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POLICY ISSUE
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February 9, 1993

SECY-93-031

For: The Commissioners

From: James M. Taylor
 Executive Director for Operations

Subject: ANNUAL REPORT ON THE DEPARTMENT OF ENERGY'S PROGRESS ON PROVIDING DEDICATED STORAGE FOR ALL GREATER-THAN-CLASS C WASTES

Purpose: To report on the Department of Energy's (DOE's) progress on providing storage and disposal capacity for commercial greater-than-Class C (GTCC) waste and in providing a tracking system for this GTCC waste pending transfer of the waste to a disposal facility licensed by the Nuclear Regulatory Commission.

Background: Section 3 of the Low-Level Radioactive Waste Policy Amendments Act (the Act) designates the Federal Government as responsible for disposal of GTCC wastes, in addition to other wastes. The Act also requires that GTCC waste generated by activities licensed by NRC be disposed of in a facility licensed by NRC. The staff has been working with the DOE, since 1986, to encourage the Department's continued development of a program for accepting transfer of, and providing storage and disposal capacity for, commercial GTCC wastes.

NOTE: TO BE MADE PUBLICLY AVAILABLE IN 10 WORKING DAYS FROM THE DATE OF THIS PAPER

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In the Staff Requirements Memorandum for SECY-91-015, dated January 31, 1992, the Commission approved, with revisions, the staff's recommendations for changes to periodic reports. One of these revisions called for the submission of an annual report that described DOE's progress in (1) providing dedicated storage for all commercially-generated GTCC wastes and (2) developing procedures for tracking these GTCC wastes before disposal.

The staff, with Commission approval, sent two letters to DOE, in early 1990, requesting information about the DOE schedule for accepting GTCC waste; the tracking of the waste while in DOE custody, before disposal; and the establishment of a fee schedule for this service. Subsequently, in SECY-90-273, dated August 6, 1990, the staff recommended an approach for tracking this waste.

In SECY-90-422 and 91-418, respectively, dated December 27, 1990, and December 17, 1991, the staff informed the Commission of the DOE's progress regarding GTCC waste. Robert M. Bernero, Director, Office of Nuclear Material Safety and Safeguards met with DOE counterpart, Mr. Leo Duffy, on October 16, 1991, to discuss the status of DOE's GTCC program. NRC sent a followup letter to DOE on January 6, 1992. Since then, the staff has met periodically with DOE staff and contractors to discuss a variety of issues related to the GTCC program, including procedures for DOE emergency pickup of abandoned sources and radioactive material in situations that NRC determines raise a public health and safety concern.

Discussion:

DOE has made only limited progress in developing its program for accepting transfer of GTCC wastes. Progress has been limited by a variety of factors, including: (1) DOE's perception of the uncertainties in the characteristics and numbers of GTCC sources that may be transferred to DOE for disposal; (2) turnover in DOE-contractor staff; and (3) delays associated with coordination with State and local political delegations regarding development of an interim storage facility for GTCC waste. Radioactive waste disposal issues have engendered considerable controversy, especially for DOE sites, over the last several years. As a result, DOE has adopted an approach of coordinating with elected representatives, before making commitments to use specific facilities, in an effort to reduce controversy associated with interim storage of GTCC waste.

As requested by DOE, NRC's January 1992 letter included an estimate of the number of GTCC sealed sources/devices held by small business licensees seeking license termination. A subset of these licensees is of concern to the staff,

because it could experience problems controlling or accounting for these sources/devices over extended periods of time. NRC's letter sought DOE involvement in an expanded emergency acceptance program for these sources/devices under provisions of the Atomic Energy Act (AEA).

The DOE and NRC staffs met on March 12, 1992. At that meeting, NRC handed out two draft procedures. The first established procedures that NRC would follow in responding to emergency situations involving inadequately controlled radioactive material. In such situations, DOE could be requested to pick up the radioactive material using its authority to accept transfer under the AEA. This authority extends beyond GTCC waste and includes any source, special nuclear, or byproduct material, regardless of its status as a waste.

The second procedure described a process that NRC regional staff should follow in responding to license termination requests from licensees possessing sources or devices that, again, could lead to a request for DOE pick up of the radioactive material. This procedure, although independent of the waste classification applied to the source/device, was developed to expedite DOE's formulation of GTCC waste acceptance criteria.

A formal DOE response to the pickup program suggested by NRC in the January 1992 letter had not been received at the time of the meeting. NRC staff pointed out to DOE that there were three sources in the possession of an Oklahoma licensee which in NRC's view, met the criteria for requesting pick up by DOE under the provisions of the AEA. Further, NRC was considering this situation to be a "test case" pickup request, to promote progress in resolving issues related to DOE's acceptance of waste. The DOE staff agreed that this course of action could lead to progress in establishing a mutually acceptable pickup program.

DOE sent a response to NRC's January letter in early April 1992. The letter stated that DOE intended to begin operating an interim storage facility in late 1993 and a dedicated storage facility in late 1997. The letter also stated that "Until interim storage capability is established, the DOE can only continue to accept radioactive materials, including those in the GTCC category, if requested by the NRC and Agreement States because of well-specified public health and safety considerations." In order to better define the "considerations" that would be sufficient to warrant DOE pickup of sources, NRC requested DOE's assistance to store and dispose of three GTCC well logging sealed sources in the possession of a licensee

claiming financial hardship. This request was made in a letter dated April 20, 1992. DOE's response is included in the following discussion. A second meeting was held between NRC and DOE staff in late September 1992. For this meeting, DOE staff provided comments on the NRC draft procedures, which had been distributed at the March meeting. DOE requested that NRC delay implementing the "license termination" procedure until an interim storage facility was operational, to avoid a surge in requests for transfer. However, DOE staff indicated that DOE would pick up the sources identified in NRC's April letter.

DOE discussed their proposed comments on the NRC draft procedures and provided a proposed re-draft of a DOE/NRC interface agreement concerning the management and acceptance of GTCC waste. These comments were transmitted in an October 20, 1992, letter from DOE.

NRC and DOE agreed that further clarification was still needed on the "considerations" that would be sufficient for DOE to accept GTCC sources/devices before committing to the availability of its interim storage facility, especially if the availability of this facility was delayed for any significant length of time. NRC therefore agreed that completion of the "license termination" and "emergency pickup" procedures would await receipt of DOE's documented decision on the "test case" pickup request. DOE's letter agreeing to pick up these sources under the emergency acceptance program was received on December 30, 1992. (DOE also assigned a staff member within the Office of Waste Operations to coordinate this activity.) The letter, however, reiterated that general acceptance of GTCC waste should be deferred until an interim storage facility is in place. (The late 1993 date was cited.)

The NRC's proposed concentration averaging and encapsulation technical position, which had been noticed in the Federal Register on July 1, 1992, was also discussed in light of public comments on the guidance, including those from DOE's Office of Environmental Guidance. The NRC staff indicated that a revised proposed technical position would be available in early 1993, after it had been further coordinated with the Conference of Radiation Control Program Directors' E-5 Committee (NRC subsequently met with the Committee in November 1992).

With respect to DOE's development of a tracking system for GTCC wastes before disposal, DOE staff had proposed draft requirements for such a system at an August 1991 meeting. Based on a preliminary review, the NRC staff indicated that the requirements appeared to more than adequately address

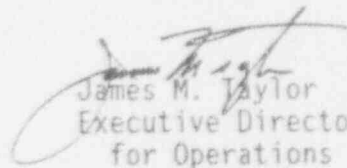
NRC needs. The NRC staff expressed a concern that the effort required to implement the proposed tracking system appeared to be overly complex for the period prior to availability of a dedicated storage facility. The staff proposed that DOE attempt to develop a more simple and streamlined system that would be capable of providing confidence in the location, condition, and characteristics of stored GTCC waste. To date, DOE staff has not proposed a revised tracking system in response to NRC comments. In the interim, the staff is maintaining a listing of the limited amount of GTCC waste accepted by DOE under the emergency acceptance program.

Conclusion:

Although DOE and NRC staffs continue to work in a cooperative manner, the DOE's progress in providing storage capacity for GTCC waste has been slow. Further reassignments of DOE contractor staff and DOE staff involvement in higher priority issues have contributed to this situation. DOE has, however, recently assigned a staff member, within the Office of Waste Operations, to work with NRC in arranging the pickup of materials/sources/devices, which, according to DOE, is planned to be temporarily stored at the Oak Ridge National Laboratory in Oak Ridge, Tennessee. In the near term, staff plans to submit further requests to DOE for pickups on a case-by-case basis. Concurrently, the staff will finalize the draft "license termination" and "emergency pickup" procedures, coordinate the procedures with State Programs, issue a revised draft version of the concentration averaging and encapsulation technical position, and continue to encourage DOE to move forward on its development of interim storage capacity and tracking system for GTCC wastes.

Coordination:

The Office of the General Counsel has reviewed this paper and has no legal objections.


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for Operations

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