



POLICY ISSUE **(Notation Vote)**

March 10, 1987

SECY-87-62

For: The Commissioners

From: Victor Stello, Jr.
Executive Director for Operations

Subject: NRC COMMENTS ON THE DEPARTMENT OF ENERGY'S DRAFT AMENDMENT TO THE MISSION PLAN FOR THE CIVILIAN WASTE MANAGEMENT PROGRAM

Purpose: To obtain Commission approval and transmittal of comments to the Department of Energy on the draft Amendment to the Mission Plan for the Civilian Radioactive Waste Management Program

Background: As required by Section 301 of the Nuclear Waste Policy Act (NWPA), the Department of Energy (DOE) published in June 1985 the Mission Plan for the Civilian Radioactive Waste Management Program. The purpose of that document was to provide the information needed to permit informed decisions to be made in carrying out the programs required by the NWPA. The Commission has the responsibility under Section 301(b) of the NWPA to coordinate with the DOE on the development of the Mission Plan and to specify, with precision, any objections to the Mission Plan. The NRC has previously reviewed and commented upon a preliminary draft

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Mission Plan in a transmittal to the DOE dated February 8, 1984, and has also sent objections and comments to the DOE in the May 8, 1984 draft Mission Plan under the signature of the Chairman in a transmittal dated July 31, 1984.

Since publication of the Mission Plan, a number of specific actions and developments in the Civilian Radioactive Waste Management program and the availability of new information have created a need to update the Mission Plan. On January 28, 1987 the DOE submitted a draft Amendment to the Mission Plan to the Commission for review and comment within a sixty day comment period.

Discussion:

The key change to the Mission Plan proposed by the draft Amendment is the extension of the repository program by five years such that the repository would begin receiving waste in 2003 rather than 1998. This extension includes provision for a 36 month review of the license application by the NRC (the time allotted to the Commission under Section 114(d) of the NWPA), an increase of 9 months over the 27 months allotted in the Project Decision Schedule (PDS). The staff has no objections to the five year extension inasmuch as the NRC has itself recognized and discussed with the DOE the need for considerably more DOE consultation with the NRC, affected states and tribes, and the public, and has also pointed out the need for more information-gathering (increased surface-based testing, more testing during exploratory shaft construction, and expanded in situ testing) during the site characterization phase. These are among the reasons given by the DOE for the schedule extension, especially in the near-term (site characterization phase). The staff recognizes the necessarily broad nature of the draft Amendment and anticipates that details of plans and related bases will be contained in documents still to be published (e.g., Site Characterization Plans (SCP's) and supporting documents) rather than in the revised Amendment. Review of these documents will in all likelihood provide the staff with the opportunity for more detailed review and comment on items only generally addressed in the draft amendment.

The DOE has made a significant commitment in the draft Amendment by specifying six activities to make maximum use of the near-term extension (see draft Amendment p.9). This will increase confidence that the Commission's review of the license application can be completed within the 36 months allotted for that review. These six activities

coincide for the most part with the six action items identified in NRC comments on the draft PDS dated October 24, 1985, as needing to be done by the DOE if there is to be any real possibility that the NRC can review the license application within three years. Hence, this section appears responsive to the NRC's previously expressed concerns; however, continuous and close interaction between the NRC and the DOE will be necessary to assure successful implementation of these activities. In the enclosed letter to the DOE it is suggested that the Commission will be following this implementation process via reports from the NRC staff and briefings from the DOE to the Commission.

Given the draft Amendment's broad nature and inasmuch as it seems on the whole responsive to previously expressed NRC concerns, the staff has no objections to the draft Amendment. There are, however, a few comments for the DOE's consideration; these are attached to the enclosed letter.

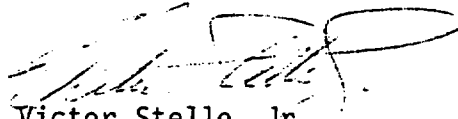
One final point that the staff wishes to call to the attention of the Commission concerns the draft Amendment's linkage of the construction authorization for the repository to the Monitored Retrievable Storage (MRS) facility schedule. In the draft Amendment it is proposed that the MRS cannot start receiving spent fuel until a construction authorization for the repository has been received from the NRC (p. 10; p. 40). This proposal was made by the DOE to gain acceptance for the MRS facility by allaying concerns that the MRS facility could become a substitute for a permanent repository. There is no technical basis for linking a construction authorization for the repository with the MRS schedule for the receipt of spent fuel. The staff considers that such technically unnecessary linkage should have no bearing on the NRC's review of the DOE's license application. The basis for the NRC's review of the license application for the repository and the awarding of a construction authorization will be public health and safety and will not include considerations related to the MRS schedule for receipt of spent fuel.

Recommendation:

(1) That the Commission approve the enclosed comments on the draft Amendment to the Mission Plan and (2) that the Chairman transmit the enclosed letter and comments to the DOE.

Scheduling:

The DOE has designated a comment period of sixty days for reviewers to submit comments on the draft Amendment to the Mission Plan. The close of the comment period is April 3, 1987.



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Enclosure:

Proposed ltr to B. Rusche transmitting NRC comments on Draft

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Wednesday, March 25, 1987.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Wednesday, March 18, 1987, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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