

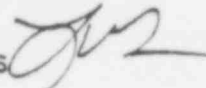
February 16, 1979

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

SECY-78-613B

**CONSENT CALENDAR ITEM**

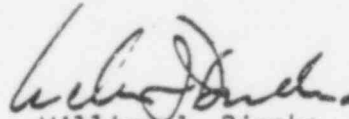
FOR: The Commissioners

THRU: Lee V. Gossick  
Executive Director for Operations 

FROM: William J. Dircks, Director  
Office of Nuclear Material Safety and Safeguards

SUBJECT: SECY-78-613 AND 613A: RESPONSE TO NATURAL RESOURCES  
DEFENSE COUNCIL, INC. (NRDC) PETITION FOR RULEMAKING  
(PRM-20-7)

Attached are the Office of Nuclear Material Safety and Safeguards' (NMSS) responses to comments and questions by Commissioners Kennedy and Ahearne regarding SECY-78-613 and 613A. Revisions prepared by NMSS to SECY-78-613 and 613A are also included.



William J. Dircks, Director  
Office of Nuclear Material Safety  
and Safeguards

Enclosures:

1. NMSS Response to Comm. Kennedy's Comments
2. NMSS Response to Comm. Ahearne's Comments
3. Revised Encl 3 to SECY-78-613 and 613A
4. Revised Encl 4 to SECY-78-613 and 613A
5. Revised Encl 5 to SECY-78-613 and 613A

SECY NOTE: This paper replaces SECY-78-613A in total and SECY-78-613, with the exception of a proposed public announcement on denial of the petition and Enclosures 1 and 2. New response sheets have been supplied to the Commissioners. They are titled SECY-78-613/613B and should be used to present Commissioners position on 78-613 (proposed announcement) and 78-613B (proposed FRN, letter to petitioner and to Congress)

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Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Friday, March 2, 1979.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT February 26, 1979, 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.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of March 5, 1979. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

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NMSS RESPONSE TO COMMENTS ITEMIZED IN MEMORANDUM  
DATED JANUARY 23, 1979 FROM COMMISSIONER KENNEDY TO SAMUEL J. CHILK

1. Statements regarding the staff's position on the need for immediate action have been revised and clarified in the Federal Register Notice (p. 1). A general statement has been included (p. 2) that the rationale for the staff's decisions for immediate action is provided in the NRC reply to the five general actions requested by the petitioner. The revised Federal Register Notice also includes a statement (p. 16) that although the ten "allegations of fact" were not specifically addressed by NRC in the Federal Register Notice, the NRC staff comments on the ten allegations are contained in material available in the Public Document Room.

The ten "allegations of fact" were considered by NRC staff during their review of NRDC's request for immediate action, the staff's development of the low-level waste program, and staff's preparation of SECY-78-613. Many of the issues raised by the allegations are addressed in the April 2, 1976 NRC response to the January 12, 1976 GAO Report ("Improvements Needed in the Land Disposal of Radioactive Wastes - A Problem of Centuries"), the NRC Task Force Report (NUREG-0217), and the NRC Low-Level Waste Management Program Plan (NUREG-0240). However, the staff considered that formal response in the Federal Register Notice to each individual allegation was not required to adequately respond to the petition. The staff is now preparing formal comments on each of the ten allegations and will place these comments in the Commission's Public Document Room.

2. NRC consideration of the issues raised in the petition and in the petitioner's GEIS outline has been acknowledged in the Federal Register Notice (pp. 2 and 30), in the proposed letter to the petitioner (Enclosure 4 to SECY-78-613), and in the proposed letters to Congressional Committees (Enclosure 5 to SECY-78-613).

NMSS mention of the Department of Energy's GEIS in the proposed Federal Register Notice was intended for the reader's information only and has so been clarified in the revised Federal Register Notice (p. 9). (For further information, refer to the staff's response to Commissioner Ahearne's comments.)

3. The Federal Register Notice has been revised to clarify and update the response. The revisions are included herein.

311 091

NMSS STAFF RESPONSE TO COMMENTS BY  
COMMISSIONER AHEARNE ON SECY-78-613 AND 613A

NMSS did not intend that NRC response to the petition should be closely tied to the Department of Energy's (DOE) GEIS. The DOE GEIS was mentioned in the Federal Register Notice in order to clarify a comment made by a commenter on the petition. NMSS did not intend to directly link the NRC response to the NRDC petition with the DOE GEIS.

From recent conversations with DOE, NMSS has determined that DOE plans to publish the document by late February or early March. In the document's present form, the GEIS evaluates the generic environmental impacts of ten alternative methods for permanent disposal of commercial high-level waste and transuranic waste. In the GEIS, shallow land burial of commercial TRU waste in concentrations greater than 10 nCi/gm is assumed to be discontinued. Also included in the GEIS is an analysis of the environmental impacts of retrievable storage of high-level and TRU wastes pending disposal.

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Enclosure 2