

DSI-6

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Department of Energy

Washington, DC 20585
November 20, 1996



Mr. John Hoyle
Secretary of the Commission
U.S. Nuclear Regulatory Commission
Attention: Chief of Docketing and Services Branch
Washington, DC 20555-0001

Dear Mr. Hoyle:

The U.S. Department of Energy's Office of Civilian Radioactive Waste Management (OCRWM) appreciates the opportunity to comment on the U.S. Nuclear Regulatory Commission's (NRC) Strategic Assessment and Rebaselining Initiative. We commend the NRC for this major undertaking in which it has provided a number of thought-provoking and innovative options for consideration.

Our review focused on those aspects of the initiative most relevant to the OCRWM program. The identification of the management of high-level waste and spent fuel as a direction setting issue is timely as the Department has recently made substantial changes to its repository program. The Commission's high-level waste repository program is also changing in response to the Department's revised program, knowledge gained from the implementation of its own regulations, and recent Congressional direction. We believe that these activities should continue.

Despite significant political pressure for near-term waste acceptance, Congress and the Administration did not reach agreement on a new national policy in the last year. It appears, however, that the current policy for management of high-level waste and spent fuel, including the role of interim storage and geologic disposal, will be reconsidered in the coming years. The resultant decision may have profound consequences for future generations. Those of us who are intimately involved with these issues have an obligation to help inform the policy makers and the public so that an astute and enlightened decision can be made. Consequently, the Commission should adopt an approach that includes knowledgeable and effective participation in the policy debate.

Although there are aspects of the various options that merit further consideration, we support the Commission's preliminary view that maintaining the existing high-level waste program is the most appropriate option until a national policy decision is made. As noted by the staff, the options are not mutually exclusive and certain aspects of the other options can be accommodated within the context of the existing program. For example, revising regulations and licensing procedures for the disposal of spent fuel and high-level waste can be accomplished within the existing NRC program.



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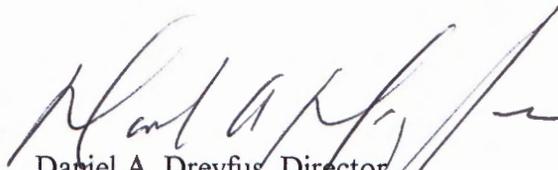
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It would be inappropriate for the NRC to reduce its program to a bare minimum at this time. Such a passive approach would run counter to the urgent need to address long-term waste disposal in a comprehensive and timely manner as currently mandated by Congress and to maintain the ability to respond effectively to any new policy direction, or to the evolution of the Department's program.

We also support the Commission's efforts to focus on those regulatory activities that pose the greatest risk to the public and the use of probabilistic risk assessment concepts to allow a risk-graded approach for determining high and low risk activities. We are very interested in the NRC's proposal to continue to evaluate the potential for reducing the regulatory burden with a more focused assessment of those regulations that are amenable to a risk-informed, performance-based approach.

We appreciate the opportunity to comment on this aspect of your rebaselining effort and look forward to a continued dialogue on the significant issues raised in your Strategic Assessment Issue Paper addressing the high-level waste program. If you have any questions, please contact Alan Brownstein of my staff at (202) 586-4973.

Sincerely,



Daniel A. Dreyfus, Director
Office of Civilian Radioactive
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cc:

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Attachment
Additional Comments on Options

Attachment

Comments on Options

Issue #6: High-level Waste and Spent Fuel

Option 1: Approach Congress and the Administration to Refocus the National Program

Under Option 1, the NRC staff has identified a number of activities to enhance progress in the national high-level waste program that would require legislative change. The current policy for management of high-level waste and spent fuel, including the role of interim storage and geologic disposal, will be reconsidered in the coming years. The resultant decision may have profound consequences for future generations. Those of us who are intimately involved with these issues have an obligation to help inform the policy makers and the public so that an astute and enlightened decision can be made. Consequently, the Commission should adopt an approach that includes knowledgeable and effective participation in the policy debate.

Option 2: Reduce Uncertainty by Modifying NRC's Programs

OCRWM commends the staff for its introspection, under Option 2, to identify methods of streamlining its activities through targeted changes to its organizational structure and to its substantive and procedural regulatory requirements in order to reduce uncertainty associated with its licensing process. As noted by the NRC staff in its issue paper, the current adjudicatory licensing process is complex and burdensome. As you are aware, the program is in the process of clarifying and streamlining its siting guidelines found in 10 CFR Part 960. We would welcome the opportunity to explore further with the staff the potential for streamlining the currently-applicable licensing process by incorporating more informal procedures.

Option 3: Maintain NRC's Existing High-Level Waste Repository Program

Although, we have concluded that there are aspects of the various options that may merit further consideration, we believe that maintaining the existing NRC program under Option 3 is the most appropriate option for the NRC to undertake, and it is the option most compatible with the current DOE program strategy as described in our revised Program Plan.

Under Option 3, we believe that the NRC staff will be able to continue to streamline its organizational structure as it deems appropriate and to continue its efforts to clarify and streamline the technical requirements in 10 CFR Part 60, as well as to develop Yucca

Mountain site-specific requirements pursuant to the mandate of the Energy Policy Act of 1992. In addition, we understand that the staff is currently assessing potential changes to the procedural requirements found in Part 2, Subpart J. We would encourage the NRC staff to take this opportunity to broaden its assessment of Part 2 to include an evaluation of other existing licensing procedures to streamline the hearing process. Also, as part of an integrated regulatory review under Option 3, the staff should assess the potential for updating the applicable requirements in Parts 51, 71 and 72 where needed.

Option 4: Take a Minimal Approach to NRC's High-Level Waste Repository

OCRWM believes that it would be inappropriate for the NRC to reduce its program to a bare minimum until DOE submits its license application in 2002. Such a passive approach would run counter to the urgent need to address long-term waste disposal in a comprehensive and timely manner as mandated by Congress under the NWPA and subsequent legislation. It would also run counter to the revised Program Plan, under which DOE and the NRC will be increasingly engaged over the next few years in addressing a number of issues important to repository and waste package design, issues relating to the NRC's adoption of the repository Environmental Impact Statement (EIS), and the NRC's sufficiency comments regarding DOE's site recommendation to the President.

Option 5: Take a Position on the Storage of Spent Fuel

The policy debate mentioned in our comment on Option 1 will likely also address the national approach to dry cask storage. OCRWM believes that the Commission should adopt an approach that includes knowledgeable and effective participation in the policy debate. As described in the revised Program Plan, DOE is taking steps consistent with current guidance from the President and the Congress, to develop a market-driven waste acceptance, storage and transportation approach and to conduct various generic interim storage facility analyses.

Issue #12: Risk-Informed, Performance-based Regulation

We support the Commission's efforts to focus on those regulatory activities that pose the greatest risk to the public and the use of probabilistic risk assessment concepts to allow a risk-graded approach for determining high and low risk activities. In addition, we are very interested in the NRC's proposal to continue to evaluate the potential for reducing the regulatory burden with a more focused assessment of those regulations which are amenable to a risk-informed, performance-based approach.