

**MIXED OXIDE FUEL**

**Order**

Under a November 1975 policy statement (40 FR 53056), the Commission has been conducting proceedings on the generic environmental statement on mixed oxide fuel (GESMO) to determine whether and under what conditions uranium and plutonium might be recycled from spent light water nuclear reactor fuel and fabricated into fresh mixed oxide fuel on a wide scale. Under the same policy statement, the Commission has also been processing applications for the construction, operation, and modification of facilities to reprocess spent fuel, fabricate mixed oxide fuel, and perform related functions. The U.S. Court of Appeals for the Second Circuit held that the Commission could not issue such licenses for commercial-scale activities until it had completed the GESMO proceedings. *Natural Resources Defense Council, Inc. v. Nuclear Regulatory Commission*, 539 F. 2d 824 (1976), cert. granted, 430 U.S. 944 (1977).

On April 7, 1977, President Carter announced a nuclear nonproliferation policy which called for the indefinite deferral of domestic commercial reprocessing and recycling of plutonium and the commencement of domestic and international studies of alternative fuel cycles. The Commission suspended the GESMO proceeding in April and in May announced its intention to reassess the November 1975 policy statement and sought public comment and the President's views on the appropriate future course for plutonium recycle-related proceedings. Public comments were received in June and a letter stating the President's views in October. The Commission then sought public comment on the President's views and on several specified alternative courses of action. Comments were received in November.

In light of these events and after consideration of all the comments received, the Commission decided at public meetings in December 1977—

(1) To terminate the GESMO proceeding;

(2) To terminate the proceedings on pending or future plutonium recycle-related license applications, except for—

(a) Proceedings on licenses for the fabrication or use of small quantities

of mixed oxide fuel for experimental purposes, and

(b) Those portions of proceedings which involve only spent fuel storage, disposal of existing waste, or decontamination, or decommissioning of existing plants;

(3) To reexamine the above matters after the completion of the ongoing alternative fuel cycle studies, now expected to take about two years;

(4) To publish the draft safeguards supplement to the GESMO document as a staff technical report;

(5) As a consequence of the above decisions, to withdraw the November 1975 policy statement; and

(6) To reserve for decision, if it arises, the question of whether a facility such as the Barnwell facility may be licensed for experimental and feasibility purposes on a noncommercial basis to investigate processes which support the nation's nonproliferation objectives.

The proceedings affected by this decision are the generic environmental statement on mixed oxide fuel (Docket No. RM-50-5), Allied-General Nuclear Services (Barnwell nuclear fuel plant separations facility, uranium hexafluoride facility, and plutonium product facility) (Docket Nos. 50-332, 70-1327, and 70-1821), Exxon Nuclear Co., Inc. (Nuclear Fuel Recovery and Recycling Center) (Docket No. 50-564), Westinghouse Electric Corp. (recycle fuels plant) (Docket No. 70-1432), and Nuclear Fuel Services, Inc. (West Valley reprocessing plant) (Docket No. 50-201). This order shall be filed in these dockets and shall be served on all parties of record.

Commissioner Gflinsky notes that he considers the inclusion of item (6) above unnecessary and inappropriate in this order.

Commissioner Kennedy notes that he would prefer the use of the term "defer" to "terminate" in items (1) and (2) above.

The Commission will shortly publish a statement of the reasons underlying this decision. This statement will include the separate views of Commissioner Kennedy on the above-mentioned matter.

It is so ordered.