



## **POLICY ISSUE** **(Information)**

**November 16, 1988**

**SECY-88-39C**

**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  
(August through October 1988) 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 and SECY-88-39B) 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 through a program of Licensing Topical Reports and  
other mechanisms. 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

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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.

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

#### Item 1. Consultations

- ° The Commission sent comments on DOE's Draft Mission Plan Amendment (Draft Amendment) to DOE on September 16, 1988. The Commission's major concern with the Draft Amendment was that compression of the schedule for near-term activities could leave DOE insufficient time to develop the complete and high-quality license application that is required for NRC to complete its review of the application within the three-year period provided under the Nuclear Waste Policy Act of 1982 (NWPA).
- ° DOE and NRC met on October 19-21 to discuss the status of all the outstanding exploratory shaft facility (ESF)-related concerns, with emphasis on the design control process and the three ESF-related objections from the Consultation Draft Site Characterization Plan (CDSCP) reviews. NRC found the general approach proposed by DOE to resolve the ESF-related objections reasonable. With respect to DOE's design control process, although DOE contended that the process was adequate, DOE has not yet demonstrated that the process by which decisions on shaft location, design, and construction have been made is adequate. NRC proposed a course of action that would allow DOE to demonstrate, before December 1988 release of the Site Characterization Plan (SCP), the adequacy of that design control process.

#### Item 2. Information Retrieval System

- ° Based on the deliberations of the Licensing Support System Advisory Committee (LSSAC), the NRC staff 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 high-level waste (HLW) licensing proceeding (SECY-88-249). The Commission approved the draft proposed rule on October 14, 1988.

Item 3. QA

- ° On October 14, 1988, the NRC staff issued a Safety Evaluation accepting the Nevada Nuclear Waste Storage Investigations (NNWSI) QA Plan. This plan interprets the QA requirements of Appendix B of 10 CFR Part 50, which apply to nuclear power reactors, for use during the site characterization phase of the HLW repository program. 10 CFR Part 60, Subpart G, the QA regulation which applies to the repository program, requires that DOE use Appendix B, "as applicable." The exact nature of the applicability of Appendix B had been discussed by DOE and NRC staffs for several years and a number of specific issues had to be resolved during the review. This QA Plan is the first DOE QA program document to be accepted by the staff and provides the framework for the development of the eight major DOE contractor QA plans.

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

Discussion:

1. DOE Implementation of Scheduled and Systematic Consultations:

Consultations with DOE during the reporting period focused on four of the five NRC staff objections to the CDSCP, related to QA and the ESF. As reported in the last Quarterly Progress Report, the staff objection in the QA area, namely that a qualified QA program has not been put in place, was addressed by a July 7, 1988, NRC-DOE agreement on a plan for DOE to qualify and NRC to accept the DOE QA program. The plan includes schedules for submittal of DOE and DOE contractor QA plans, implementation audits, NRC review and acceptance of QA plans, and acceptance of DOE's QA program. Pursuant to that plan, NRC staff met with DOE on September 28, 1988, to give DOE staff comments on the document, "DOE/OCRWM Quality Assurance Requirements for the Civilian Radioactive Waste Management Program." This is described in greater detail under Item 3.

As reported in the last Quarterly Progress Report, based on the July 18-19, 1988, meeting on the ESF, it did not appear that DOE has in place a design control process that effectively incorporates 10 CFR Part 60 requirements (e.g., requirements relevant to safety and waste isolation) into the ESF design or that provides verification of such incorporation. DOE and NRC met on October 19-21, 1988, to discuss the status of all the outstanding ESF-related concerns, with emphasis on design process and on the three

ESF-related CDSCP objections. NRC found the general approach proposed by DOE to resolve the ESF-related objections reasonable. With respect to DOE's design control process, although DOE contends that the process was adequate, DOE has not yet demonstrated that the process by which decisions on shaft location, design, and construction have been made was adequate. NRC proposed a course of action that would allow DOE to demonstrate, before the December 1988 release of the SCP, the adequacy of that design control process. Such a demonstration is considered necessary so NRC can assess the ESF-related material in the SCP and provide comments on that material. DOE agreed to quick consideration of and response to NRC's proposal in early November.

Considerable progress was made at the meeting in reducing the number of ESF-related open items, originally 128 in number, to about 50 items. NRC and DOE have agreed to a general approach for resolving these open items. Most of the information necessary for the staff to confirm that the open items have been satisfactorily resolved will be furnished in the SCP and supporting references.

Before the meeting, NRC had committed to provide comments on the ESF to DOE three months after release of the SCP, contingent on receiving final design details relevant to safety and waste isolation two to three months before release of the SCP. At the ESF meeting DOE indicated that virtually no ESF-related information will be available in advance of the SCP, currently scheduled for release in December 1988. Hence NRC's ESF-related comments on the SCP will probably be included in the Site Characterization Analysis (SCA) which is scheduled to be completed seven months after receipt and acceptance of the SCP. At the same meeting DOE announced that the start of ESF construction, previously scheduled for June 1989, has been postponed until November 1989.

In addition to the focus on the CDSCP objections, the NRC staff is scheduled to meet with DOE in November 1988 for DOE to explain how it plans to respond in the SCP to the NRC CDSCP concerns. As part of the acceptance review of the SCP, NRC staff will determine if DOE has adequately considered and responded to its concerns.

The last Quarterly Progress Report 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 time frame that could have allowed staff comments or resulting agreements to be factored into the SCP.

Workshops on only one topic--exploratory shaft location, design, and construction--have taken place in such a time frame (July 18-19, 1988; October 19-21, 1988). On October 6, 1988, DOE noted that three of the topics will be discussed in some level of detail in the CDSCP Comment Resolution meeting on November 15-17, 1988, and that the need for further discussion on those topics could be addressed after that meeting. DOE further proposed that workshops on the other three topics be deferred until after the NRC staff has reviewed the SCP. The DOE proposal fails to address NRC's concern that, as in this instance of the SCP, the pre-licensing consultation process is not functioning effectively to address NRC concerns prior to the issuance of major DOE documents and decisions. It appears that DOE's reluctance to hold these large public meetings may be due to the resource commitments and potential schedule impacts. The staff is going to propose to DOE easier-to-arrange technical interactions such as on-site reviews and small-group meetings, with participation by the State of Nevada, local governments, and any affected Indian Tribes.

During the past quarter, two meetings were held concerning the Waste Acceptance Process (WAP). The WAP is the mechanism developed by DOE to assure that the high-level vitrified glass waste form will be acceptable at the repository. The first meeting was held September 7, 1988, at West Valley, New York to obtain information concerning the schedules for and content of future submittals of formal DOE documents pertaining to the WAP and the planned schedule for the initiation of high-level waste glassmaking operations at West Valley.

The second meeting was held on September 29, 1988 at DOE Headquarters in Washington, D. C. to cover the status of the Defense Waste Processing Facility (DWPF) at Savannah River, South Carolina. At this meeting DOE and NRC agreed to develop a common open items list for the overall WAP. Open items are NRC-documented concerns on some aspect of DOE's program. NRC has proposed a meeting for December 12 and 13, 1988 to agree on a common list of open items and the approach and schedule for resolution of each open item. In addition to the commitment on open items, the NRC staff requested DOE's Office of Civilian Radioactive Waste Management (OCRWM) to provide an integrated schedule and milestones, relating WAP to repository development activities, for all of the WAP-related activities at the DWPF and West Valley

Demonstration Project (WVDP). Once NRC receives this integrated schedule and milestones from OCRWM, NRC can agree on a consultation schedule that will allow for timely review of WAP documents.

DOE issued the latest Draft Mission Plan Amendment on June 29, 1988. The Commission's comments on the Draft Amendment were transmitted to DOE on September 16, 1988. The major concern was that compression of the schedule for near-term activities could leave DOE insufficient time to develop the complete and high-quality license application which is required for NRC to complete its review of the application within the 3-year period provided under the NWPA. It is the staff's understanding that the Final 1988 Mission Plan Amendment will be completed in late 1988.

## 2. Development of an Information Retrieval System:

On August 5, 1987, the Commission established the HLW Licensing Support System Advisory Committee (LSSAC) to develop recommendations on procedures to govern the HLW licensing proceeding, including the use of an electronic information management system, known as the Licensing Support System (LSS). The LSS would contain the documentary material of DOE, NRC, and the other parties to the HLW repository licensing process. The LSSAC committee completed its deliberations in July 1988. Based on the Committee's deliberations, the staff 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 (SECY-88-249). The Commission approved the draft proposed rule for publication on October 14, 1988.

## 3. Early Implementation of a QA Program:

While there have been a number of significant accomplishments by DOE in the QA area during the last quarter, several of the early milestones for qualifying its program have slipped. The staff understands that these slips were one of the factors in DOE's decision to reschedule construction of its ESF. A number of actions were taken during the last reporting period to facilitate proper implementation of QA:

- ° On August 15, 1988, DOE forwarded Revision 1 of the NNWSI "Quality Assurance Plan" for the Yucca Mountain project, for the Division of High-Level Waste Management (HLWM) staff review. This document provides the framework for the development of DOE and DOE

contractor QA plans. It interprets the 10 CFR Part 50, Appendix B QA requirements used for nuclear power plants for use in the geotechnical investigations of the site characterization phase. 10 CFR Part 60, Subpart G, the QA regulation which applies to the repository program requires that DOE use Appendix B of 10 CFR Part 50, as applicable. A number of issues on the applicability of Appendix B to the repository program were resolved during the staff review. HLWM has completed its review and has accepted the plan. With the exception of six needed modifications, the QA Plan meets the requirements of Appendix B to 10 CFR Part 50, as applicable. The HLWM staff and DOE have discussed and agreed to the modifications that are needed, and DOE will be incorporating them into the plan. HLWM requested that DOE provide a revised plan, within 30 days, which incorporates the modifications. The staff will then issue a supplement to the Safety Evaluation that acknowledges that the necessary changes have been made.

- ° The NRC and DOE staffs met on October 19-21, 1988 to discuss, among other things, design control concerns for the ESF. The staff has identified a number of instances in which DOE has not demonstrated that 10 CFR Part 60 requirements have been incorporated into the design of the exploratory shaft. As discussed earlier, NRC then proposed a course of action that would allow DOE to demonstrate, before the December 1988 release of the SCP, the adequacy of that design control process. In addition, DOE has agreed to implement an Appendix B design control program (as part of its QA program) for the next design phase.
- ° The staff observed DOE audits of three of its prime contractors: Sandia National Laboratories (SNL); Reynolds Electric and Engineering Company (REECo); and the Los Alamos National Laboratory (LANL). These audits were conducted during the weeks of July 25, 1988 for SNL; August 25, 1988 for REECo; and October 4, 1988 for LANL. Past DOE audits have focused on whether the audited organization is following its implementing procedures - not whether the procedures are accomplishing their intended function. This issue has been repeatedly raised with DOE, and DOE has begun to modify its audit program to perform an effectiveness evaluation of the QA program. Evidence of this was

observed by the staff in the REEC0 and LANL audits. The staff will continue in future audits to assure that overall QA program effectiveness is evaluated by the audit team.

- ° By letter dated August 26, 1988, DOE transmitted the OCRWM Quality Assurance Requirement Document (QARD). The QARD provides a baseline for the QA requirements for all DOE and contractor programs. On September 28, 1988, the staff met with DOE to discuss open items resulting from the staff review of the QARD. Thirty-five of 40 staff comments were resolved at the meeting. Additional information is needed before the remaining five open items can be resolved. DOE has agreed to provide this information before October 31, 1988. After all the issues are resolved, DOE will revise its QARD and resubmit it to the staff for review.
- ° On September 16, 1988, the staff received the OCRWM QA Program Description Document (QAPD) which describes the DOE Headquarters QA program. The staff is just beginning its review of this document and will discuss its findings in future quarterly progress reports.

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

In its CDSCP, DOE has implemented the performance allocation process (previously referred to as establishment of repository design parameters) agreed upon earlier with NRC. However, 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. The staff expects that DOE's approach to responding to our concerns will be discussed further at the CDSCP comment resolution meeting, which DOE postponed from the summer and now scheduled for November 15-17, 1988. Resolution of this concern can only be determined on review of the SCP, however.

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

During this period representatives of the State of Nevada attended and participated in NRC-DOE meetings. There have also been frequent informal communications by telephone between NRC and Nevada, with NRC notifying Nevada of NRC-DOE meetings and informing the State of major programmatic activities. These informal communications provide the State a mechanism for calling NRC attention to Nevada's concerns



about the DOE high-level waste program. During this quarter, there was also participation by representatives of Nye County, Nevada in NRC-DOE meetings. As discussed in SECY 88-221 on NRC interface with the State of Nevada, the NRC staff is reviewing the State of Nevada QA Manual which applies to its work in overseeing the DOE repository program. Although not required to do so, the State is developing a QA program which is designed to meet the Commission regulations in 10 CFR Part 50, Appendix B, as applicable, the same requirements that DOE must meet for its program. The staff comments are typical of those developed in the review of DOE's QA plans. Staff has completed its initial review and expects to transmit its comments to Nevada in early November 1988. In addition, the staff is reviewing the State of Nevada's September 6, 1988 comments on DOE's CDSCP and will consider these in its ongoing consultation with DOE.

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

The NRC staff has had an ongoing concern that the 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. As stated in the last Quarterly Report, the NRC staff review of the CDSCP indicated that DOE still needs to take steps toward adopting conservatism in its program. At the October 19-21, 1988, workshop on ESF design, DOE did commit to take the conservative position that all ESF-related activities are important to waste isolation until proven otherwise. It is expected that the need for conservatism will be discussed at the CDSCP comment resolution meeting scheduled for November 15-17, 1988. Again, however, resolution of this concern can only be determined on review of the SCP.

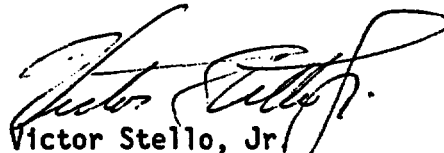
#### 7. Early Resolution of Issues:

In previous quarterly reports, the staff has discussed a number of available mechanisms to identify and resolve issues. As noted in earlier sections of this report, the staff's review of the CDSCP, the CDSCP workshops with DOE, and other specific technical meetings on QA and WAP have allowed identification and discussion of NRC concerns with DOE, the State of Nevada, and other parties. Also, preparation of NRC staff Technical Positions (TPs) is an ongoing mechanism that can contribute to early resolution

of potential licensing issues. For example, during this reporting period the staff issued, for public comment, a draft TP on repository sealing.

In its last Quarterly Report, the staff noted that due to DOE's emphasis on developing major programmatic documents, such as the CDSCP and SCP, DOE had not provided timely comments on staff TPs and proposed rules. Since then, the staff has received DOE comments on its draft TPs on anticipated and unanticipated processes and events, and on the calculation of groundwater travel time in unsaturated media. The staff also received DOE comments on the proposed rule to require repository disposal for greater-than-Class-C low-level waste, unless NRC approves another disposal method. DOE has now provided comments on all current NRC proposed rules and draft TPs for which the comment period has expired.

The staff recently described its regulatory strategy and schedules in an October 5, 1988, Commission information paper (SECY-88-285). This paper addressed how the staff will use rulemakings, TPs, and Regulatory Guides to reduce regulatory, technical, and institutional uncertainties. Reduction of uncertainties is aimed at early resolution of potential licensing issues before DOE submits its License Application. This paper identified 10 potential rulemakings, nine for regulatory uncertainties, one for an institutional uncertainty, 22 TPs for technical uncertainties, and a Regulatory Guide for Standard Format and Content of the License Application. The paper states that while it is the staff's responsibility to reduce regulatory uncertainties related to its regulations, it is DOE's responsibility to reduce technical uncertainties, taking into account the guidance the NRC staff provides, primarily in TPs and pre-license application reviews and consultation.



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Enclosure:  
Status of NRC's Activities Required  
by NWPA

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

## 1. 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 88/07/14  
Current Version 88/10/13

<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. 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. It is expected that the rule will be finalized in early 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.

<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. 1988 Amendment to be submitted by end of 1988.	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 / *t 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 1988 Mission Plan Amendment to Congress by the end of 1988.

<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>Action Taken:</u> The Commission met with State and Tribal officials on 6/16/87 to discuss the status of the national program, and NRC staff held its Second Annual Meeting of State and Tribal Representatives in the High-Level Waste Program on 6/30/87. NRC staff met with the Nevada Commission on Nuclear Projects on 9/17/87. NRC and the State of Nevada attended DOE's plenary meeting on the Consultation Draft Site Characterization Plan (CDSCP) for Yucca Mt. on 1/28-29/88 in Reno, NV. <u>Current Status:</u> NRC staff, State of Nevada representatives, and DOE 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 on 7/18-19/88; 6) to discuss the DOE/OCRWM QA Requirements Document on 7/28/88; and 7) to discuss open items on DOE's Exploratory Shaft Facility on 10/18-20/88. Significant HLW documents are routinely distributed to State reps., e.g. the draft Generic Technical Position "Guidance for Determination of Anticipated Processes and Events and Unanticipated Processes and Events," draft and final point papers on the CDSCP for Yucca Mt., the draft technical position "Postclosure Seals in an Unsaturated Medium," and the "Quarterly Progress Report on the Pre-Licensing Phase of DOE's Civilian High Level Radioactive Waste Management Program." 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. 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. 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 address outstanding issues.
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 due late 1988.	NRC must review and comment on the statutory SCP. Action Taken: A Draft Technical Review Plan and Administrative Plan for CDSCP review was issued the NRC staff in 12/87. DOE issued a "Consultation Draft" SCP for Yucca 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. Current Status: DOE will present its plans for responding to NRC's concerns with the CDSCP in a workshop scheduled for November 1988. The State of Nevada will be invited to participate. DOE currently plans on issuing the statutory SCP in late 1988.
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>NMPAA 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 1/1/87 and 1/1/90 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 tentatively scheduled to be published on 5/15/89.
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 NWPA 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 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."

## 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 data needs are better established. As of 10/13/88, 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>NWPAA 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 "on hold."	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 currently "on hold."
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 due to DOE 10/28/88.	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. DOE has requested comments by 10/28/88.



#### 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 MRS proposal which included the ' (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 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	None specified. DOE and/or Congress may seek NRC views, however.
43. 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>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
44. Section 405(b)(2)- NRC must issue final decision approving or dis-approving 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
45. 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**

46. 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.
47. 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.
48. 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. Current Status: The Executive Director for Operations terminated the rulemaking on November 5, 1986 until further research could be completed.

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.

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.

Provisions

49. 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 48 above.

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

<u>Provisions</u>	<u>MWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
50. Section 5062-Transportation of Pu by aircraft through United States airspace.			This section of the MWPAA does not directly impact the civilian nuclear waste program.
51. 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. <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.
52. 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. <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.

<u>Provision</u>	<u>NWPAA Date</u>	<u>Current Schedule</u>	<u>NRC Role</u>
53. 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.
54. 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 Federal Register on 3/20/85. Proposed amendments to Part 55 dealing with simulator training requirements were published in the Federal Register 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.