April 29, 1996

The Honorable Hazel O'Leary
Secretary of Energy
U.S. Department of Energy
1000 Independence Ave. SW
Washington, DC 20585

Request for Extension of Public Comment Period On Weapons Plutonium Disposition Draft PEIS

Dear Secretary O'Leary:

We are writing to request that you extend the period for public comment on the Storage and Disposition of Weapons-Usable Fissile Materials Draft Programmatic Environmental Impact Statement, DOE/EIS-0229-D, February 1996 (hereafter "DPEIS"). The comment period is currently scheduled to end on May 7, 1996. An extension of this period is required for at least two important reasons.

First, some key studies supporting the DPEIS are not publicly available in the Department of Energy reading room, as required by NEPA. As of April 25, at least two important analyses were not available: a study by AECL Technologies of plutonium use in CANDU reactors, and a study by Fluor Daniel Inc. of beyond-design-basis accidents.\textsuperscript{1} All EIS supporting material must be readily available so that public comments can be informed and thorough. DOE has recognized the importance of this NEPA principle in its recent decision to extend the public comment period on its pyroprocessing environmental assessment, because of the unavailability of some support documents.\textsuperscript{2}

Second, two key DOE analyses of plutonium disposition alternatives are not yet completed. DOE is still preparing a cost analysis and a non-proliferation analysis of disposition options. At the April 18 public hearing on the DPEIS, Greg Rudy, head of the Office of Fissile Material Disposition, stated that those analyses would eventually be made available to the public when completed, but not prior to the end of the comment period on May 7.

Mr. Rudy claims that these analyses are not required for inclusion in the PEIS process which focuses on environmental issues. This is an inappropriately narrow view of the scope of programmatic environmental impact statements. Previous EIS's, such as the spent fuel take-back PEIS, have included detailed nonproliferation analysis, even making non-proliferation a primary decision criterion.\textsuperscript{3} Cost analysis has been included as a decision factor in some EIS's as well.\textsuperscript{4} Even the draft plutonium disposition DPEIS explicitly cites "non-proliferation," "security," and "cost-effectiveness" as among the screening criteria used in the disposition PEIS process to rule out certain disposition alternatives.\textsuperscript{5} Certainly the analyses used to support these cost and non-proliferation decisions should be incorporated into the PEIS itself.

NEPA specifically requires that cost analyses, if prepared, be made a formal part of the EIS process. CEQ regulations, adopted by DOE for its implementation of NEPA,\textsuperscript{6} provide that "[i]f a cost-benefit analysis relevant to the choice among environmentally different alternatives is being considered for the proposed action, it shall be incorporated by reference or appended to the statement as an aid in evaluating the environmental consequences. . . ."\textsuperscript{7} Courts have upheld this requirement, holding that "[t]he cost-benefit analysis of alternatives must be contained within the environmental impact statement standing alone, and not as complemented by the administrative record."\textsuperscript{8}

We therefore ask that the public comment period be extended until 45 days after all relevant support documents, including the cost and non-proliferation analyses, are made publicly available. As the May 7 deadline rapidly approaches, we request your immediate attention to this urgent matter.

Sincerely,

Paul Leventhal
Nuclear Control Institute

Tom Clements
Greenpeace International

Fred Millar
Nuclear Waste Citizens Coalition

Tom Zamora-Collina
Institute for Science & International Security
Paul Gunter  
Nuclear Information Resource Service  
Daryl Kimball  
 Physicians for Social Responsibility  

cc: Greg Rudy

J. David Nulton

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End Notes


2. Federal Register, April 15, 1996, 16471. Back to document


4. *Spent Fuel Take Back EIS*, op. cit, pp. 62-63 (costs of alternatives analyzed and compared); *Savannah River Site Waste Management: Draft Environmental Impact Statement*, DOE/EIS-0217D, Volume I, January 1995, p. 2-78 ("A technology had to meet the following criteria to be deemed a potential technology ... (3) Its costs were comparable to other possible technologies"); *Department of Energy Programmatic Spent Nuclear Fuel Management and Idaho National Engineering Laboratory Environmental Restoration and Waste Management Programs: Final Environmental Impact Statement*, DOE/EIS-0203-F, Volume I, Summary, April 1995, p. 37 ("cost of implementation" a decision criterion, and comparative cost analysis integrated into PEIS); *Draft Programmatic Environmental Impact Statement for Stockpile Stewardship and Management*, DOE/EIS-0236, Volume I, February 1996, p. 3-1 ("planning assumptions and basis for analysis" in PEIS include "[m]aximize efficiency and minimize cost and waste consistent with programmatic needs"); *Surplus HEU Disposition Draft EIS*, op. cit, p. S-7 ("cost-effectiveness" among "criteria against which to judge potential alternatives"). Back to document

5. DPEIS, Summary, p. S-5. Back to document


7. 40 C.F.R. 1502.23 (emphasis added). Back to document

