

**ATTACHMENT 3**

**INDEPENDENT EVALUATIONS**

## **INDEPENDENT COMMISSION REVIEWS OF THE OVERALL DECOMMISSIONING PROGRAM**

### **1. DESCRIPTION OF ACTIVITY**

The staff has provided annual reports and briefings to the Commission for many years because of the importance of making progress with the decommissioning of the Site Decommissioning Management Plan (SDMP) sites. Consistent with Commission direction, the 2000 annual report, expanded the scope of previous SDMP reports into a comprehensive overview of the agencies decommissioning activities within the Office of Nuclear Material Safety and Safeguards (NMSS), Office of Nuclear Regulatory Research (RES), and the Office of Nuclear Reactor Regulation (NRR). The annual updates described the progress made in each program area. The comprehensive report includes: 1) summaries of decommissioning activities for material facilities, fuel cycle facilities, reactors, and uranium mill tailings facilities; 2) guidance and rulemaking activities; 3) issues requiring Commission attention; and; 4) major decommissioning documents.

In addition to the annual Commission paper, the staff also provides an annual briefing to the Commission, highlighting accomplishments and issues important to decommissioning. The briefings also provide an opportunity for the Commission and staff to have a open dialogue on questions or concerns the Commission may have with the program. In response to the annual reports and briefings, the Commission has the opportunity to provide direction to the staff regarding decommissioning activities. In addition, the Commission can provide direction to the staff at anytime on issues that affect the overall program, such as its request for the staff to conduct a comprehensive analysis of the implementation issues for the License Termination Rule (LTR) (SRM-SECY-01-0194).

Although not included here, the Commission also reviews and responds to specific policy or site issues that the staff provides for consideration. Examples of these are described in evaluations of other improvements in this Program Evaluation (i.e., institutional controls, financial assurance and funding, and NMSS-NRR reactor decommissioning program transfer).

### **2. STATUS AND PLANS FOR FUTURE IMPLEMENTATION**

During the evaluation time period from FY 2001 to FY 2003 the staff provided three annual reports and two annual briefings. A third Commission briefing is scheduled for October 2003. The staff expects that the annual reports and briefings will continue in the future as requested by the Commission.

### 3. ACCOMPLISHMENTS/OUTPUTS

The key staff accomplishments are as follows:

- 1) Three annual Commission papers (SECY-01-0156, SECY-02-0169, and SECY to be published) have refined the staff's documentation and reporting of the program's progress in a format acceptable to the Commission.
- 2) Two annual Commission briefings with a third scheduled for October 2003.

The Commission made no significant redirection to the overall decommissioning program resulting specifically from the annual reports and briefings.

However, an accumulation of status reports in the annual reports, specific site status, and the staff's status report to the Commission on a Memorandum of Understanding with DOE to resolve the institutional control/restricted release issue, resulted in the Commission's giving the staff significant direction during this evaluation time period that affected the overall program. The Commission directed the staff to conduct a comprehensive evaluation of the LTR implementation issues and recommend resolutions for Commission consideration (SRM-SECY-01-0194, SECY-02-0177, and SECY-03-0069) so that progress could be made at some sites.

### 4. BENEFITS/OUTCOMES TO THE DECOMMISSIONING PROGRAM

Important outcomes from the annual reports and briefings to the Commission are:

- 1) An established and formal process involving all levels of the staff for annual accountability of program performance to the highest level of the Agency. Such communications help achieve alignment within the Agency on the progress and direction for the program;
- 2) An effective and regular oversight process that is independent from the staff, focuses on the overall program performance and policy level issues affecting the program, and has the authority to direct staff changes to the program; and
- 3) The direction from the Commission to conduct the LTR Analysis created the opportunity to recommend regulatory actions that could improve the Decommissioning Program.

### 5. LESSONS LEARNED

Annual reports and briefings have been a useful tools for the staff to annually assess its overall decommissioning program performance through all levels of the staff, publically report results to the Commission level, and receive Commission feedback/alignment on the program's performance and direction.

### 6. REFERENCES

*2001 Annual Update—Status of Decommissioning Program*, SECY-01-0156, August 17, 2001.

*2002 Annual Update—Status of Decommissioning Program*, SECY-02-0169, September 18, 2002.

*2003 Annual Update—Status of Decommissioning Program*, SECY-03-0161, September 15, 2003.

## **REVIEWS BY NRC'S ADVISORY COMMITTEE ON NUCLEAR WASTE**

### **1. DESCRIPTION OF ACTIVITY**

The Advisory Committee on Nuclear Waste's (ACNW's) mission is to provide the Commission with independent and timely technical advice on nuclear materials and waste management issues to support the U.S. Nuclear Regulatory Commission (NRC) in conducting an efficient and effective regulatory program that enables the Nation to use nuclear materials in a safe manner for civilian purposes. Decommissioning is one of the NRC's programs within the scope of the ACNW activities and Decommissioning Options is one of the priority topics listed in ACNW action plans for the evaluation time period.

The ACNW is independent of the NRC staff and reports directly to the Commission. As an advisory committee, the ACNW is structured to provide a forum where experts representing many technical perspectives can provide independent advice that is factored into the Commission's decision making process.

In carrying out its mission, the ACNW undertakes studies and activities including holding public meetings where the staff and others make presentations on selected high priority issues. Staff documents are provided in advance of the presentations for ACNW review. As a result of these studies and presentations, ACNW prepares letters to the Commission when it has comments and advice. Some presentations may not result in a letter if the Committee does not have concerns to raise to the Commission. Thus, the ACNW performs independent technical reviews of the staff's Decommissioning Program for selected high priority topics. If concerns are identified, a comment letter is provided to the Commission and the staff.

### **2. STATUS AND PLANS FOR FUTURE EVALUATIONS**

During the evaluation time period from FY 2001-2003, Decommissioning was listed as a priority topic for ACNW attention. Accordingly, the staff made presentations on six key decommissioning topics: 1) draft West Valley Policy Statement; 2) institutional controls; 3) lessons learned from preparing License Termination Plans; 4) decommissioning status of the Sequoyah Fuels site; 5) NRC/EPA Memorandum of Understanding related to decommissioning; and 6) License Termination Rule Analysis. Additional topics on Risk Task Group activities and Entombment are related to decommissioning but not within the scope of this Program Evaluation.

Of the six topics, the two topics on lessons learned and the LTR Analysis provided the staff's analysis of a broad range of current decommissioning issues and how the staff is addressing these issues. The other topics addressed key decommissioning products (the West Valley Policy Statement and the NRC/ EPA MOU) and a case study to illustrate a complex decommissioning site and associated modeling work under the LTR.

ACNW's Action Plan for FY 2003-2004 continues to list Decommissioning as a priority topic and presentations on specific issues will be scheduled in the future.

### 3. ACCOMPLISHMENTS/OUTPUTS

During the three-year evaluation period, the staff briefed the ACNW on six high priority decommissioning topics. No major concerns were raised to the Commission. Specific comments were provided for the Commission to consider when it finalized the West Valley Policy Statement. Furthermore, the Decommissioning topics were not raised in the three annual briefings provided to the Commission by the ACNW.

### 4. BENEFITS/OUTCOMES TO THE DECOMMISSIONING PROGRAM

Important outcomes from the periodic briefings and reviews by ACNW are:

- 1) High priority decommissioning products and issues are independently reviewed by a committee of highly qualified technical members with broad regulatory, decommissioning, and waste management experience. Independent reviews increase the quality of important staff regulatory products;
- 2) Diverse and broad experience and views can provide additional ideas for the staff to consider in resolving difficult decommissioning issues.

### 5. LESSONS LEARNED

Although decommissioning is one of ACNW's high priority topics, most of ACNW's attention has and will continue to be focused on NRC's high-level waste licensing for the potential geologic repository at Yucca Mountain, Nevada. Therefore, the relatively lower level of ACNW effort available for independent review of the decommissioning program or its key issues likely will remain about the same as the past few years.

### 6. REFERENCES

*Comments on NRC Draft Policy Statement on Decommissioning Criteria for the West Valley Demonstration Project and West Valley Site*, letter from Garrick to Chairman Meserve, November 1, 2000.

*A Compilation of Reports of The Advisory Committee on Nuclear Waste July 2000-June 2001*, NUREG-1423, Volume 11, September 2001.

*A Compilation of Reports of The Advisory Committee on Nuclear Waste July 2001-June 2002*, NUREG-1423, Volume 12, August 2002.