuance of construction authorization for MRS. | | 1997 | Any license issued by NRC shall provide that construction not begin until NRC has issued a license for repository construction. Construction or acceptance of spent fuel or HLW shall be prohibited if repository license is revoked by NRC or repository construction ceases. |

V. Nuclear Waste Negotiator

| <u>Provision</u> | <u>NWPA/NWPA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 47. Section 402(a)- There is established within the Executive Branch the Office of Nuclear Waste Negotiator. | | | (See 48 below.) |
| 48. Section 403(c)- The Negotiator may solicit and consider comments of DOE, NRC, or any other Federal agency on the suitability of any potential site for characterization. The above agencies are not required to make a finding that any such site is suitable for site characterization. | | | As provided. |
| 49. Section 405(b)(2)- NRC must issue final decision approving or disapproving issuance of a construction authorization for a repository or MRS, subject to a negotiated and enacted agreement, not later than 3 years after date of submission of application. | | 1998 | As provided |
| 50. Section 407(c)(2)(B)- In EIS prepared with respect to a repository to be constructed at a site other than the Yucca Mt. site, NRC shall consider the Yucca Mt. site as an alternative to such site in the preparation of such statement. | | (Will depend on whether Negotiator obtains agreement for repository at a site other than Yucca Mt.) | As provided |

VI. Low-Level Waste Program

(No deadlines were provided in the NWPPA for the LLW management provisions under Section 151).

Provisions

51. Section 151(a)(1)-Commission authorized to establish regulations or such other standards and instructions as it deems necessary or desirable to ensure that each LLW disposal licensee will have adequate financial arrangements for decontamination, decommissioning, site closure and reclamation of sites, structures, and equipment used in conjunction with its LLW disposal.
52. Section 151(a)(2)-If Commission determines that long-term maintenance or monitoring will be necessary at a LLW disposal site, Commission must ensure before termination of the license that the licensee has made adequate financial arrangements. Monitoring will be carried out by the person having title and custody for such following license termination.
53. Section 151(b)-DOE shall have the authority to assume title and custody of LLW and the land on which such waste is disposed of, upon the request of the owner of such waste and land following termination of the license issued by the Commission for such disposal, if 1) the Commission determines that the requirements for site closure, decommissioning and decontamination have been met with pursuant to Section 115(a); 2) that such title and custody will be transferred to the DOE without cost to the Federal government; 3) that Federal ownership and management is necessary, or desirable to protect the public health and safety.

NRC Role

As provided. Action Taken: Preliminary work was begun on a rulemaking related to Section 151(a). Discussions were held with the Office of State Programs and the Office of the General Counsel. The Executive Director for Operations terminated the rulemaking on November 5, 1986. Current Status: Due to other higher priorities, resources continue to be unavailable to restart this rulemaking.

May require rulemaking by the Commission and the development of guidance for both existing and new commercial LLW disposal sites. For existing sites, analyses will be required to assess long-term performance; monitoring and long-term maintenance requirements; associated costs; and the programs to review monitoring data to identify the need for mitigative actions. Current Status: Due to other higher priorities, resources continue to be unavailable for this effort.

Likely to require rulemaking/guidance to provide basis for required determinations. Such rulemaking/guidance would require close coordination with DOE which appears to have independent discretion to accept sites following Commission determination. Current Status: Due to other higher priorities, resources continue to be unavailable for this effort.

Provisions

54. Section 151(c)-Adequate financial arrangements for long-term maintenance and monitoring, as well as decontamination and stabilization of special sites must be met in accordance with requirements established by the Commission before DOE may assume title and custody of the waste and the land on which it is disposed.

NRC Role

Similar to Item 53 above.

VII. NRC's Role Relating to Other Provisions in the Act

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 55. Section 5062-Transportation of Pu by aircraft through United States airspace. | | | This section of the NWPA does not directly impact the civilian nuclear waste program. |
| 56. Section 223(b)-By April 7, 1983, DOE and NRC must publish a joint notice in the <u>Federal Register</u> stating that the U.S. is prepared to cooperate and provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal. | 4/7/83 Annual revisions required | Completed 3/30/83, w/annual updates. | NRC will prepare a joint <u>Federal Register</u> notice with DOE and will provide technical assistance to non-nuclear weapon states pursuant to the Act and the FR notice. NRC and DOE will update and reissue this notice annually for 5 years, as required. Action Taken: An FR notice was published following coordination with DOE, ACDA, and the State Department on 3/30/83. Annual updates of the notice were published in the <u>Federal Register</u> on 4/6/84, 4/5/85, 4/3/86, and 4/3/87. The fifth and final update required by the Act was published on 4/6/88 (53 FR 11398). Fifteen countries have responded to the offer. |
| 57. Section 302(b)(1)(A)-The Commission shall not issue or renew a license to use a utilization or production facility under Section 103 or 104 of the Atomic Energy Act unless the applicant has entered into a waste disposal contract with the Secretary of Energy or the Secretary affirms in writing that the licensee is negotiating in good faith to enter into such a contract. Section 302(b)(1)(B)-The NRC in its discretion may require as a precondition to the issuance or renewal of a reactor license that the applicant shall have entered into an agreement with DOE for the disposal of high-level waste or spent fuel that may result from such a license. | 6/30/83 | Completed 6/30/83 | As provided. Action Taken: The final waste disposal contract proposal was published by the DOE in the <u>Federal Register</u> on 4/18/83. All necessary contracts were signed and received by the DOE on or before the 6/30/83 statutory deadline. The contract stipulates "services to be provided by DOE under this contract shall be begin, after commencement of facility operations, not later than January 31, 1998." |

| <u>Provision</u> | <u>NWPA/NWPAA Date</u> | <u>Current Schedule</u> | <u>NRC Role</u> |
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| 58. Section 303-DOE shall consult with the Chairman of the NRC in conducting a study of alternative approaches to managing construction and operations of all civilian waste management facilities and then DOE is to report Congress. | 1/6/84 | Action Completed 4/18/85 | At the invitation of the Secretary, the Chairman will consult on the "alternative approaches" study. <u>Actions Taken:</u> DOE chartered an Advisory Panel on Alternative Means of Financing and Managing Radioactive Waste Facilities (AMFM) to assist them in conducting the required study. As part of the consultation process, DOE extended the invitation to have an NRC observer attend the AMFM Panel meetings. The Panel held ten meetings between January and November 1984, which were attended by NRC staff observers, and toured DOE waste facilities at Hanford, NTS, and WIPP. Panel held its tenth and final meeting on 11/13-14/84, including a meeting with Secretary Model on 11/14/84 to discuss their recommendations and forthcoming report. A final draft of the report received by NRC on 12/5/84 concludes that several organizational forms are more suited than DOE for managing the waste program, and identifies a public corporation as its preferred alternative. The report also recommends adoption of several specific program components which are independent of the type of organization ultimately chosen to handle the program, including an Advisory Siting Council. The Final Draft Report was sent to the Chairman for consultation on 2/19/85. The staff provided comments to the Chairman on 3/8/85. The Chairman transmitted his comments to Secretary Herrington on 3/22/85, which were forwarded to the President along with DOE's recommendations on 4/18/85. DOE recommended retaining the present management structure at least through the siting and licensing phase of the program. |
| 59. Section 306-NRC is required to promulgate regulations or other suitable guidance for the licensing and qualifications of civilian nuclear power plant personnel and submit a report to Congress on its activities under this action. | 1/6/84 | Completed | As provided. <u>Action Taken:</u> The Commission issued a policy statement on 2/7/85, concerning personnel training and qualifications (10 CFR Part 50). This policy statement was published in the <u>Federal Register</u> on 3/20/85. Proposed amendments to Part 55 dealing with simulator training requirements were published in the <u>Federal Register</u> on 11/26/84. The final rulemaking package on Part 55 and three associated Regulatory Guides was approved by the ACRS on 12/5-7/85, and final Office review completed. The final amendment to Part 55 was submitted to CRGR for review on 2/26/86, which recommended several modifications. The edited final rule was approved by CRGR on 3/19/86, and approved by the EDO on 4/17/86. The Commission approved SECY-86-123 with modifications on 10/17/86. Staff resubmitted the final paper (SECY-86-338) to OCM in late 11/86. Commission affirmed paper on 2/12/87. <u>Current Status:</u> Rule was published in Federal Register on 3/25/87. |