



OFFICE OF THE SECRETARY

UNITED STATES NUCLEAR REGULATORY COMMISSION WASHINGTON, D.C. 20555

RELEASED TO THE PDR 4/22/94 date initials

April 1, 1994

MEMORANDUM TO: James M. Taylor Executive Director for Operations
FROM: Samuel J. Chilk Secretary
SUBJECT: SECY-94-062 - WITHDRAWAL OF PROPOSED RULEMAKING TO ESTABLISH PROCEDURES AND CRITERIA FOR ON-SITE STORAGE OF LOW-LEVEL RADIOACTIVE WASTE AFTER JANUARY 1, 1996

The Commission (with all Commissioners agreeing) has approved publication of the notice withdrawing the proposed rulemaking subject to the changes in the attachment.

Attachment: As stated

cc: The Chairman Commissioner Rogers Commissioner Remick Commissioner de Planque OGC OCA OIG Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)

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SECY NOTE: THIS SRM, SECY-94-062, AND THE VOTE SHEETS OF ALL COMMISSIONERS WILL BE MADE PUBLICLY AVAILABLE 10 WORKING DAYS FROM THE DATE OF THIS SRM

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January 1, 1996. The proposed rule was published in the Federal Register on February 2, 1993 (58 FR 6730). The public comment period expired on April 5, 1993.

After considering the comments submitted on the proposed rule, the staff determined that the proposed rule would not achieve either of the proposed rule's objectives. The staff found that there is not a sufficient connection between the requirements in the rule for documenting that a licensee has exhausted reasonable disposal options and the objective of reducing on-site storage of LLW or encouraging the development of new LLW disposal capacity.

In addition, the staff found that the proposed rule would not necessarily provide licensees a substantially greater incentive over existing requirements to dispose of their LLW at available locations in a timely manner. Therefore, the staff concluded the proposed rule would not be a necessary or significant addition to the protection of the public health and safety. The staff forwarded its recommendations to the Commission on November 29, 1993, in SECY-93-323.

In an SRM dated February 1, 1994, the staff was advised that the Commission (with all Commissioners agreeing) had approved the staff proposal to withdraw the proposed rule. The staff was directed to provide a clear indication in the withdrawal notice that the Commission continues to favor disposal of LLW over storage and that withdrawal of this proposed rule in no way alters that position. In addition, the staff was directed to submit the proposed withdrawal notice to the Commission for review and approval before publication.

DISCUSSION:

The notice to withdraw the proposed rulemaking (Enclosure 1) has been prepared in accordance with the requirements of the SRM dated February 1, 1994. The notice includes:

- The background of the rulemaking.
- The rationale for the withdrawal.
- A summary of the comments that impacted on the decision to withdraw the proposed rule and the U.S. Nuclear Regulatory Commission response to these comments.
- A clear statement that the Commission continues to favor disposal of LLW over storage and that withdrawal of this proposed rule in no way alters that position. In addition, the notice states that the Commission expects LLW disposal facilities to be sited and developed in a timely manner, and that it expects waste generators and States, to continue to take all reasonable steps to ensure that LLW disposal capacity is available soon.

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result, the Commission concludes that it should withdraw the proposed rule. The Commission continues to favor disposal of LLW over storage and emphasizes that withdrawal of this proposed rulemaking in no way alters this position. The Commission expects LLW disposal facilities to be sited and developed in a timely manner. The Commission also expects waste generators and States, to continue to take all reasonable steps to ensure that LLW disposal capacity is available soon.

FOR FURTHER INFORMATION, CONTACT: Robert Nelson, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-2004.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 1993 (58 FR 6730), the NRC published in the Federal Register, proposed amendments to 10 CFR Parts 30, 40, 50, 70, and 72 of its regulations. Under the provisions of the proposed rule, on-site storage of LLW would not have been permitted after January 1, 1996 (other than reasonable, short-term storage necessary for decay or for collection or consolidation for shipment off-site, when a licensee has access to an operating LLW disposal facility), unless a licensee documented that it had exhausted other reasonable waste management options. These options included the management of the waste by the State in which a waste generator is located. In addition, a reactor licensee would have had to document that