



## POLICY ISSUE

(Information)

SECY-89-037

February 3, 1989

For:

The Commissioners

From:

Victor Stello, Jr.  
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  
(November 1988 through January 1989) on the pre-licensing  
phase of DOE's Civilian High-Level Radioactive Waste  
Management Program.

Executive  
Summary:

In the previous Quarterly Progress Reports (SECY-87-137, SECY-87-267, SECY-88-39, SECY-88-39A, SECY-88-39B and SECY-88-39C) 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 action items that cover key aspects of the NRC/DOE pre-licensing consultation program. They were: (1) DOE implementation of scheduled and systematic consultations; (2) development of an information retrieval system; (3) early implementation of a quality assurance (QA) program; (4) early establishment of repository design parameters; (5) early resolution of State and Tribal concerns; (6) adoption of the policy of conservatism; and (7) early resolution of issues. This report will also focus on these items, thereby providing the Commission with the NRC staff perspective on the progress of DOE's repository program in areas important to an effective high-level waste program. The NRC staff considers these areas to be critical to ensuring that DOE can develop a complete and high-quality application and NRC can meet the statutory time limit of three years to act on authorization to construct the repository.

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The most significant activities during this period pertained to Items 1. Consultations, 2. Information Retrieval System, 3. QA, and 5. State and Tribal Concerns. The major activities related to those items are as follows:

Item 1. Consultations

- ° NRC received DOE's Site Characterization Plan (SCP) on December 28, 1988. The NRC staff is currently conducting an acceptance review of the SCP and supporting references to determine whether the material provided is complete enough for the NRC staff to conduct a technical review. Certain items that DOE has agreed would accompany the SCP and are needed for the staff to conduct its review have not yet been provided, notably the Design Acceptability Analysis (DAA) for the Exploratory Shaft Facility (ESF) design and the five study plans on ESF construction-phase testing. In a January 13, 1989 letter, the staff informed DOE that without all the documents, the staff could not conduct an orderly and systematic review of the SCP, and may be unable to complete the acceptance review by the end of January 1989. This, in turn, will likely affect the overall seven-month SCP review schedule.
- ° On December 9, 1988, DOE announced the selection of Bechtel Systems Management, Inc., as its Management and Operating Contractor (M&O). It is not clear how the M&O contractor will fit into the current DOE and DOE contractor organization and whether this will affect the timeliness or other aspects of NRC/DOE interactions. Of particular concern to the staff is how the M&O's QA program will interface and affect those of DOE and its contractors that are already accepted or scheduled to be reviewed shortly.

Item 2. Information Retrieval System

- ° The Commission approved the draft proposed rule for the Licensing Support System (LSS) on October 17, 1988. The proposed rule was published for comment on November 3, 1988. The comment period closed on December 5, 1988 and the staff is now preparing the draft final rule on the LSS for Commission review. The draft final rule is currently scheduled to be delivered

to the Commission this month (January 1989). A Commission meeting on the draft final rule has been scheduled for February 7, 1989.

Item 3. QA

- ° NRC staff observed DOE audits of Lawrence Livermore National Laboratory, Holmes and Narver, and Fennix and Scisson. The NRC staff has found that, in general, audits performed by DOE have improved over the past several months; however, the DOE audit teams continue to identify major deficiencies with the contractor QA programs. Specific examples of deficiencies are discussed later in this report.
- ° The Director, Office of Nuclear Material Safety and Safeguards (NMSS) sent a January 13, 1989 letter to the Director, Office of Civilian Radioactive Waste Management (OCRWM), identifying a concern the staff has with the slippage in schedules for qualifying the QA programs. In general, DOE has slipped early milestones in the schedule for qualifying QA programs, and no new schedule has been provided. However, the staff and DOE will be meeting on January 25, 1989 to discuss a number of QA issues, including a revised qualification schedule.

Item 5. State and Tribal Concerns

- ° NRC staff completed its initial review of the State of Nevada QA Manual and transmitted its comments by letter of November 25, 1988. The staff is awaiting identification from Nevada of a date to schedule a meeting to discuss the Nevada responses.
- ° The Director, NMSS, the Director, Governmental and Public Affairs (GPA), and other staff representatives met with Nye, Clark and Lincoln County officials in Las Vegas and Caliente, Nevada, on December 13, 1988. The purposes of the meetings were to hear the views and concerns of the Nevada local affected units of government and to explain NRC's regulatory role in the high-level waste (HLW) licensing process.

Other NRC activities to implement its role under the Nuclear Waste Policy Act (NWPA), as amended, are summarized in the Enclosure, "Status of NRC Activities Required by NWPA."

Discussion:1. DOE Implementation of Scheduled and Systematic Consultations:

As reported in previous Quarterly Progress Reports, the NRC staff has been involved in ensuring that the ESF design presented in the SCP was performed using an acceptable design control process. During this reporting period, the staff and DOE met on this issue on November 3, 1988, November 23, 1988 and December 8, 1988. At the first meeting, the staff and DOE established the steps needed for DOE to demonstrate through a DAA that the present ESF design meets the requirements of 10 CFR Part 60. At the November 23, and December 8, 1988 meetings, DOE presented the status of its development of the DAA. Based on its review of the information provided by DOE at the November 23, and December 8, 1988 meetings, the staff identified several concerns with the DOE approach. The major concern was that DOE did not plan to evaluate the ESF design against all of the applicable 10 CFR Part 60 requirements. Rather, DOE only intended to evaluate those 10 CFR Part 60 requirements that dealt with either: (1) waste isolation; (2) the ability to characterize the site; and (3) representativeness of the ESF location. By doing this, DOE would only evaluate half of the 46 requirements in 10 CFR Part 60 it had identified as being applicable to the ESF. The staff informed DOE at the December 8, 1988 meeting that this was not acceptable, and DOE agreed to address all the requirements.

NRC received DOE's SCP on December 28, 1988. The NRC review is scheduled to take seven months, culminating in issuance of the Site Characterization Analysis (SCA). The NRC staff is currently conducting an acceptance review of the SCP and supporting references to determine whether the material provided is complete enough for the NRC staff to conduct a technical review. On January 13, 1989, the Director, NMSS, sent a letter to DOE informing DOE that there were several documents, which support the NRC staff's review of the Yucca Mountain SCP, that the NRC staff had not yet received. The particular documents not provided include: (1) ESF DAA; (2) five study plans covering ESF construction-phase testing; and (3) certain SCP references. The letter informed DOE that without all the documents, the staff could not conduct an orderly and systematic review of the SCP, and may be unable to complete the acceptance review by the end of January 1989. This, in turn, will likely affect the overall seven-month SCP review schedule. In addition, the letter noted that the staff intended to

provide comments on the ESF as part of its seven-month review schedule, not within 90 days, as was previously planned in the 1986 Project Decision Schedule. The 90-day review was based on an agreement that DOE would provide significant ESF-related information to the staff at least two to three months before issuance of the SCP. DOE did not submit this information before the SCP, and as noted above, some significant ESF-related information has not yet been received. This change was discussed with DOE in an October 19 to 21, 1988 meeting.

The staff is evaluating the effects of these omissions on the SCP review schedule and on its ability to conduct the SCP review. As part of the acceptance review, the staff is also determining whether DOE has considered and responded to the NRC Consultation Draft Site Characterization Plan (CDSCP) concerns. The previous quarterly progress report noted that a DOE/NRC meeting was to have been held in November 1988 to discuss the DOE response to NRC's concerns over the CDSCP. This meeting was canceled, however, to allow NRC and DOE to focus on the concerns with DOE's ESF design control process.

As discussed in the previous Quarterly Progress Report, NRC staff has requested an integrated schedule showing how Waste Acceptance Process (WAP) activities fit into the overall repository development program, with proposed milestones for the NRC review of WAP documents. This is the process developed by DOE to assure that the high-level vitrified glass waste form to be produced from DOE defense activities and the West Valley Demonstration Project will be acceptable for disposal in a repository. The staff also informed DOE it would not have an authoritative basis to schedule WAP-related reviews until it received this integrated schedule from OCRWM. The staff reiterated this position in a December 5, 1988 letter. Although DOE has not yet formally responded to this letter, OCRWM staff has indicated that OCRWM is working on streamlining WAP-related activities and expect to give NRC an integrated schedule in March.

Previous Quarterly Progress Reports noted that DOE had not agreed to schedule six of the seven workshops on various topics proposed by NRC in April 1988. The staff had hoped to schedule these workshops in a timeframe that could have allowed staff comments or resulting agreements to be factored into the SCP. With the receipt of the SCP, meetings

on those six topics will be deferred until after the SCP review, unless an NRC/DOE interaction on one or more of them is needed by the NRC staff to carry out the review. In addition, an NRC/DOE meeting on study plans took place on December 15, 1988.

Although there have been a number of ESF-related meetings and study plan meetings during this quarter, as described previously, the pre-licensing consultation process has not been functioning to the desired degree necessary to effectively address NRC concerns before the issuance of major DOE documents and decisions. The success of the small-group technical interactions on the ESF and study plans to date, provides some basis for the staff to expect improvement in scheduling future technical interactions.

On December 9, 1988, DOE announced the selection of Bechtel Systems Management, Inc. as its Management and Operating Contractor (M&O). It is not clear how the M&O contractor will fit into the current DOE and DOE contractor organization and whether this will affect the timeliness or other aspects of NRC/DOE interactions. Of particular concern to the staff is how the M&O's QA program will interface and affect those of DOE and its contractors that are already accepted or scheduled to be reviewed shortly.

## 2. Development of an Information Retrieval System:

As noted in the last Quarterly Progress Report, the HLW Licensing Support System (LSS) Advisory Committee completed its deliberations in July 1988 and submitted to the Commission a draft proposed rule that would add a new Subpart J to 10 CFR Part 2, to establish the procedures for the HLW proceeding. The Commission approved the draft proposed rule for publication on October 17, 1988. The proposed rule was published for comment on November 3, 1988. The comment period closed on December 5, 1988, and the staff is now preparing the draft final rule on the LSS for Commission review. The draft final rule is currently scheduled to be delivered to the Commission this month (January 1989). A Commission meeting on the draft final rule has been scheduled for February 7, 1989.

During the last quarter, the staff held several meetings with DOE and DOE contractors on various aspects of the development of the LSS. The NRC LSS Internal Steering Committee is now preparing an overall plan for

coordination of NRC and DOE activities on the LSS. Staff anticipates that this plan will be ready for discussion by mid-March 1989.

### 3. Early Implementation of a QA Program:

DOE has continued to make progress in developing and implementing its QA program for new site characterization activities. However, some of the early milestones in the plan for qualifying its program continue to slip, and DOE has not provided any new schedules. The following text provides specific information on the status and problems in the qualification of the DOE program.

- o On January 13, 1989, the Director, NMSS, sent a letter to the Director, OCRWM, at DOE. In this letter, the Director, NMSS, informed DOE that the NRC staff was concerned that DOE had not met its schedules for qualifying DOE and its contractors' QA programs. In particular, the letter noted that the staff had only received three of the ten documents it needed to review. Although two of these documents were requirements documents that form the basis for establishing the individual QA program plans, neither the Yucca Mountain Project Office plans nor the prime contractor plans have been received. In addition, the letter stated that it was important that DOE management and prime contractor management take the steps necessary to ensure the qualification of QA programs on an appropriate schedule. The Director, NMSS, also noted that members of the staff and representatives from DOE would be meeting on January 25, 1989, to discuss several QA topics, one of which would be a revised schedule for qualifying the QA plans. The Director, NMSS, suggested that he and the Director, OCRWM, should consider attending that portion of the meeting covering the schedules.
- o On December 21, 1988, the staff provided a copy of its revised QA Review Plan to DOE, the State of Nevada, and affected units of local governments. The Review Plan contains the acceptance criteria against which the staff will judge the DOE's programs for acceptability. The staff has done a review of the "Nevada Nuclear Waste Storage Investigations Quality Assurance Plan," (NNWSI/88-9), which was already accepted by the NRC staff, against the new Review

Plan, and found that NNWSI/88-9 meets the Plan. In its letter to DOE, the State, and local governments, the staff stated that it would use this Plan for all future reviews. Because NNWSI/88-9 meets the new Plan, the staff does not anticipate any major impact on DOE and its contractors, who are developing plans to comply with NNWSI/88-9.

° The staff and DOE continued to interact on the QA Program Description (QAPD) and the QA Requirements Document (QARD) for OCRWM. Staff acceptance of the two principal OCRWM documents is expected in January or February. DOE's QAPD was received on September 16, 1988. Staff review comments were forwarded to DOE on November 3, 1988, and the staff and DOE met on November 18, 1988, to discuss these comments. After DOE submits a revision of the QAPD, the staff will issue a Safety Evaluation. DOE submitted the QARD for OCRWM, on August 26, 1988. The staff and DOE met on September 28, 1988, to review staff comments, and DOE provided a revision addressing these comments on November 26, 1988. The staff Safety Evaluation of this document is in process, and essentially all open items have been resolved.

° DOE continued to conduct audits of its contractors and completed the first round of contractor audits which it had committed to in early 1988. The following are the specific audits during the last quarter.

- Lawrence Livermore National Laboratory, week of October 24, 1988
- Holmes and Narver, week of October 31, 1988
- Fennix and Scisson, week of November 6, 1988

The staff observed each of these audits and has issued or soon will issue its reports to DOE. In general, the staff is finding that the audits have improved over the past several months. However, the DOE audit teams continue to identify major deficiencies with the contractor QA programs. Examples include: (1) a lack of implementing procedures; (2) ineffective training programs; (3) poor records management; (4) uncontrolled data; and (5) lack of procedures for interface activities between participants. The staff is now focusing its efforts on how DOE ensures that the audit findings are quickly and acceptably resolved.

DOE had previously scheduled audits of its Yucca Mountain Project office and DOE Headquarters, with both to have been completed by the end of this quarter. Neither audit was conducted, however, nor have they been rescheduled.

**4. Early Establishment of Repository Design Parameters:**

As discussed in previous Quarterly Progress Reports, the NRC staff's review of the CDSCP indicated several concerns with DOE's implementation of performance allocation. DOE's treatment of this concern will be specifically evaluated in the NRC staff review of the SCP.

**5. Early Resolution of State and Tribal Concerns:**

Formal meetings and informal telephone communications on the HLW program continued between NRC and Nevada. Nevada briefed the Commission on December 1, 1988, on the States' HLW program activities. Nye County Commissioners also submitted a statement to the Commission on December 1, 1988, outlining the county's HLW program activities and concerns. Nevada and Nye County representatives were invited to address the Atomic Safety Licensing Board (ASLB) at its annual meeting held in Las Vegas, Nevada, on HLW program activities and concerns. The Director, NMSS, the Director, GPA, and other staff representatives met with Nye, Clark and Lincoln County officials in Las Vegas and Caliente, Nevada, on December 13, 1988. The purposes of the meetings were to hear the views and concerns of the Nevada local affected units of government and to explain NRC's regulatory role in the HLW licensing process. Transportation issues are the principal concerns of Clark and Lincoln County officials. The possible effects of the HLW repository on groundwater, as well as socio-economic impacts, are principal concerns expressed by Nye County officials. Follow-up letters containing requested and supplemental information were sent to each participant. In conjunction with the ASLB's annual meeting, Nevada State and Nye County officials were invited to accompany the ASLB and other NRC guests on a tour of the Nevada Test Site. The December 14, 1988 tour included the Yucca Mountain site, the Core Sample Management Facility, the G Tunnel Underground Facility, and the Climax Spent Fuel Test Facility.

As noted in the last Quarterly Progress Report, NRC staff completed its initial review of the State of Nevada QA Manual. By letter dated November 25, 1988, the staff transmitted its comments. The next step in the review will be for NRC staff and Nevada representatives to discuss the Nevada responses. The NRC staff is currently waiting for Nevada to identify when it will be ready to meet. In addition, the staff has reviewed the State of Nevada's September 6, 1988 comments on DOE's CDSCP and will consider these in its ongoing SCP review.

#### 6. Adoption of the Policy of Conservatism:

Previous Quarterly Progress Reports have noted the NRC staff concern that DOE needs to be conservative in treating uncertainty in its investigations and analyses. Incorporation of conservatism in initial assumptions and designs can compensate for inherent uncertainties in investigations and analyses. The NRC staff review of the CDSCP indicated that DOE needs to take steps toward adopting conservatism in its program. This will be one of the areas that the staff will focus on during its review of the SCP.

#### 7. Early Resolution of Issues:

In previous Quarterly Progress Reports, the staff has discussed a number of available mechanisms to identify and resolve issues. One mechanism is through the current staff review of DOE's SCP. In a Commission Paper (SECY-88-285), issued on October 5, 1988, the NRC staff outlined its regulatory strategy and schedules for the overall High-Level Waste Repository Program with emphasis on its regulatory framework. The staff discussed its plan to reduce uncertainties by resolving potential licensing issues by rule or through guidance, before DOE submits its license application. Among other things, the staff identified and committed to work on 10 candidate rulemakings, 22 Technical Positions (TPs), and one Regulatory Guide for the Standard Format and Content of the License Application.

Since the issuance of SECY-88-285, the staff has made progress toward meeting these commitments. Scoping packages for all the rulemakings are currently under development. The first of the rulemakings, to clarify the meaning of "anticipated and unanticipated processes and events" for

repository design and licensing, is expected to be submitted for Executive Director for Operations (EDO) review this spring. As for the Technical Positions, work has begun on 12 of the 16 TPs for which work was scheduled during FY89. Two internal drafts are currently under review, and several scoping documents are being developed. During this reporting period, the staff also began work on the format and content guide for a repository license application, a draft of which will be issued for public comment by the end of this fiscal year.



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Enclosure:  
Status of NRC's Activities  
Required by NWPA

DISTRIBUTION:  
Commissioners  
OGC  
OIA  
GPA  
REGIONAL OFFICES  
EDO  
ACRS  
ACNW  
ASLBP  
ASLAP  
SECY

NRC'S ROLE UNDER THE NUCLEAR WASTE POLICY AMENDMENTS ACT OF 1987

I. Repository Development Program

<u>Provision</u>	<u>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 NWPAA 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.</p>

Previous Version 88/10/13  
Current Version 89/01/04

Enclosure

<u>Provision</u>	<u>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. <u>Action Taken:</u> The regulations, which were under development by the staff for several years, were published in the <u>Federal Register</u> 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 <u>Federal Register</u> on 2/27/87 (52 FR No.39, pp.5992-6001). <u>Current Status:</u> 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 <u>Federal Register</u> (53 FR 17709, May 18, 1988). The comment period expired July 18, 1988. The Final Rule is due to the Commission in May 1989.

<u>Provision</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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	Section 121(b) regulations and criteria must be revised by the Commission, if necessary, to comply with standards being prepared by EPA. <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.
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 Spring/ Summer'89	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 Spring or Summer 1989, that will be consistent with the final Mission Plan Amendment.

<u>Provision</u>	<u>NWPAA Date</u>	<u>Schedule</u>	<u>NRC Role</u>
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 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 NWPAA for the civilian radioactive waste management program. NRC submitted comments to DOE on 9/16/88.
6. Section 301(b)-Submission of DOE Mission Plan to Congress.	6/7/84	Original submitted to Congress 7/9/85. 1989 Amendment to be submitted by end of January '89.	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 NWPAA was enacted. <u>Current Status:</u> A draft Mission Plan Amendment conforming to the NWPAA was released for comment on 6/29/88 (see 5 above). DOE plans to submit a Final 1989 Mission Plan Amendment to Congress by the end of January 1989.

<u>Provision</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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; and 10) to discuss the content of DOE's Study Plans 12/15-16/88. 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 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 representatives. In addition, upcoming meeting notices are sent to reps. on a weekly basis.
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	<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> Resolution of the DOE motion is pending.

<u>Provision</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
9. Section 8(b)-President must evaluate the possibility of developing a defense-waste only repository.	1/7/85	Final EIS received Dec.'87.	Any defense-only HLW repository shall be subject to licensing and comply with all NRC requirements for siting, development, construction and operation. <b>Action Taken:</b> 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. <b>Current Status:</b> 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.
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.	NRC must review and comment on the statutory SCP. <b>Action Taken:</b> 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. <b>Current Status:</b> DOE issued the statutory SCP on December 28.
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.

<u>Provision</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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." The Final EIS is anticipated 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.
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

<u>Provision</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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.

<u>Provision</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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> NRC staff (Office of the General Counsel) has developed an amendment to 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 proposed rule was published for comment in the Federal Register (53 FR 16131, May 5, 1988). The comment period expired August 3, 1988. <u>Current Status:</u> Comments were received from the Council on Environmental Quality, DOE, EPA, the State of Nevada, and environmental groups, and are currently being evaluated. The Final Rule is due to the Commission in April 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>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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 NWPAA 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 NWPAA 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 NWPAA 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." During 1988, NRC Transportation Branch staff met with DOE and its contractors to discuss pre-application design issues for 6-7 truck and rail cask designs. NRC expects the first application for an NWPAA cask in April 1990.

**II. Test and Evaluation Facility Program**

<u>Provision</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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 12/27/88, 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 Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role.</u>
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 NWPAA 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>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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	Prop. Rule due late February 1989.	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 is due to the Commission in late February 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.	Comments provided 11/18/88.	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 is to provide the final report to Congress in late January 1989.

**IV. Monitored Retrievable Storage Program**

<u>Provision</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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. <u>Action Taken:</u> 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 NWPAA 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. <u>Action Taken:</u> 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 NWPAA and was affirmed by the Commission on July 14, 1988. <u>Current Status:</u> 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>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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>MWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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 NWPA for the LLW management provisions under Section 151).

Provisions

NRC Role

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.

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.

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.

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.

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.

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>Provisions</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
55. Section 5062-Transportation of Pu by aircraft through United States airspace.			This section of the NWPAA 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 Federal Register 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 Federal Register 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. <u>Action Taken:</u> 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). As of 4/6/88, fifteen countries had 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.	6/30/83	Completed 6/30/83	As provided. <u>Action Taken:</u> 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."
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.			

<u>Provision</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
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 Hodel 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.